

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
November 6, 2008**

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

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Coody read a Proclamation in honor of Marsha Melnichak a reporter for the Northwest Arkansas Times.

Presentations, Reports and Discussion Items: None

Agenda Additions:

- 1. Marsha Melnichak Resolution:** Added before Consent.
- 2. Fayetteville District Court Record Destruction:** Added at the beginning of New Business.
- 3. Romine Lawsuit Settlement:** Added at the end of New Business.

The following Resolution was added to the agenda:

Marsha Melnichak Resolution: A resolution to acknowledge and thank Marsha Melnichak of the Northwest Arkansas Times for her fair and accurate reporting of City business.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 197-08.

A. Consent:

1. Approval of the October 21, 2008 City Council meeting minutes. **APPROVED.**
2. **Allied Waste Services:** A resolution authorizing the Mayor to execute a contract with Allied Waste Services to haul and dispose of solid waste in the city limits of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 198-08.

3. **Fulton Waste & Sustainability Services:** A resolution authorizing the Mayor to execute a contract with Fulton Waste & Sustainability Services to haul and dispose of solid waste in the city limits of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 199-08.

4. **Bale Chevrolet:** A resolution approving the purchase of one (1) compact extended cab pickup truck from Bale Chevrolet of Little Rock through the state vehicle purchase contract in the amount of \$14,427.00 plus add-on light bar; and approving a budget adjustment in the amount of \$15,036.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 200-08.

5. **GCM Properties, LTD., LLC:** A resolution approving Amendment #1 to the lease agreement with GCM Properties, LTD., LLC, extending the term of the lease for a period of one year.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 201-08.

6. **McClelland Consulting Engineers:** A resolution approving Amendment #1 to the agreement for professional engineering services with McClelland Consulting Engineers, Inc. in the amount of \$29,290.00 for design services for the Mt. Sequoyah pressure plane improvements; approving the elevated storage tank placement; and approving a \$20,000.00 contingency.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 202-08.

7. **Edward Byrne Memorial Justice Assistance Grant:** A resolution accepting the 2008 Edward Byrne Memorial Justice Assistance Grant in the amount of \$24,316.00, \$8,106.00 of which will be used by the Fayetteville Police Department for the purchase of equipment with the remainder to be split equally between the City of Springdale and Washington County; and approving a budget adjustment recognizing the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 203-08.

8. **Alcoholic Beverage Control Enforcement Grant:** A resolution authorizing the Fayetteville Police Department to accept a 2008-2009 grant from the Arkansas Alcoholic Beverage Control Enforcement Division in the amount of \$31,677.00 to host a state underage drinking prevention conference; and approving a budget adjustment recognizing the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 204-08.

9. **Westside Storage Inc:** A resolution approving a settlement with Westside Storage Inc., in the amount of \$92,545.00 for right-of-way and easement acquisition for the Ruppel Road widening project.

Removed from Consent for discussion.

10. **Capps Rent A Car Inc:** A resolution approving a lease agreement with Capps Rent A Car Inc. for the lease of one (1) 2008 4-door sedan in the amount of \$35,000.00 for use by the Fayetteville Police Department officer assigned to the Internal Revenue Service Task Force; and approving a budget adjustment recognizing the reimbursement revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 205-08.

11. **Arkansas Economic Development Commission:** A resolution authorizing the Building Safety Division to accept a grant from the Arkansas Economic Development Commission Energy Office in the amount of \$2,500.00 to fund the Fayetteville Residential Energy Efficiency Promotion program; and approving a budget adjustment recognizing the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 206-08.

12. **Policy 41.2.8 Vehicular Pursuit:** A resolution approving and adopting Policy No. 41.2.8 "Vehicular Pursuit" to the Fayetteville Police Department's Policies, Procedures & Rules Manual.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 207-08.

13. **Policy 26.2.1 Nepotism:** A resolution approving and adopting Policy No. 26.2.1 "Nepotism" to the Fayetteville Police Department's Policies, Procedures & Rules Manual.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 208-08.

The following Resolution was removed from the Consent Agenda for discussion:

Westside Storage Inc: A resolution approving a settlement with Westside Storage Inc., in the amount of \$92,545.00 for right-of-way and easement acquisition for the Ruppel Road widening project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 209-08.

B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals: **None**
2. **ANX 08-2897 Southpass Development:** An ordinance annexing that property described in annexation petition ANX 08-2897 (CC2008-38), for property located west of I-540 and Cato Springs Road, containing approximately 855.97 acres. *This ordinance was left on the First Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5190.

3. **R-PZD 08-2898 Southpass Development:** An ordinance establishing a Residential Planned Zoning district titled R-PZD 08-2898, Southpass, located south of the City of Fayetteville at the intersection of Interstate 540 and Cato Springs Road (State Highway 265); containing approximately 910.36 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5191.

4. **ADM 08-3117 (Southpass MSP Amendments):** A resolution for ADM 08-3117 amending the Master Street Plan, realigning Shiloh Drive, a collector, through the Southpass PZD site south to Cato Springs Road, and changing the designation of Cato Springs Road from a collector to a principal arterial in the Southpass vicinity, as described and depicted in the attached maps. *This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting. This resolution was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 210-08.

5. **Southpass Development Infrastructure Cost Share:** A resolution expressing the willingness of the City of Fayetteville to cost share street and sewer infrastructure costs that would be utilized by both the Southpass Development and the future community park. *This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting. This resolution was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*

THIS ITEM WAS TABLED INDEFINITELY.

6. **RZN 08-3084 (Candlelight Place):** An ordinance rezoning that property described in rezoning petition RZN 08-3084, for approximately 0.94 acres, located at the southeast corner of Gregg Avenue and Ash Street from RSF-4, Residential Single-Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre. *This ordinance was left on the First Reading at the October 21, 2008 City Council meeting and Tabled to the November 4, 2008 City Council meeting.*

Left on the First Reading.

THIS ITEM WAS TABLED INDEFINITELY.

7. **R-PZD 08-3071 (Bridgedale Plaza):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-3071 Bridgedale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres;

amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan. *This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading.

THIS ITEM FAILED.

8. **Victory Commons Phase I Appeal:** An appeal of certain conditions of approval of the Planning Commissions decision regarding Victory Commons Phase I. *This appeal was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 211-08.

The following Resolution was added to the agenda:

Fayetteville District Court Destruction of Records: A resolution authorizing the Fayetteville District Court to destroy certain records pursuant to Arkansas Code Annotated § 16-10-211, recorded Retention Schedule.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 212-08.

C. New Business:

1. **VAC 08-3108 Forest Hills PZD:** An ordinance approving VAC 08-3108 submitted by Morrison-Shipley Engineers, Inc. for property located at 3485 W Wedington Drive to vacate a portion of a sewer easement, a total of 0.33 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5192.

2. **VAC 08-3109 Forest Hills PZD:** An ordinance approving VAC 08-3109 submitted by Morrison-Shipley Engineers, inc. for property located at 3351 W Wedington Drive to vacate a portion of a utility easement, a total of 0.08 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5193.

3. **VAC 08-3110 Forest Hills PZD:** An ordinance approving VAC 08-3110 submitted by Morrison-Shipley Engineers, Inc. for property located at 3351 W Wedington Drive to vacate unconstructed right-of way, a total of 0.29 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5194.

4. **ADM 08-3100 Clean Tech Use Unit:** An ordinance amending Chapter 162: Use Units and Chapter 163: Use Conditions of the Unified Development Code to add a clean Tech Use Unit and assign it to appropriate zoning districts.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5195.

The following Resolution was added to the agenda:

Romine Lawsuit Settlement: A resolution to approve a budget adjustment in the Water and Sewer Fund in the amount of \$173,528.20 for a full release and satisfaction of judgment in Romine case.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 213-08.

Announcements:

- 1. City Council Tour: None**

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

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

City Council Meeting:

November 6, 2008

Adjourn: 10:10 PM.

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

9-0

Subject:	Add: Resolution for Marsha Melnichak				
Motion To:		Add	Approve		
Motion By:		Jordan	Allen		
Seconded:		Ferrell	Ferrell		
<u>Passed</u>	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

8-0

8-0

197-08

Subject:	Consent # 9 Westside Storage, Inc. removed for discussion				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Lucas			
<u>Minutes Approved</u> <u>Passed</u> #9 Removed from Consent 198-08 to 208-08	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				
8-0					

Subject:	# 9 Westside Storage, Inc. Removed from Consent				
Motion To:		Amend Resolution	Approve		
Motion By:		Ferrell	Jordan		
Seconded:		Jordan	Ferrell		
#9 Consent Removed for discussion <u>Passed</u> 209-08	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				
8-0			8-0		

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

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

Subject:	ANX 08-2897 Southpass Development				
Motion To:		3rd Read	Pass		
Motion By:		Rhoads			
Seconded:		Fernell			
B. 2 Unfinished Business <u>passed</u> 5190	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	N		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	N		
	Mayor Coody				

8-0

6-2

Subject:	R-PZD 08-2898 Southpass Development				
Motion To:		3rd Read	Pass		
Motion By:		Gray			
Seconded:		Rhoads			
B. 3 Unfinished Business <u>passed</u> 5191	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	N		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	N		
	Mayor Coody				

8-0

6-2

Subject:	ADM 08-3117 (Southpass MSP Amendments)				
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Gray			
B. 4 Unfinished Business <u>passed</u> 210-08	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	Absent during the vote.			
	Lucas	N			
	Jordan	N			
	Mayor Coody				

5-2

Subject:	Southpass Development Infrastructure Cost Share				
Motion To:		Table Indef			
Motion By:		Thiel			
Seconded:		Rhoads			
B. 5 Unfinished Business Tabled Indef.	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

8-0

Subject:	RZN 08-3084 (Candlelight Place)				
Motion To:		2nd Read	Table Indef.		
Motion By:					
Seconded:					
B. 6 New Business Tabled Indefinitely	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

8-0

8-0

Subject:	R-PZD 08-3071 (Bridgedale Plaza)				
Motion To:		3rd Read	Pass		
Motion By:		Rhoads			
Seconded:		Ferrell			
B. 7 New Business Failed	Gray	✓	N		
	Thiel	✓	N		
	Cook	✓	N		
	Allen	✓	N		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	N		
	Mayor Coody				

8-0

3-5

Subject:	Victory Commons Phase I Appeal				
Motion To:		Amend Driveway Remain open until property is redeveloped.			
Motion By:		Ferrell			
Seconded:		Rhoads			
B. 8 New Business Amend MOTION passed	Gray	✓			
	Thiel	N	allow current driveway until other parcels are developed then driveway to be moved north or closed		
	Cook	N			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	N			
	Jordan	✓			
	Mayor Coody				

5-3

Subject:	Victory Commons Phase I Appeal				
Motion To:		Amend Conditions of approval	Replate pg. 3 #12: #13 w/ staff amendments for #12: 13 and to delete #16: 18	Deny the appeal of the variance	Appeal for Greenspace & w/draw wetlands
Motion By:		Ferrell		Thiel	
Seconded:		Jordan		Gray	
Amend motion passed	Gray	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Allen	✓		absent during the vote.	
	Rhoads	✓		✓	
Deny Variance passed	Ferrell	✓		N	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Mayor Coody				

8-0

6-1

211-08

Subject:	Jayetteville District Court Record Destruction				
Motion To:		Add to the Agenda	Approve		
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
Added at the Beginning of New Business passed 2/2-08	Gray	Absent during the vote	Absent during the vote		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	Absent during the vote.	Absent during the vote.		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				
		6-0	6-0		

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

Subject:		VAC 08-3108 Forest Hills PZD			
Motion To:		2 nd Read	3 rd Read	Pass	
Motion By:		Lucas	Jordan		
Seconded:		Jordan	Lucas		
C. 1 New Business <u>Passed</u> 5192	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	absent during the vote			
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

Subject:		VAC 08-3109 Forest Hills PZD			
Motion To:		2 nd Read	3 rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
C. 2 New Business <u>Passed</u> 5193	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	absent during the vote			
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

Passed
5194

7-0

7-6

7-0

passed

5195

7-0

7-0

7-0

Subject:	Romine Lawsuit Settlement				
Motion To:		Add to the Agenda		Pass	
Motion By:		Cook			
Seconded:		Jordan			
Passed 213-08	Gray	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Allen	✓		✓	
	Rhoads	absent during the vote			
	Ferrell	Recuse		Recuse	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Mayor Coody				

6-0

6-0

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

Aldermen

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8. **Victory Commons Phase I Appeal:** An appeal of certain conditions of approval of the Planning Commissions decision regarding Victory Commons Phase I. *This appeal was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*

C. New Business:

1. **VAC 08-3108 Forest Hills PZD:** An ordinance approving VAC 08-3108 submitted by Morrison-Shipley Engineers, Inc. for property located at 3485 W Wedington Drive to vacate a portion of a sewer easement, a total of 0.33 acres.
2. **VAC 08-3109 Forest Hills PZD:** An ordinance approving VAC 08-3109 submitted by Morrison-Shipley Engineers, inc. for property located at 3351 W Wedington Drive to vacate a portion of a utility easement, a total of 0.08 acres.
3. **VAC 08-3110 Forest Hills PZD:** An ordinance approving VAC 08-3110 submitted by Morrison-Shipley Engineers, Inc. for property located at 3351 W Wedington Drive to vacate unconstructed right-of way, a total of 0.29 acres.
4. **ADM 08-3100 Clean Tech Use Unit:** An ordinance amending Chapter 162: Use Units and Chapter 163: Use Conditions of the Unified Development Code to add a clean Tech Use Unit and assign it to appropriate zoning districts.

Announcements:

1. **City Council Tour:** None

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

Handed out at
Agenda Session 10-28-08

**AMENDMENT #1 TO THE LEASE AGREEMENT WITH GCM
PROPERTIES LTD., LLC**

BE IT KNOWN TO ALL:

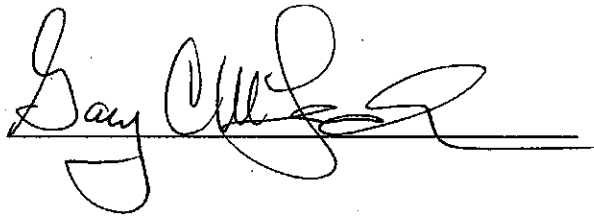
28 That the City of Fayetteville, Arkansas and GCM Properties Ltd., LLC, on this the day of October, 2008, agree that their Lease Agreement of November 7, 2006, is hereby amended by extending the term of that Agreement for a period of one (1) year. If the new Courts & Prosecuting Attorney's Building is not complete at the end of this extension, the City of Fayetteville shall continue to lease the subject property on a month-to-month basis.

That Paragraph 3. RENT is hereby amended by striking all language after the first sentence of the Paragraph, and inserting the following: "The rental amount for this new term shall remain \$45,250.00 annually, payable in equal monthly installments of \$3,770.83, due the first day of each month of the extended term."

The parties agree and understand that this Amendment is supplemental to their Lease Agreement of November 7, 2006, and that it does not alter, amend or abridge any of the rights, obligations, or duties of the parties not expressly addressed herein.

IN WITNESS WHEREOF, the parties hereto have caused their signatures to be set by their authorized representative effective the date set forth herein above.

GCM Properties Ltd., LLC



City of Fayetteville, Arkansas

DAN COODY, Mayor

ATTEST:

Sondra E. Smith, City Clerk/Treasurer

City Council Meeting of November 4, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Karen Minkel, Interim Director of Long Range Planning

From: Leif Olson, Long Range Planner

Date: October 16, 2008

Subject: ADM 08-3100 (Clean Technology Use Unit) Approval of an ordinance to adopt a Clean Tech Use Unit by amending Chapter 161: Zoning Districts, Chapter 162: Use Units and Chapter 163: Use Conditions and of the Unified Development Code.

RECOMMENDATION

Staff recommends approval of an ordinance amending the Unified Development Code to adopt a Clean Tech Use unit and assign it to appropriate zoning districts.

BACKGROUND

Planning Staff has determined that there is a need for a clean technologies use unit in order to allow these types of businesses to locate in appropriate commercial and industrial zoning districts.

Clean technologies are defined as businesses that create and/or produce goods and services that greatly reduce or eliminate negative environmental impacts such as wind, solar or fuel cell technologies. Clean technologies are also engaged in research and development of these types of products or services. In many instances, the impact of laboratory or fabrication components of clean technologies is minimal. Clean technologies would ideally produce no greater amount of noise, smoke, truck traffic, etc. than a comparable commercial use such as a restaurant or retail business. The Planning Commission will conduct public hearings and issue conditional use permits for clean technologies located in areas that are not zoned industrial.

Planning Staff proposes that the clean tech use unit be allowed by right in the I-1 and I-2 industrial zoning districts and as a conditional use in the R-A, R-O, C-1, C-2, C-3, Downtown Core, Main Street Center and P-1 Institutional zoning districts. The Planning Commission forwarded this item to the City Council at its September 26, 2008 meeting by a vote of 7-0-0 with a recommendation for approval.

BUDGET IMPACT

None

**“Exhibit C”
ADM 08 - 3100**

Chapter 161: Zoning Districts is amended by adding the Clean Tech Use Unit as permitted and conditional uses in appropriate zoning districts.

Use Unit 42 – Clean Technologies would be allowed as a Use by Right in the following Zoning Districts:

161.24 District I-1, Heavy Commercial and Light Industrial
161.25 District I-2, General Industrial

Use Unit 42 – Clean Technologies would be allowed as a Conditional Use in the following Zoning Districts:

161.03 District R-A, Residential-Agricultural
161.16 District R-O, Residential Office
161.17 District C-1, Neighborhood Commercial
161.18 District C-2, Thoroughfare Commercial
161.19 District C-3, Central Commercial
161.20 Downtown Core
161.21 Main Street/Center
161.26 District P-1, Institutional

Aldermen

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

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
October 21, 2008**

A meeting of the Fayetteville City Council was held on October 21, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Friends Of The Library Week Proclamation: Mayor Coody read the proclamation.

Presentations, Reports and Discussion Items:

Alderman Thiel presented the City Council with a 2009 Pet Calendar from the Humane Society of the Ozarks. The Humane Society of the Ozarks gave the City of Fayetteville \$20,000 this year. Those funds came from the proceeds of these calendars. Alderman Thiel thanked the members of the Humane Society of the Ozarks for their help in the community.

Agenda Additions: None

Consent:

Approval of the October 7, 2008 City Council meeting minutes.

Approved

Bid # 08-16 Kinco Constructors, LLC Change Order # 6: A resolution approving Change Order # 6 to the contract with Kinco Constructors, LLC in the amount of \$113,970.00 for the installation of the Wilson Park Trail Bridge under Bid # 08-16; and approving a 12% project contingency in the amount of \$13,676.40.

Resolution 191-08 as Recorded in the office of the City Clerk

Bid # 08-51, Kinco Constructors: A resolution awarding Bid # 08-51 and approving a contract with Kinco Constructors in the amount of \$3,372,500.00 for construction services for the new LEED Court & Prosecuting Attorney's Building; and approving a project contingency in the amount of \$300,000.00.

Resolution 192-08 as Recorded in the office of the City Clerk

Enforcement of Underage Drinking Laws Mini-Grant: A resolution accepting and enforcing the Underage Drinking Laws Mini-Grant from the Arkansas Department of Finance & Administration in the amount of \$6,350.00; and approving a budget adjustment recognizing the grant revenue.

Resolution 193-08 as Recorded in the office of the City Clerk

State and Tribal Assistance Grant (STAG): A resolution authorizing the Mayor to accept a State and Tribal Assistance Grant (STAG) in the amount of \$286,000.00 from the U.S. Environmental Protection Agency for sanitary sewer system improvements; and approving a budget adjustment effective upon receipt of said grant.

Resolution 194-08 as Recorded in the office of the City Clerk

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

Alderman Ferrell: What is the estimated date of completion on the new courts building?

Lynn Hyke, Project Manager: We are looking at about a year. We anticipate that it should be done November, 2009.

Alderman Ferrell: How long do you expect on the demolition?

Lynn Hyke: We have to reuse the material so it could be 60 to 90 days.

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals: **None**

2008 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2008 fixing the rate thereof at 1.3 mills for General Fund Operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and

certifying the same to the County Clerk of Washington County, Arkansas. ***This ordinance was approved at the September 16, 2008 City Council meeting. A motion was made and passed to reconsider the ordinance at the October 7, 2008 City Council meeting. This ordinance was left on the Third Reading at the October 7, 2008 City Council meeting and tabled to the October 21, 2008 City Council meeting.***

Alderman Cook: I asked to reconsider this. I do not know if I am supportive or not at this point. Since we are going into the budget I thought we should have it on the table as an option. I stated last year that if we were in a bind this year I would be inclined to look at the Millage. I thought last year we cut the budget about as much as we could without reducing services where it would be noticed and laying off people. None of us really want to do that. My intent is to bring this forward as an option. I would like to have a special meeting after agenda session so we can have one budget discussion before we discuss this. I do not have a set amount in mind.

Paul Becker, Finance Director: The General Fund budget is projected to be \$35.9 million, based on revenue projections that would leave a short fall of \$535,400. Administration's recommendation is to shore that up by the use of reserves. We have to have the Millage to the County by November 1.

Alderman Rhoads: What is the total amount in reserves?

Paul Becker: About \$7.9 million. We need \$5.5 million by policy.

Alderman Thiel: That does not include the Wilson Springs proceeds.

Paul Becker: It does not.

Alderman Thiel: That is another \$1.2 million.

Paul Becker: Between \$1 million and \$1.2 million.

Alderman Thiel: That does not include the \$3 million that is in the equipment emergency fund.

Paul Becker: It does not include the Emergency Disaster and Equipment Fund which is in excess of \$3 million.

Alderman Thiel: Those need to be considered.

Mayor Coody: If you add all those together does that mean we are between \$12 million and \$12.5 million in reserves.

Paul Becker: In that range.

Alderman Rhoads: Two of those reserves are earmarked so I don't want to get a false confidence.

Paul Becker: That's correct.

Alderman Allen: I would be supportive to having this as an option.

Alderman Ferrell: When you talk about earmarks, were they earmarked by the Council?

Paul Becker: Yes.

Alderman Ferrell: Then they can un-earmark them.

Paul Becker: Yes. I believe they could. We would have to research it.

Alderman Thiel: I hope we have discussion tonight instead of waiting until we vote on it. I think it would be a benefit to the public to know what we are looking at rather than wait until the last minute. I think we should wait until we have the budget discussion to vote on this. Right now there is no increase amount.

Paul Becker: If we address the \$535,400 that would be half a mill. One mill brings in between \$1.1 million and \$1.2 million.

Alderman Allen: Would that be about \$50 per household?

Paul Becker: It would be less than that, if we consider the average household to be \$150,000 house it would be around \$20.

Alderman Gray: The \$535,400 that we are over does that include any increase in pay or COLA.

Mayor Coody: Most of that are raises.

Mayor Coody and Paul Becker explained what was covered in the \$535,400.

Paul Becker: I am sorry on the Millage if the appraised value of the house is \$150,000 it would be around \$15 for a half mill. I am saying to cover the \$535,400 would be about a half a mill.

Alderman Ferrell: If you look at the increases that the residents have in water and sewer and the economy, I think that needs to be factored in when you think about this.

Alderman Gray: I feel like in these economic bad times it is not a good time to think about raising taxes. I will not be supporting it.

Mayor Coody: I could not agree more. When we made a presentation to the Council on this we made it clear that we did not support raising taxes now. A year ago we were talking about nine tenths of a mill and we said if the economy tanked it would not be right to try to raise taxes on folks if the economy went down the tubes. I think going up on taxes now when I don't feel we need to would be an injustice.

Alderman Jordan: I am certainly glad we did not raise those taxes last year.

Alderman Lucas: I am too.

Mayor Coody: If we did we could have avoided all this and had COLAS and done a lot of different things.

Alderman Jordan: I think we can figure out COLAS from a cost savings.

Alderman Allen: The water and sewer increases for the average family next year will amount to how much?

Paul Becker: Are you talking about the impact fee?

Alderman Allen: Yes.

Paul Becker: The impact fee on a single family dwelling would go up \$700. That will be coming forward. The Water and Sewer Committee looked at that and that is about one third of what the impact fee study said we could increase. Water and Sewer rates are increasing in January. There will be a 20% increase in the sewer rate and approximately a 6% increase in water rates in January.

Alderman Thiel: How much would a COLA cost based on the last report.

Paul Becker: The company suggested that if we included the COLA that we did not implement last year plus a COLA this year that would be 7.85%. The General Fund alone would have to generate \$2.1 million for the COLA. If we want to equate that to Millage that would be roughly 1.8 mills for that alone.

Alderman Thiel: What if we just did this year's COLA?

Paul Becker: I would estimate it to be between 3% and 4%. If it is 4% we would have to generate about \$1.1 million, which would be about 1 mill. This is just for the General Fund. The impact on the entire funds at 7.85% would be \$3.1 million for everybody. \$2.1 million would be for the General Fund and \$3.1 million for everyone would be the total cost. The impact would be on all funds not just the General Fund. The General Fund would have to have Millage the other funds we would have to factor it into their budget.

Mayor Coody: If we took the COLA out of the enterprise funds what kind of an impact would that be on those funds? How would that change the work load or the work product?

Paul Becker: We would have to look at the funds and factor \$1 million of expenses throughout those funds. That would be an expense that would have to be absorbed by those funds.

Alderman Thiel: A rate increase possibly?

Paul Becker: It would factor into rates at some point in time.

Alderman Gray asked Alderman Jordan to explain his comment that he was glad we did not pass a Millage last year.

Alderman Jordan: Because if they are strapped out now and we had passed that Millage last year they would really be strapped out this year. You have added another mill to them.

Mayor Coody: I disagree with that. I don't think we would have.

Alderman Jordan: Well, that is your opinion.

Mayor Coody: If we had another million coming in right now that would give us a lot of room to work with what we do not have right now. We could make some of these things work without having to add another \$1.5 million to it.

Alderman Jordan: It is no different from last year and this year.

Alderman Gray: It seems to me our City employees would have gotten to benefit from that money through this entire year and they haven't.

Alderman Jordan: Well they will get it this year.

Mayor Coody: Are you sure they will? This discussion should have happened five weeks ago. Here we are at the last minute and now we do not know what is on the table. I find this to be very odd. This is not how cities should do their business when it comes to taxing authority, to taxing our citizens, and taking care of our employees. I don't think it should be so erratic and surprising. When it comes to raising taxes this needs to be fully vetted for quite a while.

Alderman Lucas: I couldn't agree with you more. We have not got the budget. Five weeks ago we had no idea what our budget looked like. I am inclined to wait and have our budget meeting. I don't like having it at the last minute like this and I don't like having a special meeting for the Millage. I have a struggle with raising taxes when we have \$7.9 million reserves in our shop fund. That is one of those funds that we might look at. When we ask the people for more taxes and we have \$7.9 million in a shop fund it doesn't seem right to me.

Paul Becker: Shirley you got that number from me, I would like to correct that number it should have been \$5.7 million.

Mayor Coody: When did we hand out the budgets?

Paul Becker: A detail of the General Fund was placed in the boxes last Tuesday.

Mayor Coody: When do we generally do that every year?

Paul Becker: A full budget with all funds and all documents is handed out in November. This is about on time.

Alderman Ferrell: It is a qualified statement to say of that \$535,400 the raises for the employees are in there and the bus route. If in fact the employees raises were as important as they are to some people they would have been loaded in before that was added on.

Mayor Coody: Paul, what is the difference between the 2008 budget and the 2009 budget?

Paul Becker: It is about \$890,000 larger in expenses. We project revenues to be about \$311,000 more. The major items involved in those are salary increases that were given last year, fuel, technology changes, and additional money to Ozark Regional Transit.

Mayor Coody: It is essentially the same budget except for those changes.

Alderman Jordan: Did last year's budget include a cost of living raise?

Paul Becker: No.

Alderman Jordan: If we would have raised the Millage would that have included cost of living raises?

Paul Becker: No.

Mayor Coody: But if we had we would have had \$1 million more to work with, we could have made the same cuts that we made this year and had \$1 million more to work with where we could have done a COLA without raising any taxes this year.

Paul Becker: Last year we had a shortfall of around \$850,000. We made a one time transfer from the capital fund of \$311,000 and we made almost \$500,000 of cuts. We would not have had additional monies had we not made those cuts and we still would not have the COLA.

Mayor Coody: We could have made those cuts this year.

Paul Becker: I think we would have had the flexibility to make more cuts this year. I think the cuts we made last year has pared down the General Fund operations and I do not see us being able to make a large number of cuts this year. We had to ask for increases this year due to rising costs in many areas. I would not say that we would have one million more to work with.

Steve Frankenberger, a citizen: We were talking about a Millage last spring where we would have had a lot of time to talk about it and the public to make comments. The fact that I am the only one commenting on this is evidence that the people in the City do not know what is coming. I don't think I do either. I think we need to have this stretched out so the public can meet with their Aldermen to talk about this. The economy is not in good shape. There are a whole lot of us that are not going to get COLAS this year or make as much as we did last year. I am for everyone making a good wage and making as much money as we can afford. When times are good we need to take really good care of our people. When times are bad we need to be in the same boat together. I think it is going to be difficult to ask the people in this city to bear more taxes so that some can get a COLA when most of them are not.

Mayor Coody: We can't stretch this out much longer because we have a deadline to get this to the County. November 1 is the deadline to submit our Millage to the County or we lose the Millage we have in place which we can not do.

Steve Frankenberger: You mean if we don't pass a Millage in the next few days we will lose what Millage we have. It will be rescinded?

Mayor Coody: Yes. That is 1.3 mills for operations, 0.4 mill for police pension, 0.4 mill for fire pension, and 1.0 mill for the Library.

Steve Frankenberger: I have to say I am surprised. We are going to have to pass it with essentially no public discussion.

Alderman Cook moved to table the ordinance to a Special City Council meeting on October 28, 2008. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-2. Alderman Gray and Rhoads voting no.

This ordinance was left on the Third Reading and then Tabled to a Special City Council meeting on October 28, 2008.

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

Mayor Coody: The petitioners have asked us to table this to December.

Alderman Jordan moved to table the ordinance to the December 2, 2008 City Council meeting. **Alderman Lucas** seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was left on the Second Reading and then Tabled to the December 2, 2008 City Council meeting.

ANX 08-2897 Southpass Development: An ordinance annexing that property described in annexation petition ANX 08-2897 (CC2008-38), for property located west of I-540 and Cato Springs Road, containing approximately 855.97 acres. *This ordinance was left on the First Reading at the October 7, 2008 City Council meeting.*

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

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the annexation. He stated the Planning Commission voted 6-0 in favor of the annexation request.

Alderman Thiel: This is a conceptual plan. How closely do they have to adhere to this over the years?

Jeremy Pate: Any PZD establishes the zoning criteria, so they have established six planning areas. In order to construct something they have to follow that exact zoning criteria. This also establishes architectural design standards. All those components that tie into this plan can not be changed unless an amendment to the PZD is brought back before the Council and that is discussed in a public setting. Should this be approved any future development would have to follow the criteria.

Alderman Thiel: When you have phases is there a guarantee that they will not grade the entire project before they start the first phase?

Jeremy Pate: That was discussed at the Planning Commission. Anything on any piece of property will have to be reviewed and approved by the Planning Commission. A massive grading permit can not be issued for the site.

Alderman Thiel: They have to have a grading permit per phase?

Jeremy Pate: Yes and a large scale development approval per phase as well.

Alderman Thiel: Are there enough fields in this project for major tournaments?

Connie Edmonston, Parks and Recreation Director: I think with soccer there will be. For tournaments that we bring in we will have those four fields. We also have other fields within the City which we can also have the tournament at. It depends on how many teams. It is customary that when a city hosts a large tournament that you may play in surrounding cities.

A discussion followed on current property that we lease from the University for playing fields.

Mayor Coody: How long will it take before these will be functional if this passes?

Connie Edmonston: It depends on how fast you go and if you are going to sod them, seed them, or sprig them.

Mayor Coody: Are you talking about one year to build all the fields?

Connie Edmonston: Right now we have the money to build the soccer fields and pretty much the great lawn.

Alderman Thiel: Do you have the money to build the roads, the cost share?

Connie Edmonston: We have \$2.8 million and then we will have \$1 million from the developers so we will be very close to be able to complete Phase 1.

Alderman Thiel: Can amendments be made to the cost share?

Ron Petrie, City Engineer: Absolutely. We are providing you with our recommendation from our discussion with the developer.

Alderman Ferrell: When we annex property what does that obligate the City to for the newly annexed area.

Jeremy Pate: Typically we have to provide some level of service. I believe most of those levels of service are provided at this point in time except sewer is not to the property.

David Whitaker, Assistant City Attorney: Certain things like Fire and Police would be immediate. There is a reasonable amount of time and effort to begin providing the other services, the new infrastructure. It is my understanding this annexation is only applying to empty land that some day will have people there needing the services.

Alderman Ferrell: On a property annexation the immediate obligations would be what we have adjacent to it like Police and Fire?

David Whitaker: Once the annexation ordinance becomes effective it becomes our jurisdiction for those types of services.

Jeremy Pate: You established an annexation group that for every annexation that comes forward we have Fire, Police, Planning, and Engineering that submit comments. Part of the discussion for this project was the need for additional Fire and Police. Impact fees would pay for much of that expansion of services. However there have been accommodations made and a traffic study included for a fire station on this site as well as a police substation to serve residents of this area.

Jeremy explained where the fire station would be on the property and how much land is included in the park.

Alderman Lucas: Who pays for the widening under I-540?

Jeremy Pate: Right now it is recommended as a portion of the development. The only thing difference from that is what is in your cost share packet.

Alderman Lucas: Most of the single family lots will be provided parking, where will the others park?

Jeremy Pate: Some are more of a courtyard concept and they would park on parallel spaces.

A discussion followed on the clustered lots west of the water tank site and the effect of the project to the neighboring property owners.

A discussion followed on the mitigation of the ground water impact of the proposed park area.

A discussion followed on the post closure trust fund process.

Todd Jacobs, a representative of the project went over different areas of the park and what will be built during each phase. He stated the waterway will be built during the first phase.

A discussion followed on the proposed park building at the project, the location of the proposed dog park, and a proposed police substation on the site.

Barbara Moorman, a resident voiced her concern about the proposed annexation. She stated this is not already urban in character and most of it can not be developed to urban density if you want to be realistic. She voiced her concern with things being changed in the project in the future and about there not being City services and the annexation creating an island. She is also concerned about not being able to protect the environmentally sensitive areas in the project and the landfill that is on the project. She read some facts from the reports on the landfill. She stated DEQ has let this landfill sit for 32 years. All the while DEQ has known it was a hazard and that it was polluting. She said the City does not have an environmental protection staff or department of its own and under the present circumstances there is no responsible City oversight of what is happening or what will happen with the landfill. It is all being left to DEQ. She stated the City should address the landfill question right now and table all the rest unless or until the landfill is cleaned up and there is documentation that it is cleaned and safe for humans and wildlife and not polluting other soil or water.

Mayor Coody: If there is a problem out there then we need to address it. If the City of Fayetteville was the source of the material that went into the landfill, whether we own it or not, ultimately at the end of the day we are liable for it. It's better to plan on remediating any issues. One statement in the executive summary stated the most toxic part of the land out there was around the house that is still out there because of lead paint.

Connie Edmonston: That is what Terracon came up with. We have all known that taking in this landfill is a responsibility, but it is our cities responsibility. One thing Parks is responsible for is being a good environmental steward of our land. That is why we are working with ADEQ and they are coming up with a plan right now.

Alderman Thiel: I don't believe we have the extensive report in our packet. We just have the memorandum from ADEQ. I would like to have the entire report.

Don Conner: Until we have the information about the remediation of the landfill and cost on other city expenditures I think we should hold off until we know what is going on. There is no need on voting on this until you know what it is going to cost us in the future.

Aubrey Shepherd, a citizen expressed his concerns about fires that were taking place on the land. If this were annexed would we then prevent any change on the land? We should not be seeing changes like this to the land yet. How will we protect it if it is brought into the City?

Mayor Coody: I see that the owners are here. Do you all have any information regarding any land clearing going on?

Steve Aust: We have a building permit to renovate the old house. There was an old barn, which was a hazard, so we tore it down and hauled it off to the dump and burned old brush around the site to make it look better. We call in for a burn permit when we do it.

Mayor Coody: That part is within the city?

Steve Aust: Yes and we have been renovating the house.

Mayor Coody: Jeremy, one question that came up was finding excuses for different violations of our policies. Would you please address that please?

Jeremy Pate: If you go through annexation findings you will find what Ms. Moorman referred to, potential annexation areas. As an example #5 is we should annex areas where urban services are already provided and #6 is you should annex areas where urban services are needed. Those are in direct conflict, it is kind of saying we should annex everything because it needs to be provided or it is not there. What was identified in those two findings specifically is that there are certain services that are there that would support annexation of the property. In terms of environmental protection in areas it states "annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas". The challenge with areas outside our corporate city limits is that our rules and regulations do not apply. We feel this would offer those protections if the property is annexed and developed in the future.

Mayor Coody: How much of this property is inside the city right now verses out of the city and in the county?

Jeremy Pate: 855 acres of the 910 are outside the city currently. So 55 acres roughly are already in the city.

Mayor Coody: So 93% is out in the County then with County regulations.

Jeremy Pate: That's correct.

Rick Alexander: We are here because we have a contract with the City of Fayetteville. That contract required us to purchase this property and to hire master planners, and with the assistance of the City and the Parks Division develop a master plan for this community, this site. It also required us to donate 200 acres of land to the City which we are prepared to do. The City was the source of the landfill problem, if there is one, and I don't believe there is one. Hysteria is not a substitute for truth. This has been the subject of many ADEQ studies and many private environmental firm studies none of which were hired or paid for by the developers. If there is a problem with this landfill it belongs to the City. We have funded this project and preformed. It is now up to the City to do its part and to annex and rezone in accordance with the master plan that was developed with the full assistance of the City. This has been a six year process and the City has known about the landfill for the entire time, it knew we were not going to accept responsibility for it, we did not own it, or create it, and we did not want it. The City understood all of that on the front end and determined it was in the cities best interest to get a park for free. The City knew at the time they would be required to pay cost shares and infrastructure development to develop its park, which is part of the contract. So as the City considers this please remember this is and always has been a City project.

Keith Cooper, resident of Ozark Trail: I am not exactly comfortable with the assurances that we have regarding Kessler Mountain. Everything looks good but I am worried about getting it started and not being able to complete it. I am just wondering if this won't end up as apartment houses.

Mayor Coody: You might go by Engineering to discuss your concerns about the runoff and drainage issues and make sure the water is flowing the right way.

Keith Cooper: It's not now but when they start developing it is what I am concerned about.

Mayor Coody: It would be nice to know what the staff thinks.

Alderman Thiel: I think we need to discuss the cost share next time. We have gone over the development.

Mayor Coody: Do you want to leave it on the second reading then?

Alderman Cook: Yes.

This ordinance was left on the Second Reading

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

adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the October 7, 2008 City Council meeting.*

Alderman Thiel moved to suspend the rules and go to the second reading. **Alderman Gray** seconded the motion. Upon roll call the motion passed unanimously.
Assistant City Attorney David Whitaker read the ordinance.

This ordinance was left on the Second Reading

ADM 08-3117 (Southpass MSP Amendments): A resolution for ADM 08-3117 amending the Master Street Plan, realigning Shiloh Drive, a collector, through the Southpass PZD site south to Cato Springs Road, and changing the designation of Cato Springs Road from a collector to a principal arterial in the Southpass vicinity, as described and depicted in the attached maps. *This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting.*

Jeremy Pate gave a brief description of the item. I would simply recommend that you table it so it tracks concurrent with all the others.

Alderman Thiel moved to table the resolution to the November 6, 2008 City Council meeting. **Alderman Cook** seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the November 6, 2008 City Council meeting.

Southpass Development Infrastructure Cost Share: A resolution expressing the willingness of the City of Fayetteville to cost share street and sewer infrastructure costs that would be utilized by both the Southpass Development and the future community park. *This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting.*

Alderman Lucas: Shiloh is going to go through the business section of this development right?

Ron Petrie pointed out on the map where Shiloh would connect into the development.

A discussion followed on Shiloh.

Alderman Lucas: If we put it on the west side of the hill without going through the business district is there a cost difference for the city?

Ron Petrie: There is a drawing in your packet that shows the master street plan as proposed. You will see there is a difference in length and there is a larger length involved going through the development.

Alderman Jordan moved to table the resolution to the November 6, 2008 City Council meeting. **Alderman Allen** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Cook** was absent during the vote.

This resolution was tabled to the November 6, 2008 City Council meeting.

New Business:

Animal Cruelty Legislation Support: A resolution to express the Fayetteville City Council's support for Senator Sue Madison's proposed animal cruelty legislation.

Alderman Jordan: This is something that I brought forward. This is very important legislation for the State of Arkansas. This is something that needs to be addressed. I want to thank Senator Madison for bringing this forward.

Senator Sue Madison gave a description of animal cruelty legislation. This is preventive legislation and will help us control future violent acts. I want to stress how important it is to address these offenses the first time it happens. She gave examples of animal cruelty acts that she has heard about in the past. I want to express my gratitude to Fayetteville for being a leader in looking at this resolution and hopefully you will set the tone for that session and help us get the ball rolling on this.

Mayor Coody: Thanks for sponsoring this Sue we appreciate it.

Alderman Ferrell: Can you give me an idea of what authorities run into right now regarding horses?

Mayor Coody: Starvation would be one.

Senator Sue Madison: There have been abusive acts toward horses, their throats have been slit and they have been left to die. Locally someone decided to teach their horse a lesson and dragged it behind a truck and was not able to be charged with a felony. The legislation we are working on will make it very clear.

Eva Madison, a representative of the Humane Society of the Ozarks spoke in support of the resolution. She stated we need this law for Arkansas and for Fayetteville. She listed reasons why it's important for the City Council to address.

Alderman Thiel: I also want to commend Sue for her diligence on this. Senator Madison has worked on this several years.

Mayor Coody: A DWI does not rise to a felony level until you reach your fourth offense, which is something else that needs to be addressed. Will you talk to the Legislature about that Sue?

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

Resolution 195-08 as Recorded in the office of the City Clerk

Airport Zoning Map: An ordinance adopting a new airport zoning map as part of Chapter 165: Airport Zoning, of the Unified Development Code, to reflect the results of the recently completed airport obstruction survey.

Assistant City Attorney David Whitaker read the ordinance.

James Nicholson, Financial Coordinator-Airport: The Airport Director requested that the Council proceed with the three readings and approve the ordinance.

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

Assistant City Attorney David Whitaker read the ordinance.

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

Assistant City Attorney David Whitaker read the ordinance.

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

Ordinance 5186 as Recorded in the office of the City Clerk

RZN 08-3084 (Candlelight Place): An ordinance rezoning that property described in rezoning petition RZN 08-3084, for approximately 0.94 acres, located at the southeast corner of Gregg Avenue and Ash Street from RSF-4, Residential Single-Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre.

Mayor Coody: The petitioner's would like us to table this until the next meeting.

Alderman Jordan moved to Table the ordinance to the November 6, 2008 City Council meeting. **Alderman Cook** seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was left on the First Reading and Tabled to the November 6, 2008 City Council meeting.

RZN 08-3085 (Washington County Farm Bureau): An ordinance rezoning that property described in rezoning petition RZN 08-3085, for approximately 1.55 acres, located at 1165 North Meadowlands Drive from R-O, Residential Office, to C-1, Neighborhood Commercial.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate gave a brief description of the item. He stated Planning Commission voted 7-0 in favor of this proposal and staff is recommending approval as well.

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

Assistant City Attorney David Whitaker read the ordinance.

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

Assistant City Attorney David Whitaker read the ordinance.

Alderman Thiel asked staff to clarify to the public why we are considering this.

Jeremy Pate: Ultimately the reason is the applicant would like to install a 75 square foot sign larger than what R-O allows.

Alderman Cook: I hope you come up with something different because if you rezone it C-1 it sets a precedent. I hate doing a rezoning just for the sign that is frustrating.

Jeremy Pate: I mentioned at Agenda Session that we would like to look at it and see if there is a possibility of changing or revisiting the sign ordinance in that regard. This is the second similar request that we have seen a rezoning change due to a sign issue both of which the Council seemed to be supportive of. In that regard we will try to follow the Council's lead and look at other changes so we don't have to bring the applicant through the entire rezoning process and a land use change just for something relatively minor.

Mayor Coody: How long will it be before that might come forward?

Jeremy Pate: I don't know. We have a few other things we are working on right now but it will be in the future.

Alderman Lucas: I like the monument sign better than the pole sign.

Jeremy Pate: That is probably the preferred route for most persons and new businesses.

Alderman Cook: Would that be a staff recommendation to have a C-1 zoning at this intersection? I know that is where we try to cluster it.

Jeremy Pate: It is. If there were no sign issue that is something we would look at specifically. That is an intersection that likely will be signalized at some point in the future. It is becoming quite a major intersection at this point in time.

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

Ordinance 5187 as Recorded in the office of the City Clerk

R-PZD 08-3071 (Bridgedale Plaza): An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-3071 Bridgedale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate gave a brief description of the item. He pointed out the four planning areas. Staff recommends in favor of this as did the Planning Commission with a vote of 5-2.

Alderman Thiel: I have not received any calls from the neighborhood. Have there been any calls to the staff?

Jeremy Pate: We had a few calls confirming that it was not the same project being resubmitted and we assured them that it was not. We had a few people come in and look at the plans. Three or four people spoke at the Planning Commission meeting, some of which were concerned about the traffic, density, and non single family uses. The outpouring of public opposition has not been there for this proposal like it was the last time. Hopefully this has been a lot better of a proposal.

Alderman Thiel: They are going to do the drainage remediation that they were going to do before?

Jeremy Pate: We inserted that with the Planning Commission's permission when we recommend it to you. It is now the last condition of approval.

Alderman Thiel: That should make a majority of the people out there happy. Most of the objection on the west side of the project was the storage units. We had a lot of support on the east side of project.

Alderman Allen: What were the objections of the two Planning Commissioner's that voted against the project?

Jeremy Pate: I don't remember that they offered any objections when they voted. It was Commissioners Anthes and Bryant that voted no. I don't recall that they even said anything about their objections. Commissioner Anthes asked some questions about the low impact development techniques and the drainage. We made sure we included that drainage condition in there when we made this recommendation to you.

Anthony Sumlin a resident of 3851 Riverbluff Cove: I agree with the 2025 Plan and I think a lot of the elements of this proposal meet that as far as mixed use. Is there is going to be anything in the development to shield the elevation of the apartments from the site from the surrounding neighborhood? I also would ask that if you decide to move forward with this project that there would be some conditions around current construction, around the single family as well as the apartment complexes. I am opposed to the apartment phase of the development. That could lead to increased traffic and it's not consistent with the surrounding neighborhood in that area.

Jeremy Pate: With regard to the building height we required, as a condition of part of the zoning, that the building height for multi family is no higher than what RSF-4 allows for single families so that is capped at 45 feet maximum. The conceptual drawings are in your packet and they show two or three story buildings for the multi-family. As far as buffers it is not the developer's intent to touch that tree line so that would remain as a buffer along that west property line.

Linda Patterson, a resident of 1106 St. Andrews Circle: I was opposed to the initial project and I remain opposed to this one as well. I am concerned about the density of the project and the increased traffic it will cause. There is strong opposition to having the density of this project in the area. Why does there have to be a commercial aspect to it when there are services within a mile to a three mile radius of this development.

Dave Jorgensen, representing the owner: These are two stories not three. Even though we don't have fencing that is going to go up to shield the multi-family portion from the rest of the property to the west and to the south, we are going to have a tree line around this to help provide a buffer for isolating single family from the multi-family. We have incorporated a park in the center portion of this project to help connect the neighborhoods together. Mr. Jorgensen described their plans for the project and addressed Alderman's Thiel's concerns about the drainage by directing her to various pages in the agenda packet.

Alderman Thiel: Probably the next time we review this it might be good if we had something enlarged that everyone can see. The multi-family is buried behind the single family.

Dave Jorgensen: It is.

Alderman Thiel: I don't want this to go through tonight. I want to make sure that people out there do know about it and can make their comments known.

Dave Jorgensen: On page 4 of the booklet it talks about the time frame for construction of the various components. Each planning area has to be brought before the City in the form of a preliminary plat or a large scale development. There will be plenty of chances for the Planning Commission and the City to do a total review of this.

Alderman Thiel: Another thing we discussed was that it was important that the residential be done first.

Michelle Bailey, a resident of 1274 St. Andrews Circle: Are there going to be certain phases that will be built out before the others. Our concern is that the apartments are going to be built and then the rest will be sitting there with no houses or commercial completed. What phase is what? I am more opposed to the density for that small of an area. I am more opposed to the apartment part than I am the housing and the commercial at the front.

Dave Jorgensen: We were planning on putting in the houses. I think that is still the plan but I can confirm that at the next meeting.

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

Assistant City Attorney David Whitaker read the ordinance.

This ordinance was left on the Second Reading

ANX 08-3036 Fayetteville Farmington Land Swap: An ordinance concurring with Farmington Ordinance No. 2008-15, providing for the voluntary detachment of certain lands from the City of Fayetteville, and attaching said lands to the City of Farmington.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate gave a brief description of the item. He stated this is the final step in this application process for the City of Fayetteville to annex a portion of what is now Farmington and for Farmington to annex a portion of what is now Fayetteville. We are recommending approval. **Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.**

Assistant City Attorney David Whitaker read the ordinance.

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

Assistant City Attorney David Whitaker read the ordinance.

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

Ordinance 5188 as Recorded in the office of the City Clerk

Victory Commons Phase I Appeal: An appeal of certain conditions of approval of the Planning Commissions decision regarding Victory Commons Phase I.

Jeremy Pate gave a brief description of the appeal. He explained the discussion from the Planning Commission and also went over conditions of approval numbers 1, 4, 12, 13, 16, 18 and 22 which were the conditions the applicant was appealing. The listed conditions were concerning the 15 foot green space variance request, curb cut location, tree preservation and wetland determination.

Alderman Lucas: Clarify what the applicant wants. You have given two recommendations but what does the applicant want?

Jeremy Pate: Mr. Hoskins will speak to that particular issue. He wants the full access without removing the curb cut. I will let him speak and clarify that. We would recommend that Conditions of Approval # 12 and # 13 be substituted for those four conditions of approval. I think the wet land determination issue has been worked out. The Planning Commission voted 6-0 to approve the large scale development and found in favor of all of the staff's recommendations for these conditions of approval.

Tracy Hoskins, Paradigm Development: I think we have the tree issues worked out. For commercial properties one of the things that has to exist is convenient access, if not commercial properties do not survive, therefore we have appealed the condition of approval for the median access.

Alderman Thiel: What are you still appealing? It sounds like you have probably worked out the tree issue. You are going to do a wetland delineation or are you appealing that?

Tracy Hoskins: We are not appealing the wetland delineation because we found someone that can get it done for us.

Mr. Hoskins stated they are appealing the condition of approval for the access. He explained why they were appealing this condition of approval. He stated they have redesigned the median cut. The final proposal exceeded the expectations of the University of Arkansas. They have blessed this new design that has been submitted for their approval.

Alderman Lucas: Has the State approved the new design for the median cut?

Tracy Hoskins: It has not been submitted to the State. If the AHTD will bless Engineering's design we are okay with their design.

A discussion followed on the median cut.

Tracy Hoskins: What we are proposing is more in line with the recently passed access management ordinance than what we have here now.

A discussion continued on the median cut.

Alderman Cook moved to Table the appeal to the November 6, 2008 City Council meeting. Alderman Allen seconded the motion. Upon roll call the motion passed unanimously.

This appeal was Tabled to the November 6, 2008 City Council meeting.

Amend the Rules of Order and Procedure: A resolution to amend the Rules of Order and Procedure of the Fayetteville City Council concerning meetings that would occur on general election days.

Alderman Thiel: Kit suggested that we make this a continuous thing so that we do not have to address changing the General Elections. By approving this and changing the rules of order we would be changing City Council meetings that fall on a General Election date to the following Thursday. I think it is important that the public has an opportunity to come to the City Council meetings. I think a lot of people will be busy going to watch parties and watching the election on television.

Assistant City Attorney David Whitaker: By following this approach and adopting this as your Rules of Order and Procedure the practical effect is that the City Clerk each year, when she does the entire year's schedule, can just build this in and it will not become a surprise to anyone.

Alderman Allen: What holidays are we including?

Assistant City Attorney David Whitaker: There are going to be very few that would fall on a Tuesday.

Alderman Allen: I am going to do whatever you all want to do on this but when we talked about it before I was inclined to feel that City business proceeds as it is scheduled. How many other things would it impact?

Alderman Thiel: I think the main issue is the same as holidays. I think we try to make our meetings public and invite the public to attend them. Obviously if we hold them on holidays or a General Election night we are not going to have as much participation.

Alderman Lucas: I don't think it would really be a big issue to do it when it arrives. There are so few dates it is nothing to change it when it occurs.

Mayor Coody: Obviously it is. We have been discussing this for three weeks.

Alderman Gray: I agree with our attorney, I think it is better for our clerk to know when she puts out the schedule. We can mark our calendars and we do not have to take care of them one by one.

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

Resolution 196-08 as Recorded in the office of the City Clerk

Adjournment: 9:30 PM

Dan Coody, Mayor

Sondra E. Smith, City Clerk/Treasurer

New Resolution
#9 WestSide Storage
Handed out at the
City Council Meeting 11-06-08

RESOLUTION NO. _____

A RESOLUTION APPROVING A SETTLEMENT WITH WESTSIDE STORAGE, INC. IN THE AMOUNT OF \$92,545.00 FOR RIGHT-OF-WAY AND EASEMENT ACQUISITION FOR THE RUPPLE ROAD WIDENING PROJECT, AND TO A RELEASE PROVISION OF THE BILL OF ASSURANCE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas, hereby approves a settlement with Westside Storage, Inc. in the amount of \$92,545.00 for right-of-way and easement acquisition for the Rupple Road Widening Project.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby releases the property owner from paragraph III of his July 10, 1990 Bill of Assurance: "Access for any development on the most northern 3.5 acres of said property shall be limited to Rupple Road."

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

Handed Out at the City Council Meeting 11-06-08

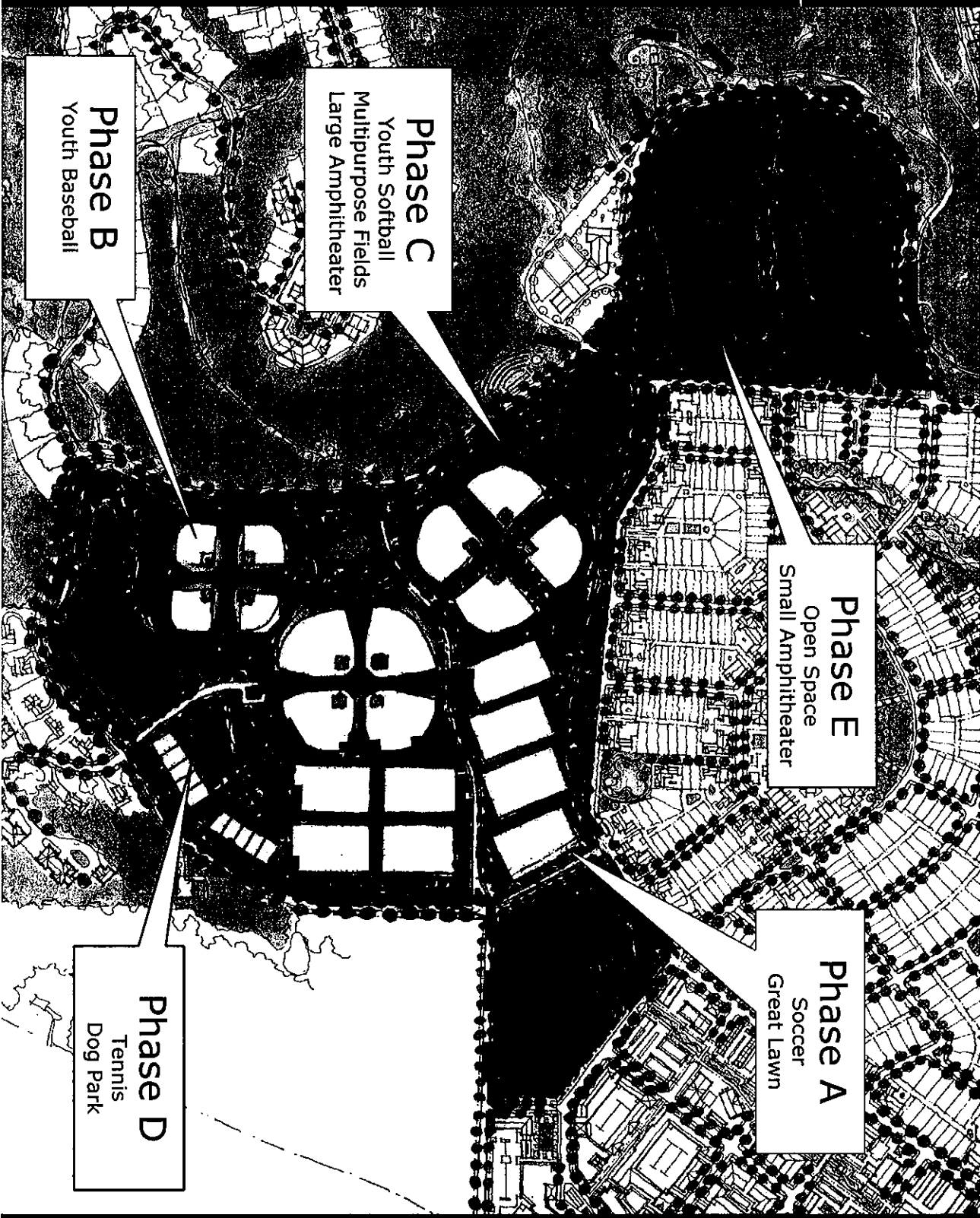


11-06-08



Regional Park with SouthPass

- 200 Acres Regional Park
 - 39 Acres Open Space
 - 287 Acres Park and Open Space
 - 100% City Funded
 - 50% - 50% Cost Share
- Total Cost to City of \$26,168,218

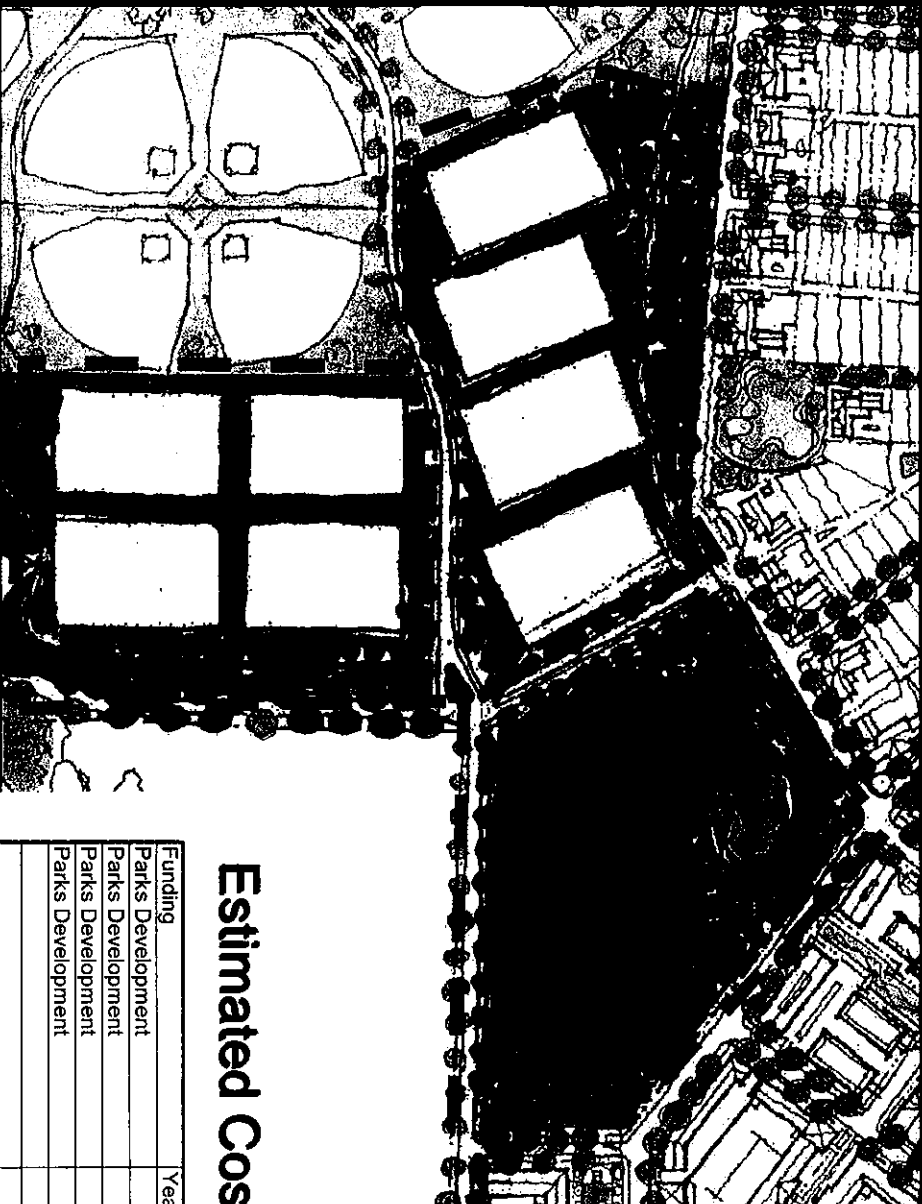


Regional Park Phasing



Regional Park Phase	Year to Buildout	Park Development Cost w/eng. & cont.	Park Roads w/ eng. & cont.	City Road Cost Share Contribution	Park Development Total	City Development Total	Total Development Cost	Southpass Phase	Year to Buildout
Phase A	2011	\$ 2,790,000	\$ 952,740	\$ 1,778,998	\$ 5,521,738	\$ 744,880.00	6,266,618	Phase 1	2011
Phase B		\$ 7,646,400	\$ 1,409,010	\$ 632,494	\$ 9,687,904		9,687,904	Phase 2	2012
Phase C		\$ 3,704,400	\$ 345,090		\$ 4,049,490		4,049,490	Phase 3	2013
Phase D		\$ 1,323,600	\$ 337,500		\$ 1,661,100		1,661,100	Phase 4	2014
Phase E		\$ 798,000	\$ 1,163,313		\$ 1,961,313		1,961,313	Phase 5	2016
				\$ 520,500	\$ 520,500		520,500	Phase 6	2017
				\$ 190,325	\$ 190,325		190,325	Phase 7	2018
					\$ -		0	Phase 8	2019
					\$ -		0	Phase 9	2020
					\$ -		0	Phase 10	2021
					\$ -	\$ 1,130,937.50	1,130,938	Phase 11	2023
					\$ -		0	Phase 12	2026
				\$ 653,344	\$ 653,344		653,344	Phase 13	2026
					\$ -		0	Phase 14	2027
					\$ 595,000.00		595,000	Phase 15	2029
				\$ 451,688	\$ 451,688		451,688	Phase 16	2030
					\$ -		0	Phase 17	2032
					\$ -		0	Phase 18	2033
		\$ 16,262,400	\$ 4,207,653	\$ 4,227,348	\$ 24,697,400	\$ 2,470,817.50	27,168,218		
							-1,000,000		
							26,168,218		

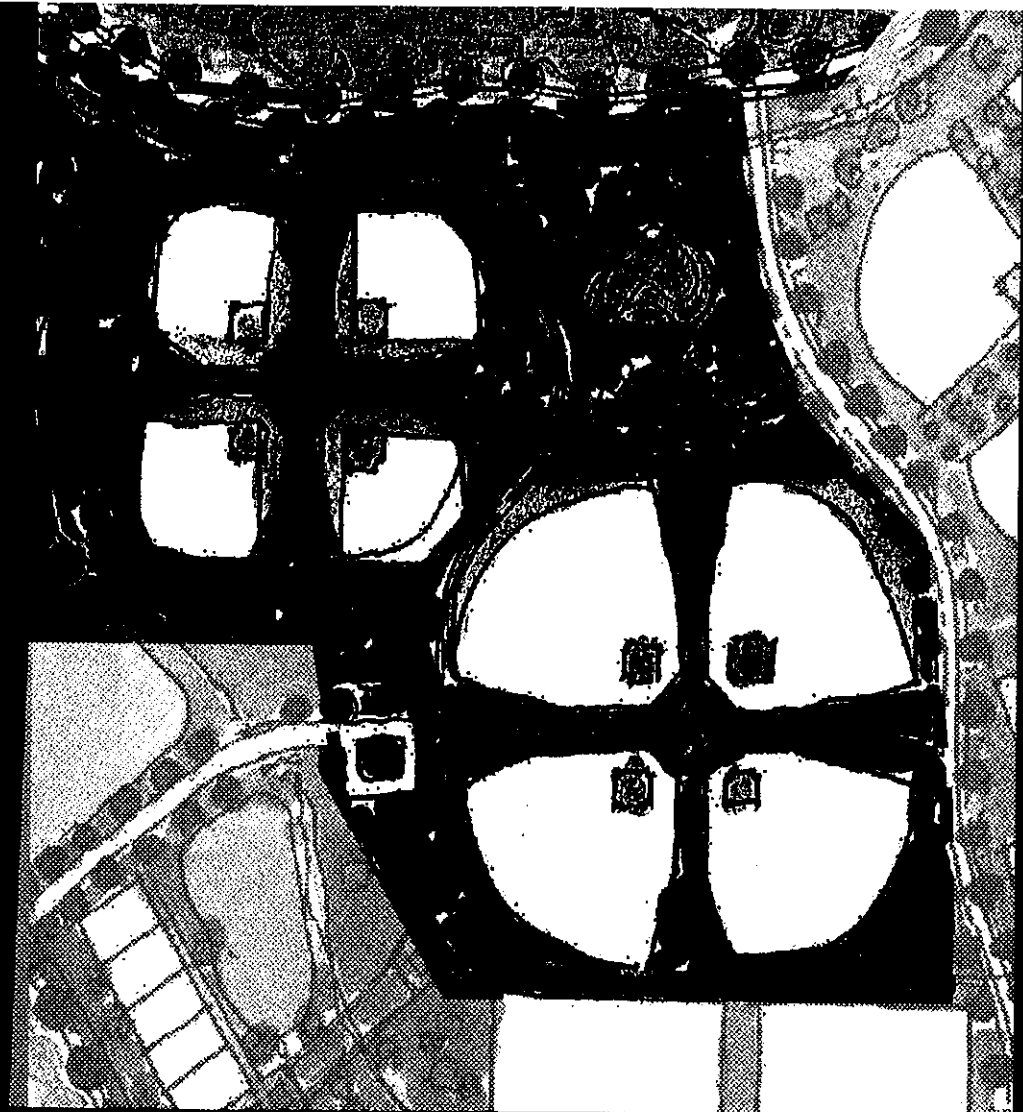
ALL FIGURES ARE 2008 DOLLARS



- Amenities:**
- 8 soccer fields (4 lighted)
 - Concession/Restroom
 - Large Playground
 - Large Shelter
 - Great Lawn
 - Splash Pad
 - Trails

Estimated Costs and Funding

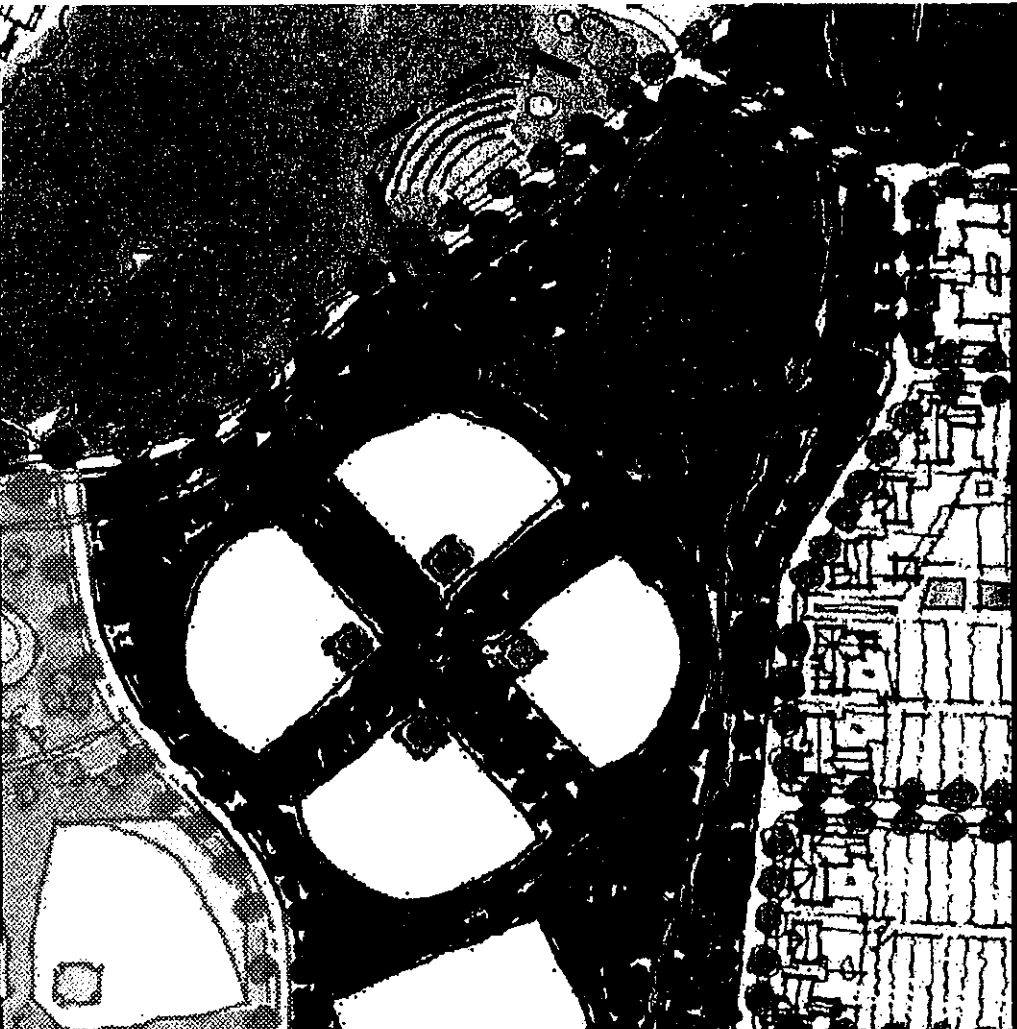
Funding	Year	Amount
Parks Development	2008	\$ 2,873,154
Parks Development	2009	\$ 457,700
Parks Development	2010	\$ 767,700
Parks Development	2011	\$ 626,700
Total		\$ 4,725,254
Developer Donation		\$ 1,000,000
Total Available Park Funds		\$ 5,725,254
Phase A Estimated costs		\$ 6,266,618
Sewer paid by bond		\$ 744,880
Remaining Funds		\$ 203,517



Amenities:

- 8 Lighted Youth Baseball Fields
- Concession/Restroom
- Small Playground
- Splash Pad
- Trails

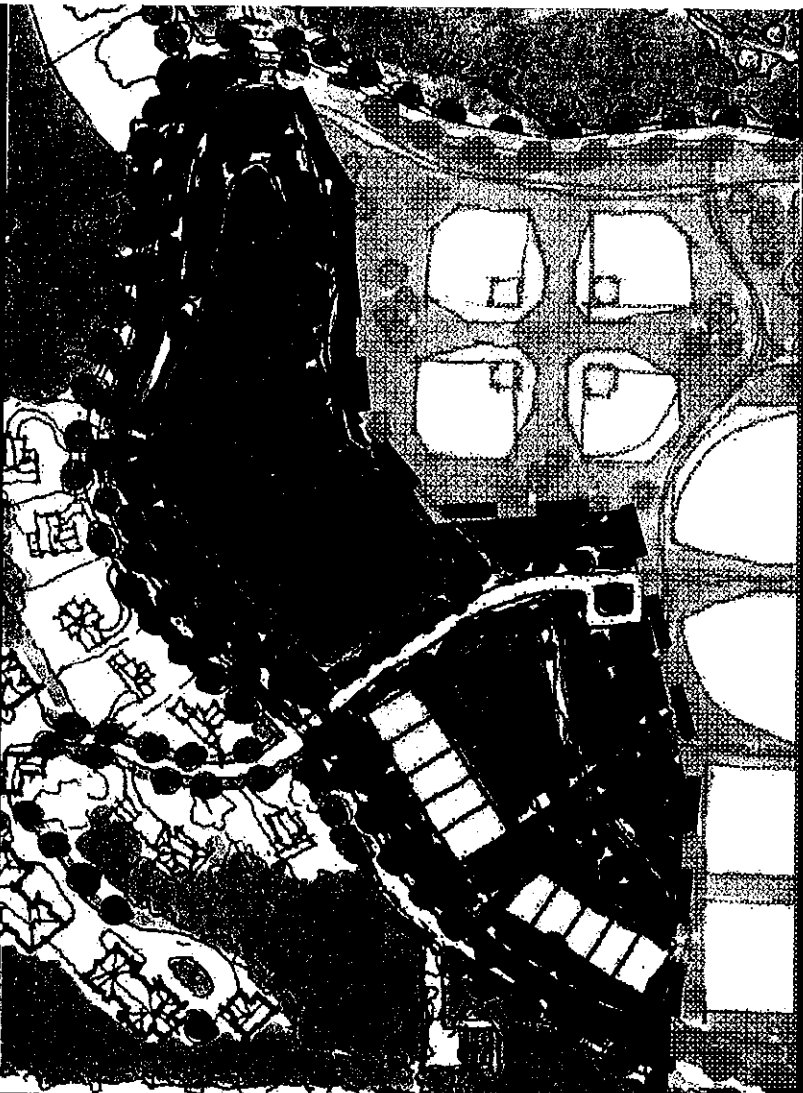
Park Development:	\$	7,646,400
Park Roads:	\$	1,409,010
Road Cost Share:	\$	632,494
Total Cost:	\$	9,687,904



Amenities:

- Youth Softball
- Multipurpose Fields
- Large Amphitheater
- Small Pavilion
- Trails

Park Development:	\$	3,704,400
Park Roads:	\$	345,090
Total Cost:	\$	4,049,490



Amenities:

- 10 Lighted Tennis Courts
- 4 Lighted Basketball Courts
- 4 Lighted Volleyball Courts
- Dog Park
- Trails

Park Development:	\$	1,323,600
Park Roads:	\$	337,500
Total Cost:	\$	1,661,100



Amenities:

- Open Space
- Small Amphitheater
- Disc Golf
- Trails

Park Development:	\$ 798,000
Park Roads:	\$ 1,163,313
Total Cost:	\$ 1,961,313

Regional Park Phasing



+

Children's play areas

Hiking, biking, & multi-use trails

Soccer

Ultimate Frisbee

Softball, & multi-purpose fields

Open Space

Amphitheaters, meeting & gathering spaces

Added at the City Council Meeting 11-06-08
Before
Consent

RESOLUTION NO. _____

A RESOLUTION TO ACKNOWLEDGE AND THANK
MARSHA MELNICHAK OF THE NORTHWEST
ARKANSAS TIMES FOR HER FAIR AND ACCURATE
REPORTING OF CITY BUSINESS

WHEREAS, Marsha Melnichak has consistently endeavored to accurately report newsworthy events at the City of Fayetteville; and

WHEREAS, Marsha would often confirm quotations or comments from City staff and officials to ensure their accuracy; and

WHEREAS, Marsha maintained a very objective perspective when writing her news articles so that both sides of a City issue would receive fair and equal treatment in the press.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas, hereby expresses its deep respect and appreciation of Marsha Melnichak for her long and excellence service as the City reporter for the Northwest Arkansas Times. Further, the City Council asks our citizens to give Marsha Melnichak the respect and honor she deserves for upholding the best and most cherished traditions of America's free press.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

Added at the City Council Meeting 11-06-08

City of Fayetteville Staff Review Form

Before
New
Business

City Council Agenda Items
and
Contracts, Leases or Agreements

11/6/2008

City Council Meeting Date
Agenda Items Only

Dena Stockalper

Submitted By

Administrative Services

Division

District Court

Department

Action Required:

A resolution to approve the destruction of certain Fayetteville District Court records as specified under Arkansas State
Statute 16-10-210. Costs of this project is part of the District Court/Prosecutor building project.

Code Annotated

\$2,500.00

Cost of this request

\$

-

Category / Project Budget

District Court/Prosecutor building

Program Category / Project Name

4470.9470.5804.00

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

\$

-

Remaining Balance

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

11-3-08

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

11/3/08

Date

Received in City
Clerk's Office

11-3-08

Finance and Internal Service Director

11-3-08

Date

Received in
Mayor's Office

ENTERED

11/3/08

Mayor

11/4/08

Date

Comments:

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE FAYETTEVILLE DISTRICT COURT
TO DESTROY CERTAIN RECORDS PURSUANT TO ARKANSAS CODE
ANNOTATED § 16-10-211, RECORD RETENTION SCHEDULE.**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville District Court to destroy certain records pursuant to Arkansas Code Annotated §16-10-211, Record Retention Schedule. Affidavits with lists of the records to be destroyed marked Exhibit "A" are attached hereto and made a part hereof.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

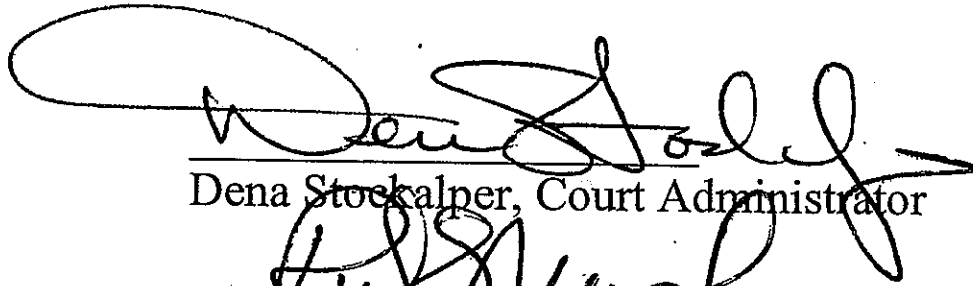
**AFFIDAVIT OF DESTRUCTION OF
FAYETTEVILLE DISTRICT COURT RECORDS**

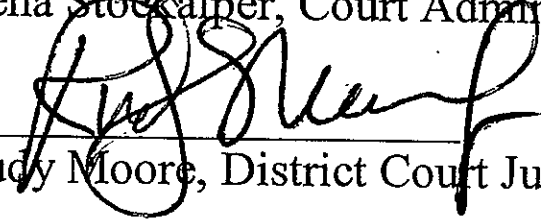
I, Dena Stockalper, do hereby certify that the following records of the Fayetteville District Court, have been retained for at least ten (10) years as specified under Ark. Cods Ann. 16-10-211 and have been audited as required by law. The records listed below, covering the time period stated, are to be destroyed by shredding said records.

TYPE OF RECORD

TIME PERIOD

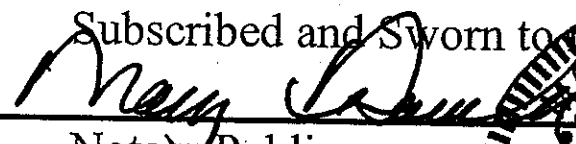
Small Claims and Civil Files and documents 1/1/1987 - 12/31/1997


Dena Stockalper, Court Administrator

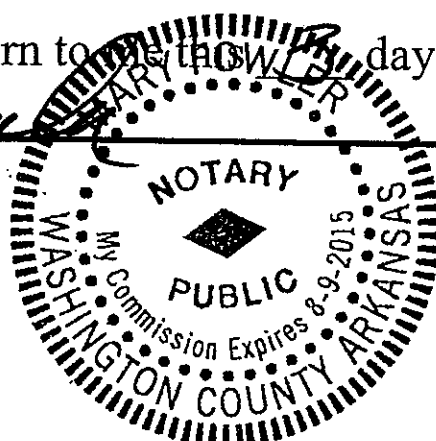

Rudy Moore, District Court Judge

City Council Members

Subscribed and Sworn to before me this 13 day of November, 2008



Notary Public



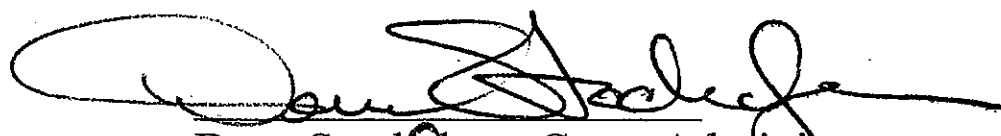
**AFFIDAVIT OF DESTRUCTION OF
FAYETTEVILLE DISTRICT COURT RECORDS**

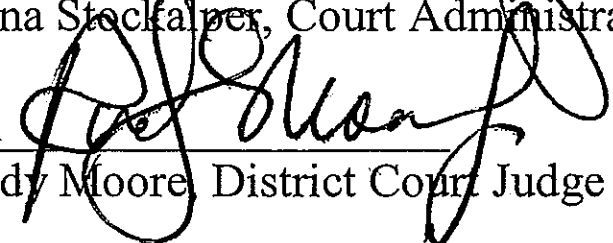
I, Dena Stockalper, do hereby certify that the following records of the Fayetteville District Court, have been retained for at least seven (7) years as specified under Ark. Cods Ann. 16-10-211 and have been audited as required by law. The records listed below, covering the time period stated, are to be destroyed by shredding said records.

TYPE OF RECORD

TIME PERIOD

Records and reports of court costs	1/1/1987 - 12/31/2000
Fines and Fess Assessed and collected	1/1/1987 - 12/31/2000
Case Files	1/1/1987 - 12/31/2000
Month End Settlements	1/1/1987 - 12/31/2000
Monthly distribution reports	1/1/1987 - 12/31/2000
Show cause orders	1/1/1987 - 12/31/2000
Case information, including arrest reports and affidavits	1/1/1987 - 12/31/2000
Alternative serve and community service time sheets	1/1/1987 - 12/31/2000

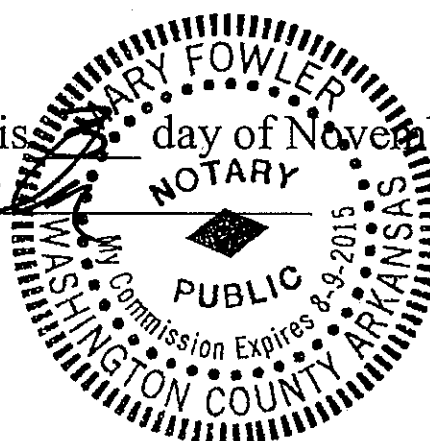

Dena Stockalper, Court Administrator


Rudy Moore, District Court Judge

City Council Members

Subscribed and Sworn to me this _____ day of November, 2008

Notary Public



**AFFIDAVIT OF DESTRUCTION OF
FAYETTEVILLE DISTRICT COURT RECORDS**

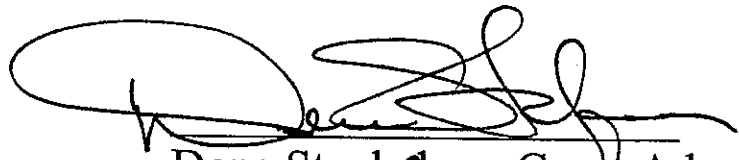
I, Dena Stockalper, do hereby certify that the following records of the Fayetteville District Court, have been retained for at least three (3) years as specified under Ark. Cods Ann. 16-10-211 and have been audited as required by law. The records listed below, covering the time period stated, are to be destroyed by shredding said records.

TYPE OF RECORD

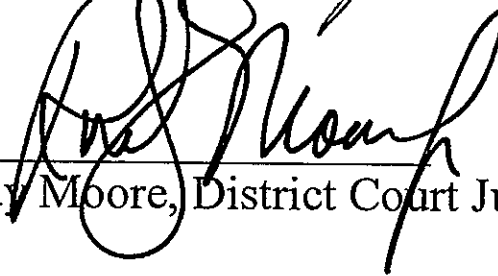
TIME PERIOD

Receipts and Deposit Records
Deposits Records
Payroll records
Police Tickets books

1/1/1987 - 12/31/2004
1/1/1987 - 12/31/2004
1/1/1987 - 12/31/2004
1/1/1987 - 12/31/2004



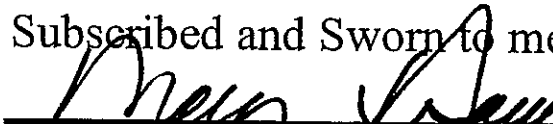
Dena Stockalper, Court Administrator



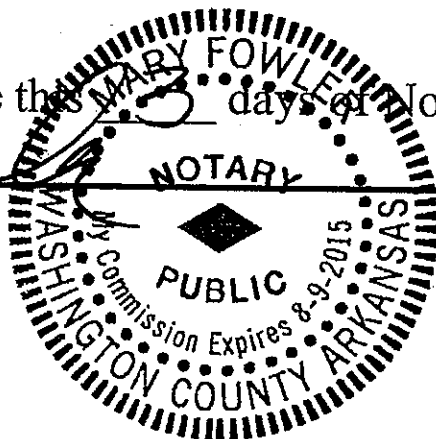
Rudy Moore, District Court Judge

City Council Members

Subscribed and Sworn to me this 3 days of November, 2008



Notary Public



DISTRICT COURT CLERK'S MANUAL

**Prepared By:
Keith Caviness**

**Administrative Office of the Courts
Justice Building, 625 Marshall
Little Rock, Arkansas 72201
(501) 682-9400**

XVI EXTRADITION

A	Uniform Criminal Extradition Act	XVI-1
B	Two Basic Types of Application for a Requisition	XVI-1
C	Overview of Extradition Process	XVI-2
D	Procedure Prior to Requisition	XVI-4

XVII FEES, COSTS AND FINES (ACCOUNTING AND COLLECTION)

A	An Act to Provide for Uniform Filing Fees and Court Costs	XVII-1
B	Civil Cases – Filing Fees	XVII-1
C	Criminal, Traffic and DWI Cases – Court Costs	XVII-2
D	District and City Court Accounting Law	XVII-3
E	Enforcement of Fines	XVII-16
F	Private Contractor Collecting Probation Fees/Report Required	XVII-25
G	Disposition of Fees, Costs and Fines	XVII-26
H	Unclaimed Property Act	XVII-26
I	Setoff against State Tax Refund	XVII-27

XVIII JUDICIAL ETHICS

A	Generally	XVIII-1
B	Exceptions	XVIII-1
C	Practice of Law	XVIII-2
D	Financial Statements	XVIII-3
E	Use of Stationery	XVIII-3
F	Disqualification and Assignment	XVIII-3

APPENDIX

- b For any discrepancies noted in the reconciliation in subdivision (6)(A) of this section, the court clerk shall prepare a written list and present this list to the court's judge for his appropriate action.

Ark. Code Ann. § 16-10-209

7 Accounting systems above minimum

(a) Any official charged with the maintenance of accounting or bookkeeping records under the provisions of this subchapter whose system of bookkeeping is such that it does not strictly adhere to the provisions of this subchapter but, in that official's opinion, equals or exceeds the basic requirements prescribed by this subchapter, may request the court's presiding judge to request a review by the staff of the Legislative Joint Auditing Committee.

(b) Upon the committee's concurrence with the official's opinion regarding the capability of the existing system of bookkeeping, a letter shall be issued by the committee to the court's presiding judge stating that the official's accounting system is of a degree of sophistication such that the basic requirements of this subchapter are being met.

(c) After issuance of the letter by the committee under subsection (b) of this section, the official is exempt from the requirements of the particulars of the procedures prescribed by this subchapter provided the official's system of bookkeeping is not altered.

Ark. Code Ann. § 16-10-210

 8 Record retention schedule

(a) All towns, cities, and counties of the State of Arkansas shall maintain records for the district courts and city courts and are to:

1 Permanently maintain:

- (A) Case indices for all courts;
- (B) Case dockets for all courts;
- (C) Warrants;
- (D) Waivers;
- (E) Expungement and sealed records;
- (F) Circuit court judgments;
- (G) Files concerning convictions under the Omnibus DWI Act, § 5-65-101 et seq.;
- (H) Files concerning cases resulting in a suspended imposition of sentence; and
- (I) Domestic battering files;

2 Maintain for a period of at least seven (7) years and in no event dispose of prior to being audited:

- (A) Records and reports of court costs;
- (B) Fines and fees assessed and collected;
- (C) Complete case files and written exhibits for all courts;
- (D) Month-end settlements;
- (E) Monthly distribution reports;
- (F) Show cause orders;
- (G) Case information, including arrest reports and affidavits; and
- (H) Alternative service or community service time sheets; and

3 Maintain for a period of at least three (3) years and in no event dispose of prior to being audited:

- (A) Bank reconciliations;
- (B) Check book registers;
- (C) Cancelled checks;
- (D) Bank statements;
- (E) Receipts;
- (F) Deposit collection records;
- (G) Budget packets or books;
- (H) Accounts payable;
- (I) Payroll time sheets;
- (J) Information concerning vacation and sick leave;
- (K) Month-end payroll; and
- (L) Ticket books from each police department and sheriff's office.

(b) After a town, city, or county has maintained records for the time periods required and after the records described in subdivisions (a) 2 or 3 have been audited, the records may be destroyed.

(c) When records are destroyed under subdivision of this section, the town, city, or county shall document the destruction by the following procedure:

1 An affidavit is to be prepared stating:

- (A) Which records are being destroyed and to which period of time the records apply; and
- (B) The method of destruction; and

2(A) For city court records, the affidavit described is to be signed by the town or city employee performing the destruction and one (1) town or city council member.

(C) For district court records, the affidavit is to be signed by the town, city, or county employee performing the destruction and one (1) employee of the governing body or, if applicable, governing bodies which contribute to the expenses of the court.

(d)(1) In addition to the procedure described above, the approval of the town or city council for destruction of documents shall be obtained prior to the destruction of city court records and an appropriate note of the approval indicated in the town or city council minutes along with the destruction affidavit.

(2) In addition to the procedure described above, the approval of the governing body or, if applicable, governing bodies that contribute to the expenses of the court shall be obtained prior to the destruction of district court records and an appropriate note of the approval indicated in the minutes of the governing body or bodies along with the destruction affidavit.

Ark. Code Ann. § 16-10-211

E Enforcement of Fines

1 Scope.

- (a) The procedures established by this subchapter shall apply to the assessment and collection of all monetary fines, however designated, imposed by circuit courts, district courts or city courts for criminal convictions, traffic convictions, civil violations, and juvenile delinquency adjudications and shall be utilized to obtain prompt and full payment of all such fines.
- (b) For purposes of this subchapter, the term "fine" or "fines" means all monetary penalties imposed by the courts of this state, which include fines, court costs, restitution, probation fees, and public service work supervisory fees.

Ark. Code Ann. § 16-13-701

2 Immediate payment

- (a) When a court has imposed a fine, as described in § 16-13-701, the imposition of such a fine constitutes an order to pay the full amount of the fine in accordance with this subchapter.
- (b) Following imposition of the fine, the court shall inform the defendant that full payment of the fine is due immediately and shall inquire of the defendant what arrangements he has made to comply with the court's order to pay the fine.

- (c) Without utilizing the provisions of § 16-13-704, the court may allow the defendant a period of time, not to extend beyond the time of the close of the clerk's office on the following day, within which to return to the court and tender payment of the fine.
- (d) If the defendant fails to appear as directed, the court shall issue an order of arrest.
 - (1) The arrest order shall be carried out by the sheriff.
- (e) The court may also, upon the defendant's failure to appear, utilize any of the enforcement mechanisms authorized by this subchapter.
- (f) If the defendant claims an inability to pay the fine, the court shall inquire into the defendant's ability to pay and shall make a determination of the defendant's financial ability to pay the fine.
- (g) If the court finds that the defendant has the financial ability to make immediate payment of the fine in full, the court shall order him to pay the fine.
- (h) Failure or refusal to pay as ordered by the court shall subject the defendant to imprisonment, as provided in § 16-13-703.
- (i) When a corporation is sentenced to pay a fine or costs, it is the duty of the person authorized to make disbursement from the assets of the corporation to pay the fine or costs.
- (j) If such disbursements require approval of the board of directors, it is the duty of the board to authorize disbursements to pay the fine or costs.
- (k) Failure to comply with the duties imposed by this subsection shall render the person or directors subject to imprisonment under § 16-13-703.

Ark. Code Ann. § 16-13-702

3 Imprisonment

- (a) When a defendant sentenced to pay a fine defaults in the payment thereof, or of any installment, the court, upon its own motion or that of the prosecuting attorney, may require him to show cause why he should not be imprisoned for nonpayment.
- (b) The court may issue a warrant of arrest of summons for his appearance.

Added At the City Council
Meeting 11-06-08

end
New
Business

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN
THE WATER AND SEWER FUND IN THE AMOUNT OF \$173,528.20
FOR A FULL RELEASE AND SATISFACTION OF JUDGMENT IN
ROMINE CASE

WHEREAS, a jury rendered a verdict against the City of Fayetteville for inverse
condemnation in the Romine case in the amount of \$176,011.00; and

WHEREAS, Court costs in the amount of \$446.40 are also assessable against the City
for this case; and

WHEREAS, this amount should be offset in the amount of \$2,929.20 for the appeal
costs awarded to the City for its successful appeal on the civil rights violation claim; and

WHEREAS, Plaintiff Romine has agreed not to appeal the City's judgments on
negligence, bad faith, battery, assault, civil rights or the tort of outrage and to sign a Release of
any and all possible claims in exchange for payment of \$173,528.20 and the City's release of any
possible claims against Ms. Romine.

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

Section 1: That the City of Fayetteville hereby agrees to a budget adjustment of
\$173,528.20 from the Water and Sewer Fund and the payment of this amount for a full mutual
release of any possible claim and in full satisfaction of Ms. Romine's judgment and authorizes
the mayor to sign a mutual release and satisfaction of the City's Judgment against Ms. Romine.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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
November 6, 2008**

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

Call to Order

Roll Call

Pledge of Allegiance

Agenda Session Presentations:

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the October 21, 2008 City Council meeting minutes.
2. **Allied Waste Services:** A resolution authorizing the Mayor to execute a contract with Allied Waste Services to haul and dispose of solid waste in the city limits of Fayetteville.
3. **Fulton Waste & Sustainability Services:** A resolution authorizing the Mayor to execute a contract with Fulton Waste & Sustainability Services to haul and dispose of solid waste in the city limits of Fayetteville.

4. **Bale Chevrolet:** A resolution approving the purchase of one (1) compact extended cab pickup truck from Bale Chevrolet of Little Rock through the state vehicle purchase contract in the amount of \$14,427.00 plus add-on light bar; and approving a budget adjustment in the amount of \$15,036.00.
5. **GCM Properties, LTD., LLC:** A resolution approving Amendment #1 to the lease agreement with GCM Properties, LTD., LLC, extending the term of the lease for a period of one year.
6. **McClelland Consulting Engineers:** A resolution approving Amendment #1 to the agreement for professional engineering services with McClelland Consulting Engineers, Inc. in the amount of \$29,290.00 for design services for the Mt. Sequoyah pressure plane improvements; approving the elevated storage tank placement; and approving a \$20,000.00 contingency.
7. **Edward Byrne Memorial Justice Assistance Grant:** A resolution accepting the 2008 Edward Byrne Memorial Justice Assistance Grant in the amount of \$24,316.00, \$8,106.00 of which will be used by the Fayetteville Police Department for the purchase of equipment with the remainder to be split equally between the City of Springdale and Washington County; and approving a budget adjustment recognizing the grant revenue.
8. **Alcoholic Beverage Control Enforcement Grant:** A resolution authorizing the Fayetteville Police Department to accept a 2008-2009 grant from the Arkansas Alcoholic Beverage Control Enforcement Division in the amount of \$31,677.00 to host a state underage drinking prevention conference; and approving a budget adjustment recognizing the grant revenue.
9. **Westside Storage Inc:** A resolution approving a settlement with Westside Storage Inc., in the amount of \$92,545.00 for right-of-way and easement acquisition for the Ruppel Road widening project.
10. **Capps Rent A Car Inc:** A resolution approving a lease agreement with Capps Rent A Car Inc. for the lease of one (1) 2008 4-door sedan in the amount of \$35,000.00 for use by the Fayetteville Police Department officer assigned to the Internal Revenue Service Task Force; and approving a budget adjustment recognizing the reimbursement revenue.
11. **Arkansas Economic Development Commission:** A resolution authorizing the Building Safety Division to accept a grant from the Arkansas Economic Development Commission Energy Office in the amount of \$2,500.00 to fund the Fayetteville Residential Energy Efficiency Promotion program; and approving a budget adjustment recognizing the grant revenue.
12. **Policy 41.2.8 Vehicular Pursuit:** A resolution approving and adopting Policy No. 41.2.8 "Vehicular Pursuit" to the Fayetteville Police Department's Policies, Procedures & Rules Manual.
13. **Policy 26.2.1 Nepotism:** A resolution approving and adopting Policy No. 26.2.1 "Nepotism" to the Fayetteville Police Department's Policies, Procedures & Rules Manual.

B. Unfinished Business:

1. Hiring Freeze: Hiring Freeze Appeals:

- 2. ANX 08-2897 Southpass Development:** An ordinance annexing that property described in annexation petition ANX 08-2897 (CC2008-38), for property located west of I-540 and Cato Springs Road, containing approximately 855.97 acres. *This ordinance was left on the First Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading

- 3. R-PZD 08-2898 Southpass Development:** An ordinance establishing a Residential Planned Zoning district titled R-PZD 08-2898, Southpass, located south of the City of Fayetteville at the intersection of Interstate 540 and Cato Springs Road (State Highway 265); containing approximately 910.36 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading

- 4. ADM 08-3117 (Southpass MSP Amendments):** A resolution for ADM 08-3117 amending the Master Street Plan, realigning Shiloh Drive, a collector, through the Southpass PZD site south to Cato Springs Road, and changing the designation of Cato Springs Road from a collector to a principal arterial in the Southpass vicinity, as described and depicted in the attached maps. *This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting. This resolution was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*
- 5. Southpass Development Infrastructure Cost Share:** A resolution expressing the willingness of the City of Fayetteville to cost share street and sewer infrastructure costs that would be utilized by both the Southpass Development and the future community park. *This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting. This resolution was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*
- 6. RZN 08-3084 (Candlelight Place):** An ordinance rezoning that property described in rezoning petition RZN 08-3084, for approximately 0.94 acres, located at the southeast corner of Gregg Avenue and Ash Street from RSF-4, Residential Single-Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre. *This ordinance was left on the First Reading at the October 21, 2008 City Council meeting and Tabled to the November 4, 2008 City Council meeting.*

Left on the First Reading.

7. **R-PZD 08-3071 (Bridgedale Plaza):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-3071 Bridgedale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan. *This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading.

8. **Victory Commons Phase I Appeal:** An appeal of certain conditions of approval of the Planning Commissions decision regarding Victory Commons Phase I. *This appeal was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*

C. New Business:

1. **VAC 08-3108 Forest Hills PZD:** An ordinance approving VAC 08-3108 submitted by Morrison-Shipley Engineers, Inc. for property located at 3485 W Wedington Drive to vacate a portion of a sewer easement, a total of 0.33 acres.
2. **VAC 08-3109 Forest Hills PZD:** An ordinance approving VAC 08-3109 submitted by Morrison-Shipley Engineers, inc. for property located at 3351 W Wedington Drive to vacate a portion of a utility easement, a total of 0.08 acres.
3. **VAC 08-3110 Forest Hills PZD:** An ordinance approving VAC 08-3110 submitted by Morrison-Shipley Engineers, Inc. for property located at 3351 W Wedington Drive to vacate unconstructed right-of way, a total of 0.29 acres.
4. **ADM 08-3100 Clean Tech Use Unit:** An ordinance amending Chapter 162: Use Units and Chapter 163: Use Conditions of the Unified Development Code to add a clean Tech Use Unit and assign it to appropriate zoning districts.

Announcements:

1. **City Council Tour: November 3, 2008**

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

City of Fayetteville Staff Review Form

A. 2
Allied Waste Services
1 of 8

City Council Agenda Items and Contracts, Leases or Agreements

11/4/2008

City Council Meeting Date
Agenda Items Only

Ginny Gundlach
Submitted By

Solid Waste
Division

Operations
Department

Action Required:

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

Cost of this request

Category / Project Budget

Program Category / Project Name

Account Number

Funds Used to Date

Program / Project Category Name

Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

[Signature]

109.08

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]

City Attorney

10/17/08

Date

[Signature]

Finance and Internal Service Director

10-17-08

Date

Received in City
Clerk's Office

10-9-08

ENTERED

[Signature]

Mayor

10/20/09

Date

Received in
Mayor's Office

ENTERED
10/17/09

Comments:



OPERATIONS DEPARTMENT

Interdepartmental Correspondence

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ginny Gundlach, Financial Coordinator *GG*

Date: November 4, 2008

Subject: Agreement with Allied Waste Services to haul and dispose of solid waste in the City of Fayetteville

Recommendation: A resolution approving an agreement between the City of Fayetteville, Arkansas and Allied Waste Services to haul and dispose of solid waste in the City of Fayetteville.

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

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

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

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH ALLIED WASTE SERVICES TO HAUL AND DISPOSE OF SOLID WASTE IN THE CITY LIMITS OF FAYETTEVILLE.

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

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

PASSED and APPROVED this ____th day of November, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

SEP 26 2008

CITY OF FAYETTEVILLE
 MAYOR'S OFFICE

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

This Agreement (the "Agreement"), is entered into on this 15th day of October, 2008, between the **City of Fayetteville, Arkansas**, a municipal corporation (the "City"), and **Allied Waste Services** (the "Hauler"), and shall be in full force and effect on the date first written above. City and Hauler agree as follows:

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

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

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

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

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

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

17. Termination:

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

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

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

Allied Waste Services
Attn: Pete Fors
1713 E. Front St.
Galena KS 66739

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

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

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

CITY OF FAYETTEVILLE

By: _____
DAN COODY, as Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

By: Allied Waste Services (Bella Vista)
[Signature]

President

City of Fayetteville Staff Review Form

A. 3
Fulton Waste &
Sustainability Services
1 of 8

City Council Agenda Items and Contracts, Leases or Agreements

11/4/2008

City Council Meeting Date
Agenda Items Only

Ginny Gundlach *GG*
Submitted By

Solid Waste
Division

Operations
Department

Action Required:

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

Cost of this request

Category / Project Budget

Program Category / Project Name

Account Number

Funds Used to Date

Program / Project Category Name

Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

[Signature]
Department Director

10-16-08
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

10/17/08
Date

Original Contract Date:

Original Contract Number:

Paul A. Bachman
Finance and Internal Service Director

10-17-08
Date

Received in City
Clerk's Office

ENTERED
10/15/08
[Signature]

[Signature]
Mayor

10/20/08
Date

Received in
Mayor's Office

ENTERED
10/20/08
[Signature]

Comments:



City Council Agenda Item

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ginny Gundlach, Financial Coordinator *GG*

Date: November 4, 2008

Subject: Agreement with Fulton Waste and Sustainability Services to haul and dispose of solid waste in the City of Fayetteville

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

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

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH FULTON WASTE & SUSTAINABILITY SERVICES TO HAUL AND DISPOSE OF SOLID WASTE IN THE CITY LIMITS OF FAYETTEVILLE.

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

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

PASSED and APPROVED this ____th day of November, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

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

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

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

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

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

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

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

17. Termination:

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

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

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

PO Box 1896 Rogers, AR 72757
Attn: DON LONGLEY

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

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

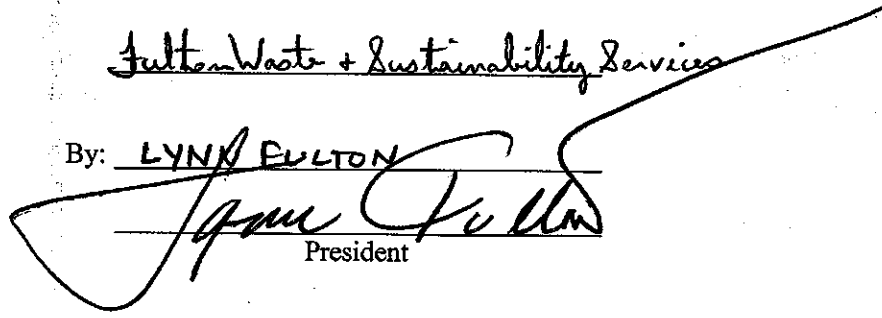
IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

CITY OF FAYETTEVILLE

By: _____
DAN COODY, as Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

By: LYNN FULTON

President

City of Fayetteville Staff Review Form

A. 4
Bale Chevrolet
1 of 6

City Council Agenda Items and Contracts, Leases or Agreements

11/4/2008

City Council Meeting Date
Agenda Items Only

Dennis Pratt

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution approving purchase of one compact pickup, extended cab, 2 x 4 from Bale Chevrolet off the State Contract in the amount of \$14,427 plus add-on light bar, and approval of the Budget Adjustment to move the funds to the Fleet expense account.

\$ 15,036.00

Cost of this request

\$ 546,618.00

Category / Project Budget

Light/Medium Utilty Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 396,767.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02078.2008

Project Number

\$ 149,851.00

Remaining Balance

Shop

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Received in City
Clerk's Office

10-17-08 UNB

ENTERED

Received in
Mayor's Office

ENTERED

10/22/08 BRP

Mayor

Date

Comments:



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



A. 4
Bale Chevrolet
2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DENNIS PRATT, FLEET OPERATIONS SUPT. 

DATE: OCTOBER 16, 2008

SUBJECT: Purchase of one compact pickup, 2 x 4

RECOMMENDATION: That City Council approve the purchase of one compact ext. cab pickup, 2 x 4, for assignment to the Meter Division in the amount of \$14,427.00.

BACKGROUND: Last June, Meter truck #2093 was totaled in an accident. It was not possible to replace it at that time as the order window had already closed.

The new state contract is now out for 2009. The wrecked vehicle is a half ton pickup. Fleet would like to downsize the replacement to a compact pickup, ext. cab, 2 x 4 similar to that approved by Council last spring for Meter Division.

The insurance payment received for the truck will cover the cost of the replacement.

I recommend purchasing a replacement vehicle from the State Vehicle contract from Bale Chevrolet.

A Budget Adjustment is attached to move the funds for this purchase into Fleet project #02078 – Light / Medium Utility Vehicles.

October 15th, 2008, via email, the Equipment Committee Chairman approved taking this item to Council as Fleet funds will not have to be used.

CC: Gary Dumas

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) COMPACT EXTENDED CAB PICKUP TRUCK FROM BALE CHEVROLET OF LITTLE ROCK THROUGH THE STATE VEHICLE PURCHASE CONTRACT IN THE AMOUNT OF \$14,427.00 PLUS ADD-ON LIGHT BAR; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$15,036.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) extended cab pickup truck from Bale Chevrolet of Little Rock through the State Vehicle Purchase Contract in the amount of \$14,427.00 plus add-on light bar.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$15,036.00.

PASSED and APPROVED this _____ day of November, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 4
Bale Chevrolet
4 of 6

Budget Year 2008	Department: Operations Division: Fleet Operations Program: Capital Expenditures	Date Requested Oct/16/08	Adjustment Number
--------------------------------	--	--	-------------------

Project or Item Added/Increased: Increase the "Light/Medium Trucks" project #02078 by \$15,036 to provide the amount needed to purchase the replacement for unit #2093 which was totaled in an accident in June of 2008.	Project or Item Deleted/Reduced: Reduce the Gain/Loss on Sale of Assets account by \$15,036 to provide the amount needed to purchase the replacement for unit #2093 which was totaled in an accident.
---	--

Justification of this Increase: Insurance check in the amount of \$15,036 was received for this unit. This BA will move funds into the project that will purchase the replacement.	Justification of this Decrease: The insurance check in the amount of \$15,036 was put into gain/loss of sale of assets. The money needs to be moved to the project which will purchase the replacement.
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	9700	1920	5802	00	15,036	02078	2008

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Gain/loss sale of assets	9700	0970	6881	02	15,036	02078	2008

Approval Signatures <i>Barbara Olson</i> Requested By 10-16-08 Date Budget Manager 10-16-08 Date Department Director <i>Paul A. Bahr</i> Finance & Internal Services Director Date 10-21-08 Date Mayor Date	Budget Office Use Only Type: A B C <u>D</u> E Posted to General Ledger Initial Date Posted to Project Accounting Initial Date Entered in Category Log Initial Date
--	--

City Of Fayetteville

(Not a Purchase Order)

City Of Fayetteville (Not a Purchase Order)										Requisition No.	Date: 10/16/2008
Vendor # 13292										P.O Number	Expected Delivery Date:
Vendor Name: BALE CHEVROLET										Mail Yes: No: XX	
Address:										Taxable Yes: No: XX	
City:										Division Head Approval: <i>De B...</i>	Quotes Attached Yes: No:
Requester Barbara Olsen										Extension: 485	
Fob Point:										Project/Subproject #	Fixed Asset #
State:										Inventory #	
Ship to code: 050										Account Numbers	
Requester's Employee # 1940										9700.1920.5802.00	02078.2008
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost						
1	2009 CHEVROLET COLORADO	1	EA	\$14,427.00	\$14,427.00						
2	COMPACT PICKUP TRUCK, EXT.		EA		\$0.00						
3	CAB WITH LIMITED SLIP DIFFERENTIAL		EA		\$0.00						
4	TO BE UNIT #2131, FA 702131		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: STATE CONTRACT PRICE										Subtotal: 14,427.00	
										Tax: EXEMPT	
										Total: 14,427.00	
Approvals:										Purchasing Manager:	
Mayor:										IT Manager:	
Finance & Internal Services Director:										Department Director:	
Dispatch Manager:										Budget Manager:	
										Utilities Manager:	

City of Fayetteville Staff Review Form

A. 5
GCM Properties, LTD., LLC
1 of 4

City Council Agenda Items and Contracts, Leases or Agreements

11/4/2008

City Council Meeting Date
Agenda Items Only

Casey Jones

Submitted By

City Prosecutor

Division

City Attorney

Department

Action Required:

Renew office space lease with GCM Properties, LTD, LLC for 12 months(\$3,770.83 per mo.) beginning 1/1/09. After 12 months and the Court/Prosecutor Building is not complete, will lease on month to month basis at \$3770.83 per month.

\$45,250

Cost of this request

\$45,250

Category / Project Budget

Services & Charges/Lease Expense

Program Category / Project Name

1010-6600.5309.00

Account Number

\$45,250

Funds Used to Date

Program / Project Category Name

\$

Remaining Balance

General Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution # 187-06

Original Contract Date: 11/7/2006

Original Contract Number:

City Attorney

Date

Received in City
Clerk's Office



Finance and Internal Service Director

Date

Received in
Mayor's Office



Mayor

Date

Comments:



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

CLINTON K. JONES
CITY PROSECUTOR
BRIAN THOMAS
DEPUTY CITY PROSECUTOR

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

To: Mayor Dan Coody and members of the City Council
From: Casey Jones, City Prosecutor 
Date: October 17, 2008
Re: Building Lease Extension

Recommendation:

City Council approves to extend the lease for the City Prosecutor's Office in the GCM Building.

Background:

On 11/7/06, the City approved a two year lease with the option to renew with GCM, LTD, LLC for the City Prosecutor office space. The Resolution number is 187-06. The first year's cost was \$45,250 and the second year was to increase by the annual CPI for 2007, but Owner, Gary McClendon did not increase the lease, the amount remained the same.

Discussion:

On October 13, 2008, Gary McClendon, owner of GCM Properties LTD, LLC, agreed to extend the lease with the City of Fayetteville for a period of one year beginning 1/1/09 with the same terms and no monetary increase. Given the new building for the Court & Prosecutor is not complete by December 31, 2009, the City will have the option to lease on a month to month basis with no monetary increase.

Budget Impact:

The annual lease amount of \$45,250 is in the proposed 2009 Budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT #1 TO THE LEASE AGREEMENT WITH GCM PROPERTIES, LTD., LLC, EXTENDING THE TERM OF THE LEASE FOR A PERIOD OF ONE YEAR.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves Amendment #1 to the Lease Agreement with GCM Properties, Ltd., LLC. A copy of Amendment #1, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this ____th day of November, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

AMENDMENT #1 TO THE LEASE AGREEMENT WITH GCM PROPERTIES LTD., LLC

BE IT KNOWN TO ALL:

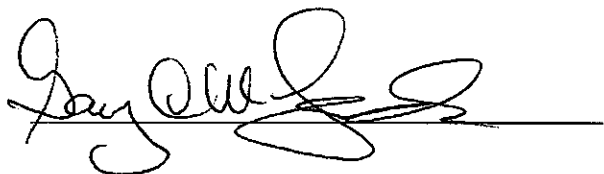
20 That the City of Fayetteville, Arkansas and GCM Properties Ltd., LLC, on this the day of October, 2008, agree that their Lease Agreement of November 7, 2006, is hereby amended by extending the term of that Agreement for a period of one (1) year. If the new Courts & Prosecuting Attorney's Building is not complete at the end of this extension, the City of Fayetteville shall continue to lease the subject property on a month-to-month basis.

The parties agree and understand that this Amendment is supplemental to their Lease Agreement of November 7, 2006, and that it does not alter, amend or abridge any of the rights, obligations, or duties of the parties not expressly addressed herein.

IN WITNESS WHEREOF, the parties hereto have caused their signatures to be set by their authorized representative effective the date set forth herein above.

GCM Properties Ltd., LLC

City of Fayetteville, Arkansas



DAN COODY, Mayor

ATTEST:

Sondra E. Smith, City Clerk/Treasurer

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

4-Nov-08
City Council Meeting Date

Shannon Jones
Submitted By

Engineering
Division

Water & Wastewater
Department

Action Required:

Approval of Amendment No. 1 to the engineering services agreement with McClelland Consulting Engineers in the amount of \$29,290, for design services for the Mt. Sequoyah Pressre Plane Improvements, approval of the elevated storage tank placement, and approval of a \$20,000 contingency.

\$ 49,290.00
Cost of this request

\$ 2,195,181.00
Category/Project Budget

Mt Sequoyah Press Plane Imprvmt
Program Category / Project Name

5400.5700.5314.02
Account Number

\$ 116,631.87
Funds Used to Date

Water and Wastewater
Program / Project Category Name

04036-1
Project Number

\$ 2,078,549.13
Remaining Balance

Water/Sewer
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature]
Department Director

17 Oct 08
Date

Previous Ordinance or Resolution # 193-05

Original Contract Date: 4/16/2003

[Signature]
City Attorney

10/21/08

Original Contract Number: 900

Paul A. Bell
Finance and Internal Service Director

10-21-08
Date

Received in City Clerk's Office
ENTERED
10/21/08

[Signature]
Mayor

10/21/08
Date

Received in Mayor's Office
ENTERED

Comments:



City Council Meeting of November 4, 2008

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
David Jurgens, Water & Wastewater Director
Fayetteville Sewer Committee

A handwritten signature in black ink, appearing to read "D. Jurgens", written over the name of the Water & Wastewater Director.

From: Shannon Jones, Water & Wastewater Engineer

Date: October 10, 2008

Subject: Approval of Amendment No. 1 to the engineering services agreement with McClelland Consulting Engineers in the amount of \$29,290, for design services for the Mt. Sequoyah Pressure Plane Improvements, approval of the elevated storage tank placement, and approval of a \$20,000 contingency.

RECOMMENDATION

Staff recommends approval of Amendment No. 1 to the engineering services agreement with McClelland Consulting Engineers in the amount of \$29,290, for design services for the Mt. Sequoyah Pressure Plane Improvements, approval of the elevated storage tank placement, and approval of a \$20,000 contingency.

BACKGROUND

The original design contract was awarded to McClelland Consulting Engineers in October, 2004 to evaluate and design the water storage tank and related piping and pump stations in the Mt. Sequoyah water pressure plane. This contract does not include construction phased services.

DISCUSSION

This amendment covers increased hourly rates and the potential for increased work, including but not limited to attendance at public meetings, by McClelland Consulting Engineers relating to the design and bidding phase work for this project. There will be a future amendment for construction phase inspection services.

BUDGET IMPACT

There is currently \$2,078,549 in the impact fee fund and \$128,549 in the Water/Sewer fund are budgeted for this project.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT #1 TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES WITH McCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$29,290.00 FOR DESIGN SERVICES FOR THE MT. SEQUOYAH PRESSURE PLANE IMPROVEMENTS; APPROVING THE ELEVATED STORAGE TANK PLACEMENT; AND APPROVING A \$20,000.00 CONTINGENCY.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves Amendment #1 to the Agreement for Professional Engineering Services with McClelland Consulting Engineers, Inc. in the amount of \$29,290.00 for design services for the Mt. Sequoyah Pressure Plane Improvements. A copy of Amendment #1, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves the elevated storage tank placement.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a contingency in the amount of \$20,000.00.

PASSED and APPROVED this ____ day of November, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

AMENDMENT NO. 1
To
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
McCLELLAND CONSULTING ENGINEERS, INC.
FAYETTEVILLE, ARKANSAS
For The
MOUNT SEQUOYAH PRESSURE PLANE IMPROVEMENTS PROJECT
June 12, 2008

The October 5, 2004 Agreement between the CITY OF FAYETTEVILLE and McCLELLAND CONSULTING ENGINEERS, INC. is hereby amended to provide for including current billing rates for engineering and geotechnical services, and to adjust the total estimated compensation for previously approved engineering services from \$142,310 to \$171,600. The updated billing rates and estimated billing amounts are further defined in Appendix A to this Amendment No. 1.

All other provisions, covenants, recitals, terms and conditions of the Agreement, which are not expressly amended herein, shall remain in full force and effect.

The parties hereby have executed this Amendment No. 1 on this date, the _____ day of _____, 2008.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:
By: _____
City Clerk

McClelland Consulting Engineers, Inc.

By: 
Title: President

ATTEST: 
By: _____
Title: Vice President

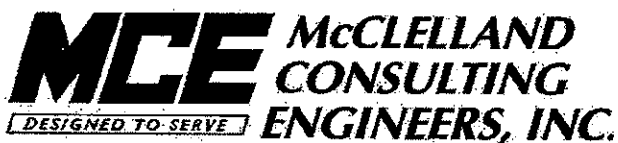
APPENDIX A
To
AMENDMENT NO. 1
MOUNT SEQUOYAH PRESSURE PLANE
IMPROVEMENTS PROJECT
June 12, 2008

TASK DESCRIPTION	October 2004 Contract Estimated Fee	Billed to Date	Amendment No. 1 Estimated Fee
Public Involvement and Communications	\$36,400	\$9,632.50	\$37,860
Preliminary Engineering Report	\$5,200	\$5,183.75	\$5,200
Surveying for Preliminary Design	\$15,250	-	\$21,400
Preliminary Geotechnical Services	\$7,860	-	\$8,710
Preliminary Design Services	\$32,000	\$16,750.00	\$40,900
Final Design Services	\$41,800	-	\$52,810
Bidding Services	\$3,800	-	\$4,720
Direct Expenses	-	\$145.83	-
Total Estimated Compensation	\$142,310	\$31,712.08	\$171,600

TO
AMENDMENT NO. 1
MOUNT SEQUOYAH PRESSURE PLANE IMPROVEMENTS PROJECT
McClelland Consulting Engineers
2008 Billing Rates
Effective May 20, 2008

<u>CATEGORY</u>	<u>*HOURLY RATE</u>
Principal Engineer	\$ 155.00
Sr. Project Manager	\$ 143.00
Project Manager	\$ 132.00
Project Engineer IV	\$ 127.00
Project Engineer III	\$ 115.00
Project Engineer II	\$ 105.00
Project Engineer I	\$ 84.00
Landscape Architect IV	\$ 109.00
Landscape Architect III	\$ 100.00
Landscape Architect II	\$ 86.00
Landscape Architect I	\$ 55.00
Engineering Technician IV	\$ 90.00
Engineering Technician III	\$ 84.00
Engineering Technician II	\$ 65.00
Engineering Technician I	\$ 53.00
Construction Observer IV	\$ 90.00
Construction Observer III	\$ 80.00
Construction Observer II	\$ 61.00
Construction Observer I	\$ 44.00
Chief Draftsman	\$ 70.00
Draftsman II	\$ 60.00
Draftsman I	\$ 50.00
Survey Technician	\$ 77.00
Registered Land Surveyor	\$ 94.00
Survey (2-Man or 1-Man/Robotic) Crew	\$ 143.00
Field Survey - 1 Man	\$ 72.00
Party Chief	\$ 66.00
Soils Lab Supervisor	\$ 60.00
Soils Lab Technician II	\$ 45.00
Soils Lab Technician I	\$ 40.00
Office Admin.	\$ 60.00
Clerk/Typist	\$ 48.00
Mileage	\$ 0.50

* Subject to Annual Adjustment



P. O. Box 1229
Fayetteville, Arkansas 72702-1229
479-587-1303
Fax 479-443-9241

MATERIALS LABORATORY

**CONSTRUCTION MATERIALS LABORATORY
FEE SCHEDULE**

March 2008

GENERAL:

Laboratory Field Technician *	\$ 40.00 per hour
Laboratory Engineering Technician *	45.00 per hour
AHTD-Qualified Technician*	50.00 per hour
Engineering Technician *	55.00 per hour
Senior Engineering Technician	78.00 per hour
Lab Supervisor	60.00 per hour
Mileage	0.50 per mile
Consultation:	
Lab Supervisor	60.00 per hour
Field Engineer	85.00 per hour
Project Engineer	95.00 per hour
Project Manager	140.00 per hour
Principal Engineer	150.00 per hour
Lab Report Preparation (per report)	45.00 per hour

SOILS:

AHTD-Qualified Field Technician	50.00 per hour
Soils Field Technician (1-hour minimum)	40.00 per hour
In-Place Compaction Test-Nuclear Gauge ASTM D 2922	
Sample Pickup, or Stand-by Time	
Nuclear Density Gauge Fee: (per Density Test); [Minimum \$15.00 per trip, per project]	10.00 each
Liquid Limit, Plastic Limit, Plasticity Index (3 point) ASTM D 4318	50.00 each
Sieve Analysis-Washed No. 200 (Wet) ASTM D 1140	35.00 per sieve
Sieve Analysis-Dry ASTM D 422	8.00 per sieve
Hydrometer Analysis ASTM D 422	90.00 each
Specific Gravity ASTM D 854	50.00 each
Soils Classification, Unified or AASHTO ASTM D 2487 or AASHTO M 145	110.00 each
Laboratory Maximum Compaction Test ASTM D 698 or AASHTO T 99	130.00 each
Laboratory Maximum Compaction Test ASTM D 1557 or AASHTO T 180	145.00 each
Potential Volume Change-Swell Pressure	100.00 each
California Bearing Ratio-CBR ASTM D 1883 (3 point) (Proctor curve additional)	150.00 each
Shrinkage ASTM D 427	50.00 each
Soil Bearing Capacity (Engineering Tech., 2-hour minimum)	50.00 per hour
Non-ASTM Procedures Available On Request	

CONCRETE:

Concrete Mix Design	Price on Request
Review Concrete Mix Design (Lab Supervisor)	60.00 per hour
Confirm Concrete Mix Design	Price on Request
Concrete Field Technician * (1-hour minimum): [For any of the following 6 items:]	40.00 per hour
• Concrete Cylinder or Beam Molding ASTM C 31	
• Concrete Cylinder or Beam Pickup	
• Concrete Slump Test ASTM C 143	
• Concrete Air Content Test ASTM C 231 or C 173	
• Cement Mortar or Group Sampling	
• Stand-by Time	
Unit Weight and Yield of Freshly Mixed Concrete ASTM C 138	50.00 each
AHTD-Qualified Concrete Technician: (1-hour minimum), [For any of the foregoing 6 items:]	50.00 per hour
Compressive Strength of Concrete Test Cylinders ASTM C 39 (pad cap)	18.00 each
Compressive Strength of Concrete Test Cylinders ASTM C 39 (sulfur capped)	35.00 each

* ACI Grade I Concrete Field Testing Technician



MATERIALS LABORATORY

P. O. Box 1229
Fayetteville, Arkansas 72702-1229
479-587-1303
Fax 479-443-9241

CONSTRUCTION MATERIALS LABORATORY FEE SCHEDULE

March, 2008

CONCRETE (Continued):

Spare Cylinders Specimens Processed but not Tested	15.00 each
Schmidt Hammer Testing (Engineering Tech, 2-hour minimum)	60.00 per hour
Flexural Strength of Concrete Beams ASTM C 78 or C 293	50.00 each
Spare Beam Specimens Processed but not Tested	40.00 each
Compressive Strength of Grout Cubes	40.00 each
Compressive Strength of Cement Mortar Cubes	25.00 each
Concrete Coring (3" or 4"):	
Core Machine & Lab Technician	75.00 per hour
Additional Lab Technician, as required	40.00 per hour
Compressive Strength of Concrete Cores (3" or 4")	40.00 each
Other Core Sizes	Price on Request
Aggregate Sieve Analysis:	
Dry Sieve ASTM C 136	8.00 each
Wet Sieve ASTM C 117	35.00 each
Fineness Modules	25.00 each
Decantation	35.00 each
Deleterious Materials	60.00 each
Specific Gravity and Absorption of Aggregate ASTM C 127 & C 128	90.00 each
Dry Rodded Unit Weight of Aggregate ASTM C 29	75.00 each
Sodium or Magnesium Sulfate Soundness (5 cycles) ASTM C 88	350.00 each
Additional Cycles	50.00 each

ASPHALT:

Asphalt Mix Design (Marshall Design Method)	Price on Request
Review Asphalt Mix Design (Sr. Engr. Technician)	78.00 per hour
Asphalt Field Technician	
In-Place Compaction Test-Nuclear Gauge (Lab Technician)	40.00 per hour
Sample Pickup	40.00 per hour
Marshall Test including Stability, Flow, Laboratory Density, Percent Air Voids,	
Percent Voids in Mineral Aggregate (3 specimens per test)	400.00 each
Extraction including percent Bitumen and Aggregate Gradation	325.00 each
Laboratory Density of Cored Plugs including Depth Measurement	30.00 each
Asphalt Coring (3" or 4"):	
Core Machine & Lab Technician	75.00 per hour
Additional Lab Technician, if required	40.00 per hour
Sample Pickup	40.00 per hour

FIREPROOFING:

Unit Weight, Bonding Strength, Thickness and Sampling (actual time required for Lab Technicians)	45.00 per hour/Tech.
Report Preparation (Lab Supervisor)	60.00 per hour

STRUCTURAL STEEL:

Bolt Torque Testing: Lab Technician(s)	45.00 per hour
Field Engineer	95.00 per hour
Pneumatic Torque Wrench Calibration (twice per day)	50.00 each
Visual Weld Inspection Field Engineer	95.00 per hour

Services not Listed are Available on Request
All prices are subject to revision each year

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

November 4, 2008
City Council Meeting Date

Judy Cohea
Submitted By

Patrol
Division

Police
Department

Action Required:

Accept the 2008 Edward Byrne Memorial Justice Assistance Grant Program in the amount of \$24,316.00 and approve a budget adjustment recognizing the revenue. Fayetteville Police Department will receive \$8,106.00 for the purchase of equipment. The balance of \$16,210 will be split equally between Springdale and Washington County each receiving \$8,105.00.

\$ 24,316.00

Cost of this request

1010-6600-5737.00

1010-2940-5210.00

Account Number

08069

Project Number

\$ 291,398.00

Category / Project Budget

\$ 238,290.00

Funds Used to Date

\$ 53,108.00

Remaining Balance

2008 Justice Assistance Grant

Program Category / Project Name

2008 Justice Assistance Grant

Program / Project Category Name

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

[Signature]
Department Director

10-17-08
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]
City Attorney

10/21/08
Date

Received in City Clerk's Office

ENTERED

10-17-08 kmj

Paul A. Bisher
Finance and Internal Service Director

10-22-08
Date

Received in Mayor's Office

ENTERED

10/21/08

[Signature]
Mayor

10/22/08
Date

Comments:



A. 7
Edward Byrne Memorial
Justice Assistance Grant
Fayetteville Police Department
100-A West Rock
Fayetteville, AR 72701
Telephone: (479) 587-3555
Fax: (479) 587-3563

Departmental Correspondence

TO: Mayor Coody
THRU: Greg Tabor, Police Chief 
FROM: Judy Cohea, Records Manager
DATE: September 30, 2008
SUBJECT: Acceptance of 2008 Justice Assistance Grant

Recommendation

Staff recommends acceptance of the 2008 Edward Byrne Memorial Grant in the amount of \$24,316. Fayetteville Police will receive \$8,106. \$8,105 will be transferred to both the Springdale Police Department and the Washington County Sheriff's Office. Approval of a budget adjustment recognizing this revenue is requested.

Background

The U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance has awarded the 2008 Justice Assistance Grant for local agencies. This award is based in part on population and violent crime rates and is given to Fayetteville, Springdale and Washington County to share. This grant does not require any local cash matching funds. This is the fourth year for this grant to be a shared grant with these other agencies.

Discussion

The Fayetteville Police Department has been awarded \$8,106 for the purchase of six (6) tasers with video capability. Fayetteville is working diligently to increase the number of available Tasers to be assigned to our law enforcement officers. Tasers are a critical component of any officer's arsenal to effectively subdue aggravated suspects without subjecting our officers and/or suspects to physical injury. Due to complaints regarding taser usage, the video capability will allow our officers to capture in hard evidence the need for use of less lethal force.

Within this grant, Springdale is awarded \$8,105 to purchase long guns and accessories. Washington County is awarded \$8,105 to support the purchase of firearms simulator training software to supplement the county firing range.

Budget Impact

None, the revenue from this grant will off set the cost of equipment.

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE 2008 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT IN THE AMOUNT OF \$24,316.00, \$8,106.00 OF WHICH WILL BE USED BY THE FAYETTEVILLE POLICE DEPARTMENT FOR THE PURCHASE OF EQUIPMENT WITH THE REMAINDER TO BE SPLIT EQUALLY BETWEEN THE CITY OF SPRINGDALE AND WASHINGTON COUNTY; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby accepts the 2008 Edward Byrne Memorial Justice Assistance Grant in the amount of \$24,316.00, \$8,106.00 of which will be used by the Fayetteville Police Department for the purchase of equipment, with the remainder to be split equally between the City of Springdale and Washington County.

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

PASSED and APPROVED this _____ day of November 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 7
Edward Byrne Memorial
Justice Assistance Grant
4 of 8

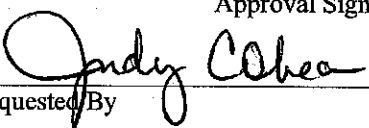
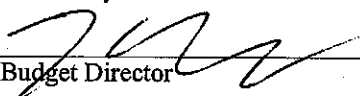
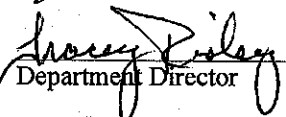
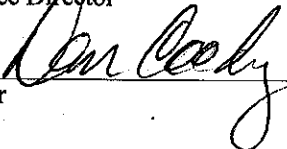
Budget Year	Department: Police Division: Police Program: Patrol	Date Requested	Adjustment Number
2008		10/9/2008	

Project or Item Added/Increased: Accept award of the 2008 Edward Byrne Memorial Justice Assistance Grant in the amount of \$24,316.00.	Project or Item Deleted/Reduced: None
--	---

Justification of this Increase: These funds will be used by Fayetteville Police for the purchase of Tasers, Springdale Police for the purchase of long guns with accessories and Washington County Sheriff to support the purchase of a firearms simulator training software.	Justification of this Decrease: N/A
---	---

Increase Budget							
Account Name	Account Number				Amount	Project Number	
Minor Equipment	1010	2940	5210	00	8,106	08069	1
Transfer to Springdale	1010	6600	5737	00	8,105	08069	1
Transfer to Washington County Sheriff	1010	6600	5738	00	8,105	08069	1

Decrease Budget							
Account Name	Account Number				Amount	Project Number	
Federal Grants - Operational	1010	0001	4309	01	24,316	08069	1

Approval Signatures  Requested By 10/17/08 Date  Budget Director 10/22/08 Date  Department Director 10/22/08 Date  Finance Director 10-23-08 Date  Mayor 10/22/08 Date	Budget & Research Use Only Type: A B C <u>D</u> E General Ledger Date 3/31/2008 Approval Date Posted to General Ledger Posted to Project Accounting
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Grant

PAGE 1 OF 4

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.



Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET**
Grant

PAGE 2 OF 4

PROJECT NUMBER 2008-DJ-BX-0628

AWARD DATE 08/22/2008

SPECIAL CONDITIONS

1. The recipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
2. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302), that is approved by the Office for Civil Rights, is a violation of its Certified Assurances and may result in suspension or termination of funding, until such time as the recipient is in compliance.
3. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as further described in the current edition of the OJP Financial Guide, Chapter 19.
4. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.
5. The grantee agrees to assist BJA in complying with the National Environmental Policy Act (NEPA) and other related federal environmental impact analyses requirements in the use of these grant funds, either directly by the grantee or by a subgrantee. Accordingly, prior to obligating grant funds, the grantee agrees to first determine if any of the following activities will be related to the use of the grant funds.

The grantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the grantee, a subgrantee, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property either (a) listed on or eligible for listing on the National Register of Historic Places or (b) located within a 100-year flood plain;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size; and,
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments.

Application of This Special Condition to Grantee's Existing Programs or Activities: For any of the grantee's or its subgrantees' existing programs or activities that will be funded by these grant funds, the grantee, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

D.C.

**AWARD CONTINUATION
SHEET**

Grant

PAGE 3 OF 4

PROJECT NUMBER 2008-DJ-BX-0628

AWARD DATE 08/22/2008

SPECIAL CONDITIONS

6. This special condition facilitates compliance with the provisions of the National Environmental Policy Act (NEPA) relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories [hereinafter, "meth lab operations"]. No monies from this award may be obligated to support meth lab operations unless the grantee implements this special condition.

The Office of Justice Programs (OJP), in consultation with the Bureau of Justice Assistance, the Drug Enforcement Administration, and the Office for Community Oriented Policing Services, prepared a Program-level Environmental Assessment (Assessment) governing meth lab operations. The Assessment describes the adverse environmental, health, and safety impacts likely to be encountered by law enforcement agencies as they implement specific actions under their methamphetamine laboratory operations. Consistent with the Assessment, the following terms and conditions shall apply to the grantee for any OJP funded methlab operations:

- A. The grantee shall ensure compliance by OJP funded meth sub-grantees with federal, state, and local environmental, health, and safety laws and regulations applicable to meth lab operations, to include the disposal of the chemicals, equipment, and wastes resulting from those operations.
- B. The grantee shall have a Mitigation Plan in place that identifies and documents the processes and points of accountability within its state. This plan will be used to ensure that the adverse environmental, health, and safety impacts delineated in the Assessment are mitigated in a manner consistent with the requirements of this condition.
- C. The grantee shall monitor OJP funded meth lab operations to ensure that they comply with the following nine mitigation measures identified in the Assessment and whose implementation is addressed in the grantee's Mitigation Plan. These mitigation measures must be included as special conditions in all subgrants: (See Part II of this special condition)
7. 1. Provide medical screening of personnel assigned or to be assigned by the grantee to the seizure or closure of clandestine methamphetamine laboratories;
2. Provide Occupational Safety and Health Administration (OSHA) required initial and refresher training for law enforcement officials and all other personnel assigned to either the seizure or closure of clandestine methamphetamine laboratories;
3. As determined by their specified duties, equip the personnel with OSHA required protective wear and other required safety equipment;
4. Assign properly trained personnel to prepare a comprehensive contamination report on each seized/closed laboratory;
5. Utilize qualified disposal personnel to remove all chemicals and associated glassware, equipment, and contaminated materials and wastes from the site(s) of each seized laboratory;
6. Dispose of the chemicals, equipment, and contaminated materials and wastes at properly licensed disposal facilities or, when allowable, at properly licensed recycling facilities;
7. Monitor the transport, disposal, and recycling components of subparagraphs numbered 5. and 6. immediately above in order to ensure proper compliance;
8. Have in place and implement a written agreement with the responsible state environmental agency. This agreement must provide that the responsible state environmental agency agrees to (i) timely evaluate the environmental condition at and around the site of a closed clandestine laboratory and (ii) coordinate with the responsible party, property owner, or others to ensure that any residual contamination is remediated, if determined necessary by the state environmental agency and in accordance with existing state and federal requirements; and
9. Have in place and implement a written agreement with the responsible state or local service agencies to properly respond to any minor, as defined by state law, at the site. This agreement must ensure immediate response by qualified personnel who can (i) respond to the potential health needs of any minor at the site; (ii) take that minor into protective custody unless the minor is criminally involved in the meth lab activities or is subject to arrest for other criminal violations; (iii) ensure immediate medical testing for methamphetamine toxicity; and (iv) arrange for any follow-up medical tests, examinations, or health care made necessary as a result of methamphetamine toxicity.

D.C.

	Department of Justice Office of Justice Programs Bureau of Justice Assistance	AWARD CONTINUATION SHEET Grant	PAGE 4 OF 4
PROJECT NUMBER	2008-DJ-BX-0628	AWARD DATE	08/22/2008
SPECIAL CONDITIONS			
8. The recipient is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund may not be used to pay debts incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate and expend the grant funds in the trust fund (including any interest earned) during the period of the grant. Grant funds (including any interest earned) not expended by the end of the grant period must be returned to the Bureau of Justice Assistance no later than 90 days after the end of the grant period, along with the final submission of the Financial Status Report (SF-269). 9. The grantee agrees to comply with all reporting, data collection and evaluation requirements, as prescribed by the BJA in the program guidance for the Justice Assistance Grant (JAG). Compliance with these requirements will be monitored by BJA. 10. The recipient agrees that any information technology system funded or supported by OJP funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per 28 C.F.R. 23.20(g). Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). Recipient may not satisfy such a fine with federal funds. 11. The recipient agrees to ensure that the State Information Technology Point of Contact receives written notification regarding any information technology project funded by this grant during the obligation and expenditure period. This is to facilitate communication among local and state governmental entities regarding various information technology projects being conducted with these grant funds. In addition, the recipient agrees to maintain an administrative file documenting the meeting of this requirement. For a list of State Information Technology Points of Contact, go to http://www.ojp.usdoj.gov/ec/states.htm. 12. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdiction, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system. 13. The grantee agrees to comply with the applicable requirements of 28 C.F.R. Part 38, the Department of Justice regulation governing "Equal Treatment for Faith Based Organizations" (the "Equal Treatment Regulation"). The Equal Treatment Regulation provides in part that Department of Justice grant awards of direct funding may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of direct grants may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from the grantee or a sub-grantee must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. 14. Recipient may not obligate, expend or drawdown funds until the Bureau of Justice Assistance, Office of Justice Programs has received documentation demonstrating that the state or local governing body review and/or community notification requirements have been met and has issued a Grant Adjustment Notice (GAN) releasing this special condition. D.C.			

City of Fayetteville Staff Review Form

A. 8
Alcoholic Beverage Control
Enforcement Grant
1 of 14

**City Council Agenda Items
and
Contracts, Leases or Agreements**

11/4/2008

**City Council Meeting Date
Agenda Items Only**

Greg Tabor
Submitted By

Police
Division

Police
Department

Action Required:

City Council approve the acceptance of a grant from Alcoholic Beverage Control Enforcement to host a state Underage Drinking Prevention Conference and approve a budget adjustment recognizing the revenue.

\$31,677

Cost of this request

Category / Project Budget

Underage Drinking
Prevention Conference

Program Category / Project Name

1010.2900.5315.00

Account Number

Funds Used to Date

Program / Project Category Name

07036-2

Project Number

Remaining Balance

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

XXX

[Signature]
Department Director

10-18-08
Date

Previous Ordinance or Resolution #

Original Contract Date:

[Signature]
City Attorney

10/21/08
Date

Original Contract Number:

Paul A. Buhner
Finance and Internal Service Director

10-22-08
Date

Received in City
Clerk's Office

10-17-08 **ENTERED**

[Signature]
Mayor

10/22/08
Date

Received in
Mayor's Office

10/22/08 **ENTERED** SEP

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor Dan Coody and members of the City Council
From: Greg Tabor, Chief of Police 
Date: October 16, 2008
Re: 2008 Underage Drinking Prevention Conference Grant

Recommendation: Staff recommends acceptance of the 2008 Arkansas Underage Drinking Prevention Conference Grant.

Background: Underage drinking is a problem, not just in Fayetteville, but also throughout the entire state. With help from the Springdale Police Department, 2009 will be the second year that Northwest Arkansas has hosted a State Underage Drinking Prevention Conference in Arkansas. The Fayetteville Police Department has attended the National Underage Drinking Prevention Conference in the past and is one of two law enforcement agencies in the state, which have attended these conferences. We have learned many new ideas and practices from these conferences and we have been able to implement some enforcement strategies to help us combat underage drinking.

Discussion: The Fayetteville Police Department along with the Springdale Police Department seeks to host the first Arkansas Underage Drinking Prevention Conference with the assistance of the Arkansas Alcoholic Beverage Control Enforcement Office, the Pacific Institute of Research and Evaluation (P.I.R.E.), the Arkansas State Police Highway Safety Office and Mothers Against Drunk Driving (M.A.D.D.). We are anticipating approximately 200 participants to register and attend this two and one half day conference. We are targeting Arkansas law enforcement as our primary audience. This grant is through the Arkansas Department of Finance and Administration for the amount of \$31,677.17. This grant is a reimbursement grant.

Budget Impact: \$31,677 will be added to Contract Services from the State Grant Account. A budget adjustment is attached.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE POLICE DEPARTMENT TO ACCEPT A 2008-2009 GRANT FROM THE ARKANSAS ALCOHOLIC BEVERAGE CONTROL ENFORCEMENT DIVISION IN THE AMOUNT OF \$31,677.00 TO HOST A STATE UNDERAGE DRINKING PREVENTION CONFERENCE; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE .

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville Police Department to accept a 2008-2009 Grant from the Arkansas Alcoholic Beverage Control Enforcement Division in the amount of \$31,677.00 to host a State Underage Drinking Enforcement Conference.

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

PASSED and APPROVED this _____ day of November, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 8
Alcoholic Beverage Control
Enforcement Grant
4 of 14

Budget Year	Department: Police Division: Police Program: Support Services	Date Requested	Adjustment Number
2008		10/16/2008	

Project or Item Added/Increased: Recognize revenue from the 2008-2009 Underage Drinking Prevention Grant and the expense to cohost a state-wide conference as provided by this grant.	Project or Item Deleted/Reduced:
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Justification of this Increase: These funds will allow the Fayetteville Police Department to cohost an Underage Drinking Prevention Conference.	Justification of this Decrease:
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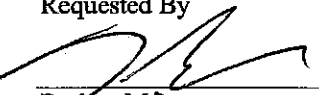
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Contract services	1010 2900 5315 00	31,677	07036 2

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
State Grants-Operational	1010 0001 4302 01	31,677	07036 2

Approval Signatures

Requested By	Date	
	10/17/08	
Budget Manager	Date	
	10-18-08	
Department Director	Date	
Finance & Internal Services Director	Date	
Mayor	Date	

Budget Office Use Only

Type:	A	B	C	<u>D</u>	E
Posted to General Ledger	Initial		Date		
Posted to Project Accounting	Initial		Date		
Entered in Category Log	Initial		Date		



STATE OF ARKANSAS
**Department of Finance
and Administration**

OFFICE OF INTERGOVERNMENTAL SERVICES
1515 West Seventh Street, Suite 400
Post Office Box 8031
Little Rock, Arkansas 72203-8031
Phone: (501) 682-1074
Fax: (501) 682-5206
<http://www.state.ar.us/dfa>

September 15, 2008

Notification of Award

FY 2006 Enforcing the Underage Drinking Laws (EUDL) Grant

EUDL #2006-AH-FX-0054 State Conference-Fayetteville Police Department

Fayetteville Police Department – Arkansas Underage Drinking Prevention Conference

Dear Chief Greg Tabor:

The Office of Intergovernmental Services of the Department of Finance and Administration is pleased to inform you that your proposal for funding through the EUDL Program has been approved in the amount of \$31,677.17. **The grant period will run from July 15, 2008 to May 15, 2009. May 22, 2009, is the last day to receive funds from this grant.**

Receipt of the award is contingent on the following:

Signed Documents

- 1) Attend mandatory training September 26, 2008, at 1:00 P.M. in the 1515 Building 5th Floor Conference Room
- 2) Attachment 1 (*acknowledgement and acceptance*)
- 3) Attachment 2 (*approved itemized budget*)
- 4) Contact information for your designated Agent who will manage the mini-grant and for at least one additional alternate contact must also be provided in Attachment 1.
- 5) Attachment 3 (certifications regarding lobbying)
- 6) Attachment 4 (certification regarding debarment)
- 7) Attachment 5 (assurances)

Reporting Requirements

- 1) Reimbursement requests are due monthly no later than the 5th of the month and the final reimbursement request is due by May 20, 2009 in order to receive funds.
- 2) Detailed (summary reports) progress reports are due the month after the quarter ends by the 5th or 6th of the month starting with October. The progress report should be submitted even if no activity was held during that quarter. The final progress report is due May 30, 2009.
- 3) Failure to submit any reports may result in a cancellation of this award or only partial reimbursement. Two hard copies and one electronic version of the report must be submitted when due.

Reimbursement Requirements

- 1) Reimbursements will be issued only for specific items listed in the approved budget.
- 2) Detailed receipts must be attached to the reimbursement requests in order to receive reimbursement.
- 3) Printed materials must have the following information printed on it: "This project is funded by a grant from DFA-IGS: OJP Award #2006-AH-FX-0054."
- 4) Copies and or samples of printed materials must accompany the request for reimbursement.
- 5) Travel reimbursement will be authorized for actual expenses incurred and not to exceed the Federal Per Diem rates. Receipts are required.

Reimbursement and report forms will be provided upon receipt of the completed acceptance and acknowledgement of the grant award and attendance at the mandatory training session.

Should you have questions or concerns about your grant award or throughout the grant period, please contact Christene Long, Grants Administration Supervisor at (501) 682-5110 or by email at ChristeneLong@dfa.state.ar.us.

Congratulations on your grant award.

Sincerely,



Doris Smith
Assistant Administrator
Office of Intergovernmental Services
Arkansas Department of Finance and Administration

Attachment 1

**Grantee Acknowledgement of EUDL Grant Requirements
and Restrictions**

I, Greg Tabor, agency head for Fayetteville Police Dept. acknowledge the specific requirements outlined in the *Notification of Award*.

I will ensure the timely submission of all reports and will ensure the reimbursement requests are submitted only for qualified expenses and for only the approved amounts as outlined in the *Approved Budget*.

Contact Information: _____

Greg Tabor
Agency Head- Printed Name

Chief of Police
Title

Signature 

9-25-08
Date

Authorized Agent/Award Manager contact information:

Name: Judy Cohea

Title: Support Services Manager

Phone: (479) 587-3581

Other: (479) 587-3555

Alternate Person contact information: (at least one required)

Name: Willie Newman

Title: Financial Coordinator

Phone: (479) 587-3579

Other: (479) 587-3555

Name: William Brown

Title: Captain

Phone: (479) 587-3504

Other: (479) 587-3555

Fayetteville Police Department
Arkansas Underage Drinking Prevention Conference

Total Award: \$31,677.17

Subgrant Starts

15-Jul-08

Subgrant Ends

15-May-09

Vendor # - 100003236

Subgrantee Award Number: FAY06-02 MINI-CONF

Subgrantee : Fayetteville Police Department-Greg Tabor

Grant Coordinator: Rick Crisman

Category	Budgeted	Total Expended Previously	Total Expended This Period	Total Expended To Date	Remaining Budget
Facilities	\$742.98				
Food & Beverages	\$15,175.51				
Registration Packets	\$3,532.98				
Presenters	\$9,913.65				
Printing	\$2,312.05				
Total	\$31,677.17				


Signature of Authorized official

10-17-08
Date



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a

public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ If there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

**DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

2. Application Number and/or Project Name

Enforcing Underage Drinking Laws

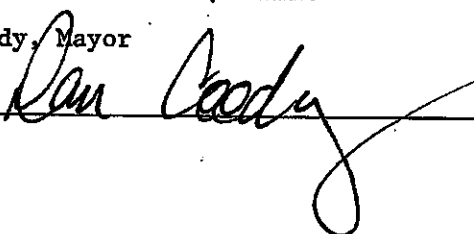
3. Grantee IRS/Vendor Number

71-6018462

4. Typed Name and Title of Authorized Representative

Dan Coody, Mayor

5. Signature



6. Date

9/24/08

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

**Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions
(Sub-Recipient)**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 67, Section 67.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211).

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Dan Coody, Mayor

Name and Title of Authorized Representative

Signature

Date

City of Fayetteville

Name of Organization

113 W. Mountain, Fayetteville, AR 72701

Address of Organization

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposes," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of reports in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.



ASSURANCES

The Applicant hereby assures and certifies compliance with all Federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars No. A-21, A-87, A-110, A-122, A-133; E.O. 12372 and Uniform Administrative Requirements for Grants and Cooperative Agreements – 28 CFR, Part 66, Common Rule, that govern the application, acceptance and use of Federal funds for this federally assisted project. Also the Applicant assures and certifies that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurance contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It ensures that individuals with limited English proficiency (LEP) will be provided access to its program and activities.
3. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally – assisted programs.
4. It will comply with provisions of Federal law which limit certain political activities of employees of a State or local unit of government whose principal employment is in connection with an activity financed in whole or part by Federal grants or subgrants. (5 USC 1501, et. seq.)
5. It will comply with the minimum wage and maximum hours provision of the Federal and State Fair Labor Standards Act if applicable.
6. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
7. It will give the Department of Finance and Administration, or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the subgrant.
8. It will comply with all requirements imposed by the Federal sponsoring agency or the Department of Finance and Administration concerning special requirements of law, program requirements, and other administrative requirements.
9. It will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Department of Finance and Administration and the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
10. It will comply with the flood insurance purchase requirements of Section 102 (a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976, Section 102 (a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
11. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470), Executive Order 11593, and the Archeological and Historical Preservation Act of 1966 (16 USC 569 a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
12. It will comply, and assure the compliance of all its subgrantees and contractors, with the applicable provisions of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Justice and Delinquency Prevention Act, or the Victims of Crime Act, as appropriate; the provisions of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1; and all other applicable Federal laws, orders, circulars, or regulations.
13. It will comply with the provisions of 28 CFR applicable to grants and cooperative agreements including Part 18, Administrative Review Procedure; Part 20 Criminal Justice Information Systems; Part 22 Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30 Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination/Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Federal laws or regulations applicable to Federal Assistance Programs.

14. It will comply, and all its contractors, with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789 (d), or Victims of Crime Act (as appropriate); Title VI of the Civil Rights of 1964, as amended; Section 504 of the Rehabilitation

Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39.

15. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Department of Finance and Administration, Office of Intergovernmental Services.
16. It will provide an Equal Employment Opportunity Program if required to maintain one, where the application is for \$500,000 or more.
17. It will comply with the provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC 3501 et seq.) which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.
18. Will comply, as applicable, with provisions of the Hatch Act (5 USC 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
19. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations" and Department of Finance and Administration audit requirements.
20. It will have complete and well-organized books, records and other original documentation relating to any and all subgrant expenditures, reimbursement or payment claims, receipt of funds, personnel employed, services rendered, individuals served, and all other records pertinent to the subgrant award. Furthermore, its bookkeeping shall be adequate to track the receipt and expenditure of all organizational funds, separately. It shall also maintain a functioning internal control structure which includes accounting and service delivery procedures that segregate subgrant funds from other organization funds and services.

21. It will provide for fund accounting, auditing, monitoring and evaluation procedures, as necessary to keep such records as the Department of Finance and Administration shall prescribe, to assure fiscal control, proper fund management and effective disbursement of funds received under the subgrant award.
22. No income eligibility standard will be imposed on individuals receiving assistance or services supported with funds appropriated or designated to carry out the subgrant project.
23. Subgrant funds made available under this subaward will not be used as direct payment of cash or any other monetary transaction with any victim or dependent of a victim for any purpose.
24. It will not, and all its subgrantees and contractors will not, hire illegal aliens.
25. That the address or location of any shelter-facility assisted under the subgrant project will not be made public, except with the written authorization of the person or persons responsible for the operation of such shelter.
26. It will comply with the Department of Finance and Administration, Office of Intergovernmental Services, Subgrant Administration Guide (June 2002, as amended, or its successor).
27. It will comply, and assure the compliance of all its subgrantees and contractors, with the disclosure required by Governor's Executive Order 98-04 and acknowledges that disclosure is a condition of the subgrant award and that the Department of Finance and Administration cannot enter into any such subgrant award for which disclosure is not made.

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of a subgrant award. Any subgrantee who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the Department of Finance and Administration.

28. Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or Local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

Dan Goody, Mayor

Signature of Authorized Official

Date

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

11/4/2008

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

A resolution to approve a settlement with Westside Storage, Inc. in the amount of \$92,545 for right of way and easement acquisition for the Ruppel Road widening project.

\$ 92,545.00

Cost of this request

\$ 500,000.00

Category / Project Budget

Ruppel Road (Wedington to Mt. Comfort)

Program Category / Project Name

4470.9470.5809.00

Account Number

\$ -

Funds Used to Date

Street Improvements

Program / Project Category Name

06008

Project Number

\$ 500,000.00

Remaining Balance

Capital Improvement Program

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

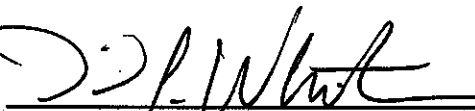

Department Director

10-17-08
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

10/21/08
Date


Finance and Internal Service Director

10-21-08
Date

Received in City Clerk's Office




Mayor

10/22/08
Date

Received in Mayor's Office



Comments:

City Council Meeting of November 4, 2008

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Date: October 17, 2008

Subject: A resolution to approve a settlement with Westside Storage, Inc. in the amount of \$92,545 for right of way and easements for the Ruppel Road Widening Project.

RECOMMENDATION:

Staff recommends approval of the settlement with Westside Storage, Inc. in the amount of \$92,545 for right of way and easements for the Ruppel Road Widening Project.

BACKGROUND:

On May 15, 2007 the City Council approved the Planned Zoning District for The Links Development located near the intersection of Wedington Drive and Ruppel Road. As a part of the approval, the developer was required to 1) Construct the eastern half of Ruppel Road to its Master Street Plan designation along the project frontage (two travel lanes and half a boulevard, 2.) Install new traffic signals on Ruppel Road and on Wedington, and 3) Widen Ruppel Road to the south of the development to Wedington Drive including all appropriate transition lanes and relocation of the existing signal. As a part of the approval, the City Council committed the City to acquire the right-of-way from the two existing property owners on the east side of Ruppel and south of The Links Development that are necessary to do the street widening.

DISCUSSION:

On February 13, 2008 the City Engineering Staff sent an offer to acquire the necessary right-of-way and easements to Westside Storage, Incorporated based only on the acreage of the land to be purchased and the value of the property based on Washington County's appraised value. Several items that could be considered damages were brought up from the property owner during several onsite meetings. In general, the road surface for Ruppel Road is currently 67' to the edge of the first building in the development. This area currently contains the only parking for the facility. This first building contains the offices for the business and a keypad that vehicles must use to enter the facility is located at the southwest corner of the building. In order to use the keypad, a vehicle that is usually carrying a tow behind trailer must stop in this area between the building and the existing roadway.

City Council Meeting of November 4, 2008

The plans for the widening of Ruppel Road onto this property will bring the edge of the sidewalk within 28' of the building which would eliminate three of the five parking spaces. In addition, there will be insufficient room for vehicles towing trailers to utilize the existing key pad. This can best be seen on the aerial drawing that is included in this packet.

Several alternatives were examined to address these issues to the satisfaction of the business owner. After many discussions, the property owner decided that the only way that the business could continue was to relocate the entrance to access Wedington Drive and to build a new office at this entrance. The business owner has now submitted a conceptual PZD to be heard at the Planning Commission and tentatively scheduled for the November 18, 2008 City Council Meeting.

A second offer was submitted to Westside Storage on September 24, 2008 (see attached letter) subject to City Council approval which included payment of damages that includes moving the entry gates and driveway to access Wedington Drive and payment of six trees to be located in the proposed utility easement. It is important to note that the City Council must officially allow the connection to Wedington Drive since a Bill of Assurances dated July 10, 1990 (also attached) states that "Access for any development on the most northern 3.5 acres of said property shall be limited to Ruppel Road." This offer was accepted in writing (also attached) on October 16, 2008 provided that an additional \$18,500.00 be added to the offer to pay for the additional expenses to move the entry gates that was not included in the estimate. It states on the estimate that the cost provided does not include the electrical wiring or conduit which is to be provided by the owner. Also, this is to help pay a portion of the expenses "incurred to pursue the PZD approval which has been extremely costly to us this far."

BUDGET IMPACT:

There is currently \$500,000.00 in the Ruppel Road Capital Improvement Program account that was established in 2006 to acquire property and begin the engineering design for the widening of Ruppel Road between Mount Comfort Road and Wedington Drive. This project was placed on hold upon the submittal of The Links private development.

RESOLUTION NO. _____

A RESOLUTION APPROVING A SETTLEMENT WITH WESTSIDE STORAGE, INC. IN THE AMOUNT OF \$92,545.00 FOR RIGHT-OF-WAY AND EASEMENT ACQUISITION FOR THE RUPPLE ROAD WIDENING PROJECT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves a settlement with Westside Storage, Inc. in the amount of \$92,545.00 for right-of-way and easement acquisition for the Ruppel Road Widening Project.

PASSED and APPROVED this ____ day of November, 2008.

APPROVED:

ATTEST:

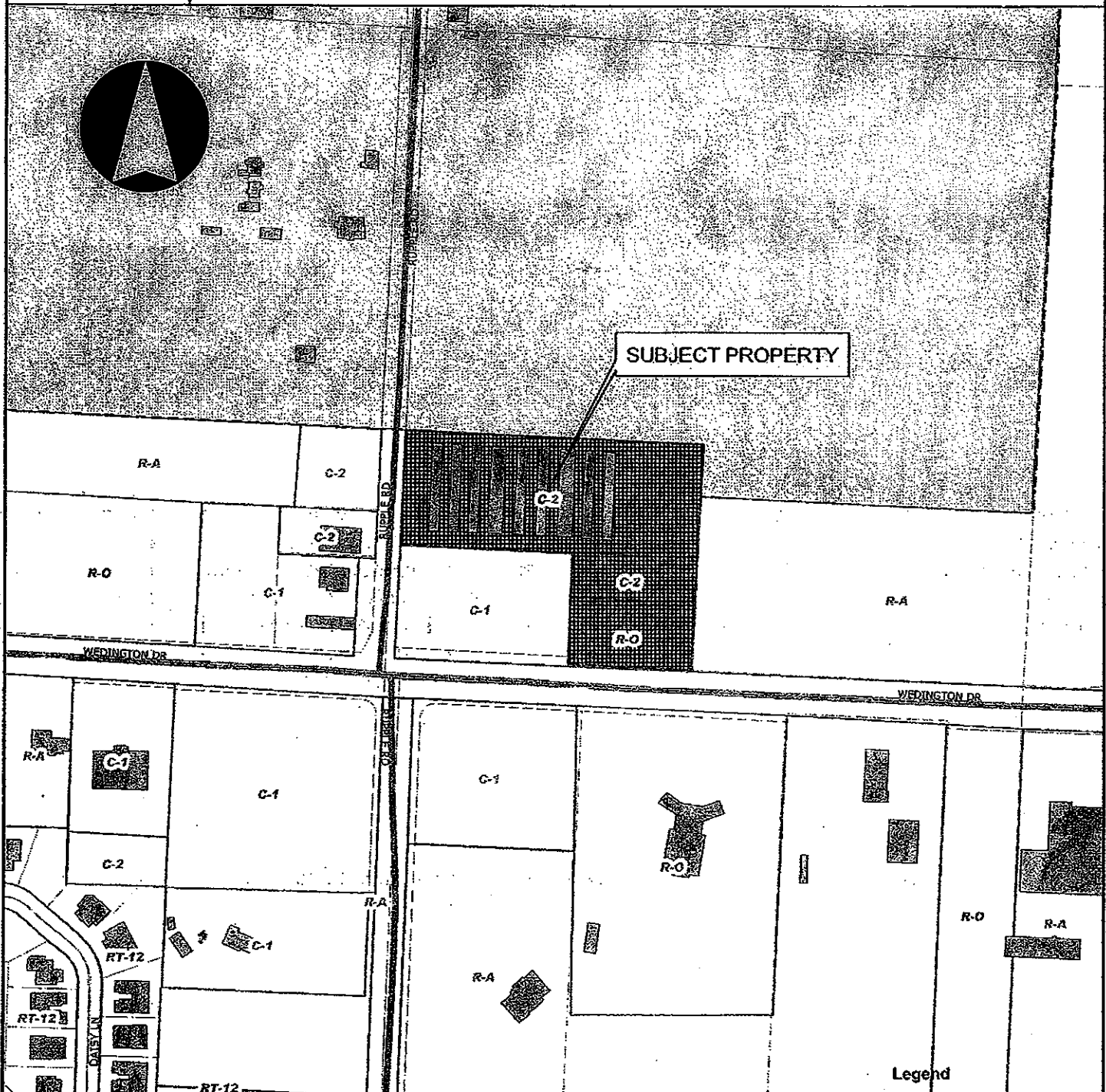
By: _____
DAN COODY, Mayor

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

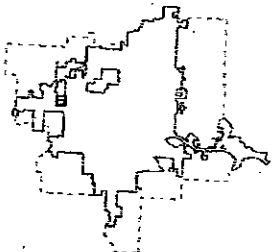
ADM 05-1441

Close Up View

WESTSIDE STORAGE



Overview



Legend

Subject Property

CUP04-10.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

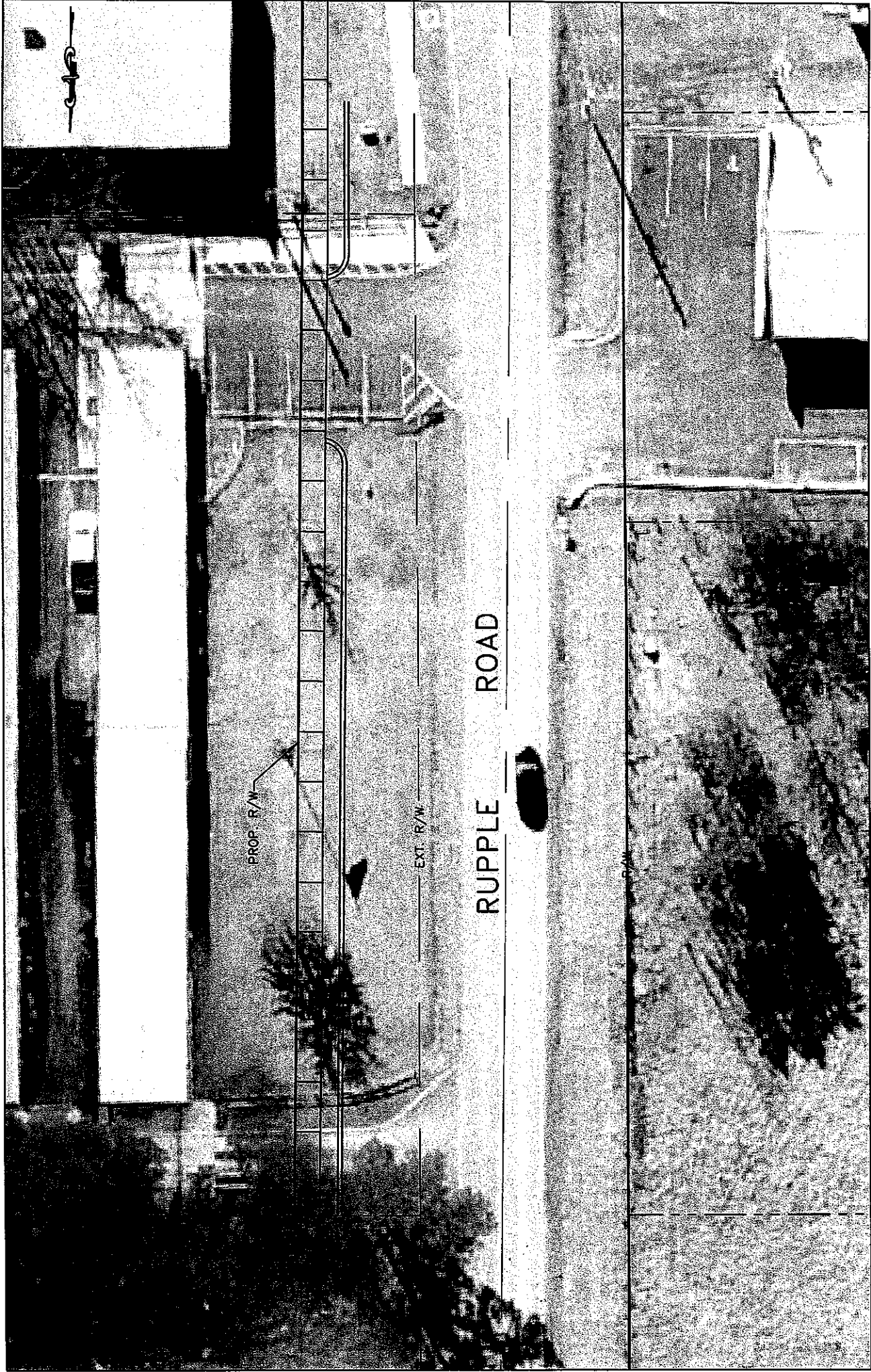
Collector

Historic Collector

0 125 250 500 750 1,000 Feet

Legend

March 14, 2005
Planning Commission
ADM 05-1441 (Westside Storage)
Page 2.53





ENGINEERING DIVISION CORRESPONDENCE

September 24, 2008

Westside Storage Inc.
Attn: Dennis Caudle
1192 N. Ruppel Road
Fayetteville, AR 72704

RE: Ruppel Road Widening and Improvements
Revised Offer Letter

Dear Mr. Caudle:

In response to several of the issues that you have raised during our meetings and conversations over the last several months, the City of Fayetteville has revised our previous offer. This new offer is summarized below and will be contingent upon City Council approval:

- The City of Fayetteville hereby offers \$18,900.00 for the acquisition of right-of-way (0.15 acres) and \$3,465.00 for the rights associated with the permanent easement (0.11 acres). There is no compensation offered for the 0.11 acres in existing Ruppel Road right-of-way. However, this area will be removed from your overall property description along with the dedication of the new right-of-way; thus, your tax bill should be reduced.
- The City of Fayetteville hereby offers \$37,205.00 as proposed by P&D Services to move the entry gates and the associated keypads, wiring, and appurtenances as itemized on the attached proposal.
- The City of Fayetteville hereby offers \$11,475.00 (153 feet @ \$75.00 per foot) for the installation of an asphalt driveway from Wedington Drive to your existing back entrance.
- The City of Fayetteville hereby offers \$3,000.00 for the purchase of six (6) trees located within the utility easement boundary.
- The City of Fayetteville accepts the responsibility to provide one (1) fire hydrant along Wedington Drive if required in association with any future development to replace an existing fire hydrant that was previously installed by Westside Storage, Inc. and removed by the AHTD during the Wedington Drive widening project.
- The City of Fayetteville will agree to revise the Bill of Assurance dated July 10, 1990 to allow access to Westside Storage from Wedington Drive.

As previously stated, this offer will require approval from the City Council. At this point, the City will need something from you in writing that states this offer will be acceptable and list any other special provision in order for this to be presented to the City Council. We understand that you wish to proceed with approval of a Conceptual Planned Zoning Development before you give final acceptance. As an option, you can agree to accept this offer but hold off signing the actual Warranty Deed and General Utility Easement until such time as the PZD has also gained approval from the City Council.

Please give me a call to discuss at 575-8207.

Sincerely,

Ronald S. Petrie
City Engineer

Enclosures

P&D SERVICES12014 East Hwy. 10
Greenwood, Ar. 72835
Phone (479) 650-4778
Fax (479) 675-3162**PROPOSAL**

Proposal No.: 08180801

Date: August 18, 1908

C l i e n t	Dennis Caudel Fayetteville, Ar.		Job Name:	
			Start Date:	
			Job Location:	
			Job Phone:	
DESCRIPTION OF WORK TO BE PERFORMED				
1. Move two existing gates (includes pouring concrete pads and drive approach 20 foot on either side of gate, move existing keypads and move or construct fence panels to secure the gate access.				
2. Does not include the electrical wiring or conduit for that run which is to be provided by owner.				
SPECIFICATIONS AND ESTIMATES OF PROPOSAL				
	UNIT	PARTS/DESCRIPTION/WORK TO BE PERFORMED	UNIT COST	AMOUNT
1.	1	Move back gate and install controls and saftys includes new concrete and wiring and labor.	\$5,500.00	\$5,500.00
2.	1	Move front entry gate and install controls, safties, wiring and concrete, labor.	\$5,500.00	\$5,500.00
3.	1	New main entry gate off Weddington Dr., concrete base and verticle pivot lift gate safties, labor	\$20,955.00	\$20,955.00
4.	1	Two keypads, 500' control wire, conduit, 2 gooseneck stand, trenching, concrete, labor.	\$5,250.00	\$5,250.00
5.				
6.				
7.				
8.				
Additional information pertaining to this Proposal				
Deposit Fifty percent deposit required with contract. Balance due upon completion of installation.			Total Job Cost for Proposal \$37,205.00 Job Cost does not include tax, or applicable surcharges	
			Authorized Signature _____	
DUPLICATE				

Oct 16 2008

Ron Petrie
City Engineer

Dear Ron:

As per our phone conversation, we are prepared to accept your offer of Sept 24, 2008 with these added additions as outlined:

1) Your acceptance of the proposed gate relocation as clearly shown on this proposal showed additional expense

2) Expenses incurred to pursue the PZD approval has been extremely costly to us this far

We would accept this additional expenses of \$18,500.00 to your offer of September 24, 2008.

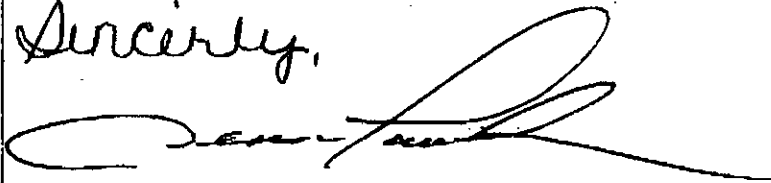
The two (2) trees located in our yard on Ruppel would be retained with sidewalk (walks) working around those trees. Water lines to be re-established large enough to service existing location and

page 2

new location.

Hope this offer will be acceptable
to the City when presented
to the City Council.

Sincerely,



Dennis Caudle

Owner: Westside Storage, Inc

1192 N. Ripple

Jayetteville AR 72704

479-444-7177 (phone)

479-444-6755 (fax)

FILED FOR REC. **MICROFILMED**
90 AUG. 8 PM 3 55

North of Washington,
East of R. Road
R90-14 Rezoning
Candle

BILL OF ASSURANCE
WASHINGTON CO AR
A. KOLLMEYER

This declaration of a Bill of Assurance made this 10th day of July, 1990, by the undersigned owners of the following described real estate located in the City of Fayetteville, Washington County, Arkansas, and more particularly described as follows, to-wit:

SEE ATTACHMENT

WHEREAS, the aforesaid owner of the real property described above has secured the approval of the Fayetteville City Board of Directors to amend the Fayetteville zoning map and rezone the most southern 1.5 acres of the above described property from A-1, Agricultural, to R-O, Residential-Office and the most northern 3.5 acres of the above described property from A-1, Agricultural, to C-2, Thoroughfare Commercial; and

WHEREAS, the owners have promised and agreed to subject the development of said real estate pursuant to certain covenants and restrictions pertaining to same; and

WHEREAS, the owners are desirous of making a declaration of the same in the form of this Bill of Assurance with the intention of guaranteeing the preservation of certain values and amenities in the community and to bind themselves, their successors and assigns and the aforescribed real estate and its subsequent owners with the obligations and restrictions hereinafter set forth for all present and future development and use of said property.

NOW, THEREFORE, the owners declare that the above described real property shall be held, developed, transferred, sold, conveyed and occupied subject to the covenants and restrictions herein set forth:

I.

The use of the most northern 3.5 acres of said property shall be limited to mini-storage development only.

II.

A tree preservation plan shall be submitted prior to any construction or development subject to the following: a) the preservation of 60 percent of all existing trees with a caliper of 8 inches or more, b) the protection of trees to be preserved during the construction and paving process, and c) the understanding that the staff has the administrative authority to reduce by as much as 15 percent the percentage of trees to be preserved if the unforeseen removal of certain trees is deemed necessary during the construction process.

EXHIBIT A LIBER 1379 PAGE 147

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Planning Commission
ADM 05-144 (Westside Storage)
Page 2.22

-2-

III.

Access for any development on the most northern 3.5 acres of said property shall be limited to Ruppel Road.

1990 WITNESS my hand and seal this 10th day of July,



DALE W CAUDLE

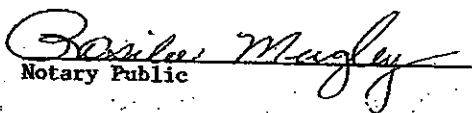
ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS:
COUNTY OF WASHINGTON)

BE IT REMEMBERED that on this day came before the undersigned, a Notary Public, within and for the County aforesaid, duly commissioned and action, to me well known, who acknowledged that they had executed the foregoing Bill of Assurance for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 10 day of July, 1990




Notary Public

LIBER 1379 PAGE 148

Ripple Road Right-of-Way
Part of Parcel No. 765-16231-000

WARRANTY DEED

BE IT KNOWN BY THESE PRESENTS:

THAT **Westside Storage, Inc.**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, the following described land situated in the County of Washington, State of Arkansas, to-wit:

A part of the parcel as described in Warranty Deed Record 1420-568 as recorded in Circuit Clerk's Office for Washington County, Arkansas, being part of the SE1/4 of the NE1/4 of Section 12, Township 16 North, Range 31 West, Washington County, Arkansas, more particularly described as follows: Commencing at the SW corner of said SE1/4 of the NE1/4; thence along the West line thereof N00°00'00"E 267.00 feet to the SW corner of said parcel as described in Warranty Deed Record 1420-568 for the Point of Beginning; thence along the West line of said parcel, N00°10'00"W 239.80 feet to the NW corner of said parcel; thence along the North line of said parcel N90°00'00"E 47.88 feet; thence leaving said North line 4.49 feet along a non-tangent curve to the left said curve having a radius of 140.00 feet and a long chord of S01°30'21"W 4.49 feet; thence S00°35'13"W 235.32 feet to the South line of said parcel; thence along said South line N90°00'00"W 44.65 feet to the Point of Beginning containing 0.25 acres, more or less.

TO HAVE AND TO HOLD the said lands and appurtenances hereunto belonging unto the said Grantee and Grantee's successors and assigns, forever. And the said Grantors, hereby covenant that they are lawfully seized of said lands and premises; that the same is unencumbered, and that the Grantors will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS the execution hereof on this the _____ day of _____, 2008.

WESTSIDE STORAGE, INC.

By: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

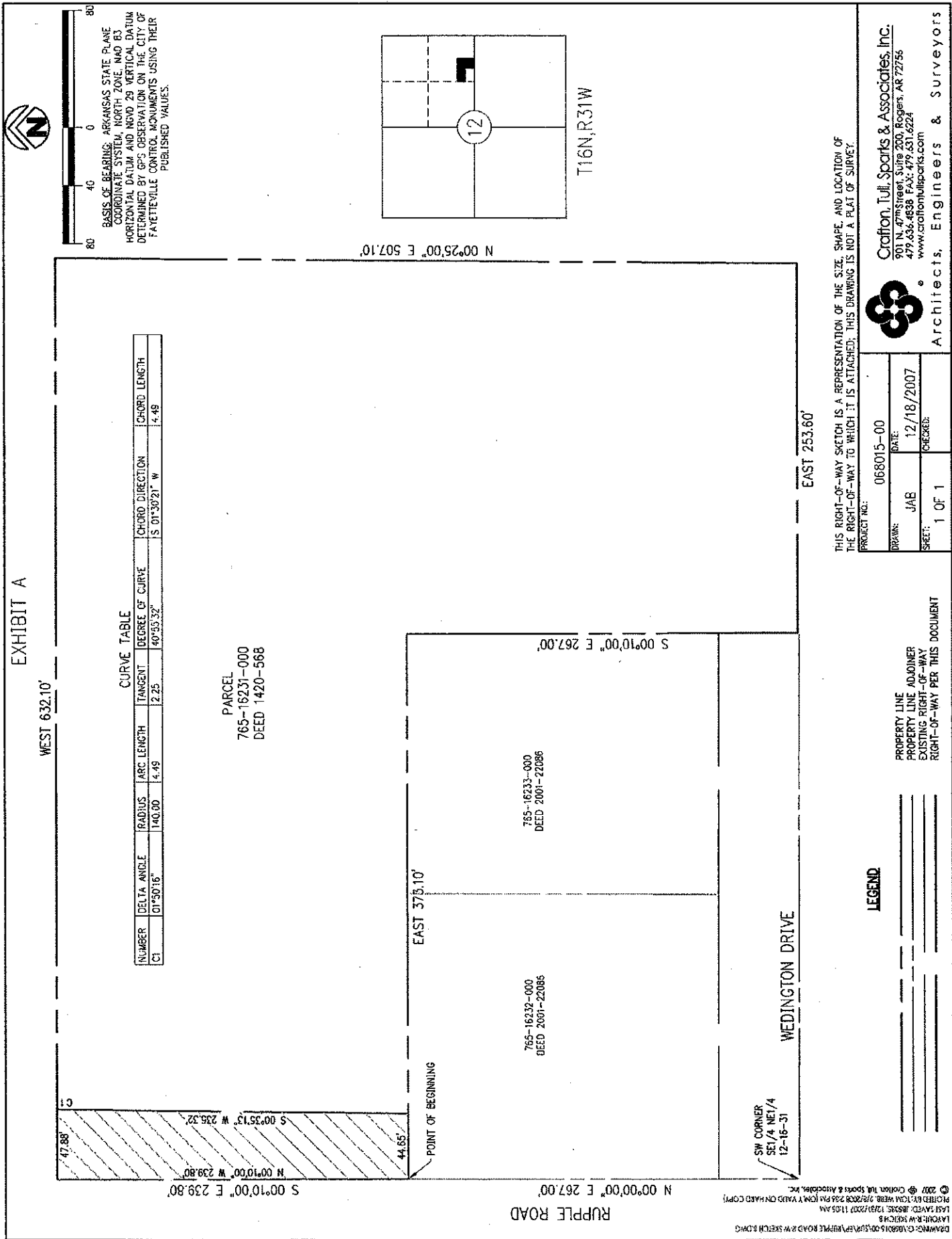
}
} ss.
)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **Westside Storage, Inc.**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2008.

MY COMMISSION EXPIRES:

Notary Public



Parcel No. 765-16231-000

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Westside Storage, Inc.**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of roadway, drainage, sidewalks, and general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Book 1420 at Page 568)

A part of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section Twelve (12), Township Sixteen (16) North, Range Thirty-one (31) West, being more particularly described as follows, to-wit: Beginning at a point on the West line of said forty acre tract which is 267 feet North of the Southwest Corner of said forty acre tract, and running, thence East 373.1 feet; thence South 0 degrees 10 minutes East 267 feet to the South line of said forty acre tract; thence East 253.6 feet; thence North 0 degrees 25 minutes East along an existing fence line 507.1 feet; thence West 632.1 feet to the West line of said forty acre tract; thence South 0 degrees 10 minutes East 239.8 feet to the point of beginning, containing Five and Five hundredths (5.05) acres, more or less.

LESS AND EXCEPT: A part of the parcel as described in Warranty Deed Record 1420-568 as recorded in Circuit Clerk's Office for Washington County, Arkansas, being part of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 12, Township 16 North, Range 31 West, Washington County, Arkansas, more particularly described as follows: Commencing at the SW corner of said SE $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence along the West line thereof N00°00'00"E 267.00 feet to the SW corner of said parcel as described in Warranty Deed Record 1420-568 for the Point of Beginning; thence along the West line of said parcel, N00°10'00"W 239.80 feet to the NW corner of said parcel; thence along the North line of said parcel N90°00'00"E 47.88 feet; thence leaving said North line 4.49 feet along a non-tangent curve to the left said curve having a radius of 140.00 feet and a long chord of S01°30'21"W 4.49 feet; thence S00°35'13"W 235.32 feet to the South line of said parcel; thence along said South line N90°00'00"W 44.65 feet to the Point of Beginning containing 0.25 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

A part of the parcel as described in Warranty Deed Record 1420-568 as recorded in Circuit Clerk's Office for Washington County, Arkansas, being part of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 12, Township 16 North, Range 31 West, Washington County, Arkansas, more particularly described as follows: Commencing at the SW corner of said SE $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence along the West line thereof N00°00'00"E 267.00 to the SW corner of said parcel as described in Warranty Deed Record 1420-568; thence along the South line of said parcel N90°00'00"E 44.65 feet to the Point of Beginning; thence leaving said South line N00°35'13"E 235.32 feet; thence 4.49 feet along a curve to the right said curve having a radius of 140.00 feet and a long chord of N01°30'21"E 4.49 feet to the north line of said parcel; thence along said North line N90°00'00"E 20.02 feet; thence leaving said North line 4.70 feet along a curve to the left said curve having a radius of 120.00 feet and a long chord of S01°42'29"W 4.70 feet; thence S00°35'13"W 235.12 feet to the South line of said Warranty Deed Record 1420-568; thence along said South line N90°00'00"W 20.00 feet to the Point of Beginning, containing 0.11 acres, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees no to erect any buildings or structures in said permanent easement.

GENERAL UTILITY EASEMENT
Westside Storage, Inc.
Page 2 of 2

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the _____ day of _____, 2008.

WESTSIDE STORAGE, INC.

By: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

}
}
ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **Westside Storage, Inc.**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

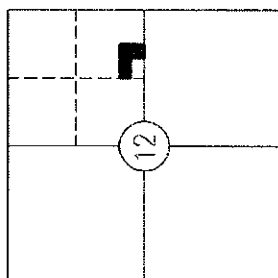
WITNESS my hand and seal on this _____ day of _____, 2008.

MY COMMISSION EXPIRES:

Notary Public



BASIS OF BEARING: ARKANSAS STATE PLANE
COORDINATE SYSTEM, NORTH ZONE, NAD 83
HORIZONTAL DATUM, AND NAD 26 VERTICAL DATUM
DETERMINED BY GPS OBSERVATION ON THE CITY OF
FAYETTEVILLE CONTROL MONUMENTS USING THEIR
PUBLISHED VALUES.



T16N,R31W

EXHIBIT A

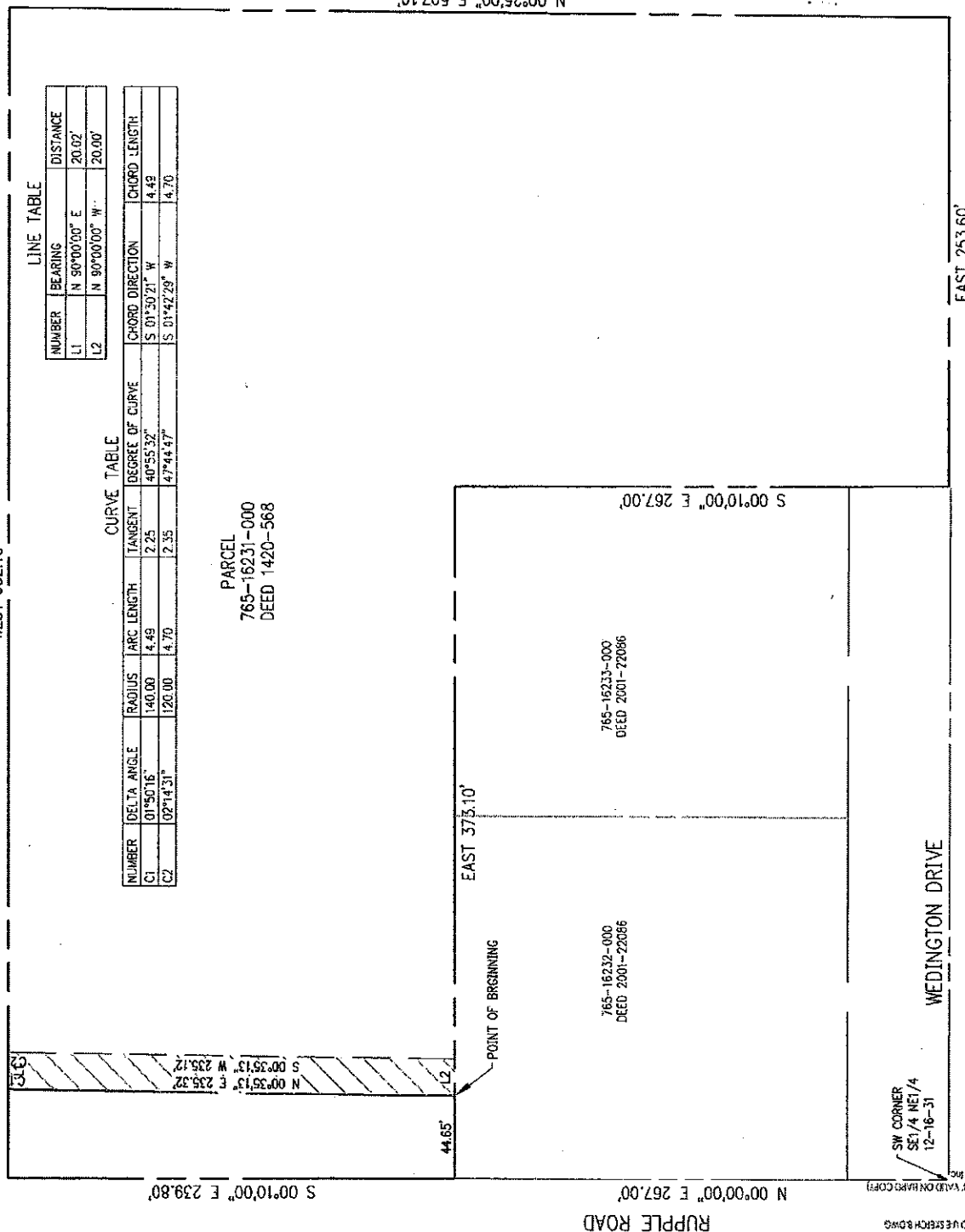
WEST 632.10'

LINE TABLE			
NUMBER	BEARING	DISTANCE	
L1	N 90°00'00" E	20.02'	
L2	N 90°00'00" W	20.00'	

CURVE TABLE

NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	TANGENT	DEGREE OF CURVE	CHORD DIRECTION	CHORD LENGTH
C1	01°50'16"	140.00	4.49	2.25	40°55'32"	S 01°50'21" W	4.49
C2	02°14'31"	120.00	4.70	2.35	47°44'47"	S 01°42'29" W	4.70

PARCEL
765-16231-000
DEED 1420-568



LEGEND

_____	PROPERTY LINE
_____	PROPERTY LINE ADJOINER
_____	EASEMENT PER THIS DOCUMENT
_____	EXISTING RIGHT-OF-WAY
_____	RIGHT-OF-WAY PER SEPARATE DOCUMENT

THIS RIGHT-OF-WAY SKETCH IS A REPRESENTATION OF THE SIZE, SHAPE, AND LOCATION OF
THE RIGHT-OF-WAY TO WHICH IT IS ATTACHED. THIS DRAWING IS NOT A PLAT OF SURVEY.

PROJECT NO:	068015-00
DRAWN:	JAB
DATE:	12/18/2007
CHECKED:	
SHEET:	1 OF 1



Crafton, Tull, Sparks & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756
479.636.4838 FAX: 479.631.6224
www.craftontullsparks.com

Architects, Engineers & Surveyors

DRAWING: 068015-00, 12/18/2007, RUPPLE ROAD USE SKETCH & DWG.
LAST SAVED: 12/18/2007 11:44 AM
PRINTED BY: TULL, SPARKS & ASSOCIATES, INC. FOR (OWNER) COPY

City of Fayetteville Staff Review Form

A. 10
Capps Rent A Car Inc.
1 of 6City Council Agenda Items
and
Contracts, Leases or Agreements

11/4/2008

City Council Meeting Date
Agenda Items OnlyGreg Tabor
Submitted ByPolice
DivisionPolice
Department

Action Required:

Contract approval of Lease Agreement with Capps Rent A Car Incorporated for the lease of one 2008 4 door sedan type vehicle. This vehicle will be driven by the department's officer assigned to the IRS Task Force. The IRS Task Force will reimburse the City of Fayetteville for cost of the vehicle, gasoline and overtime.

\$35,000

Cost of this request
1010-2940-5104.00
1010 2940 5309.00
Account Number

08071

Project Number

\$ 35,000.00

Category / Project Budget

\$ -

Funds Used to Date

\$ 35,000.00

Remaining Balance

IRS Task Force

Program Category / Project Name

Patrol

Program / Project Category Name

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

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

Mayor

Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police 

DATE: October 17, 2008

RE: Contract Approval for Vehicle Lease

Recommendation:

It is recommended the City Council approve a lease contract and budget adjustment for the lease of a vehicle from Capps Rent A Car Incorporated. (See attached contract and budget adjustment)

Background:

The Police Department has an officer assigned to the local Internal Revenue Service Task Force. This lease approval will allow the Police Department to lease a vehicle to be assigned to this officer. The federal funding of the Task Force will provide reimbursement for the vehicle and any overtime generated by this officer.

Discussion:

This lease contract will authorize the lease of a 2008 4-door sedan type vehicle. This vehicle will be for the use of the department's officer assigned to the Internal Revenue Service Task Force.

Budget Impact:

The General Fund budget will receive revenues to cover these cost; therefore the impact on the budget is zero.

RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE AGREEMENT WITH CAPPS RENT A CAR, INC. FOR THE LEASE OF ONE (1) 2008 4-DOOR SEDAN IN THE AMOUNT OF \$35,000.00 FOR USE BY THE FAYETTEVILLE POLICE DEPARTMENT OFFICER ASSIGNED TO THE INTERNAL REVENUE SERVICE TASK FORCE; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE REIMBURSEMENT REVENUE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Lease Agreement with Capps Rent A Car, Inc. for the lease of one (1) 2008 4-door sedan in the amount of \$35,000.00 for use by the Fayetteville Police Department officer assigned to the Internal Revenue Service Task Force. A copy of the Lease Agreement, marked Exhibit "A," is attached hereto and made a part hereof.

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

PASSED and APPROVED this ____ day of November, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 10
Capps Rent A Car Inc.
4 of 6

Budget Year 2008	Department: Police Division: Police Program: Patrol	Date Requested 10/16/2008	Adjustment Number
--------------------------------	---	---	-------------------

Project or Item Added/Increased: Recognize reimbursement revenue for participating in the IRS Task Force.	Project or Item Deleted/Reduced: None
--	--

Justification of this Increase: The IRS will reimburse the Police Department for up to \$15,000 overtime and \$20,000 for vehicle expenses.	Justification of this Decrease:
--	---------------------------------

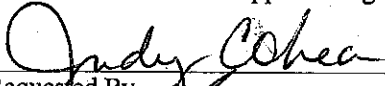
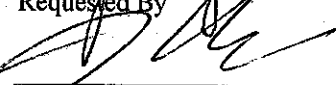
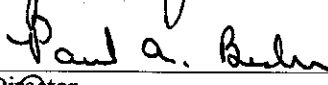
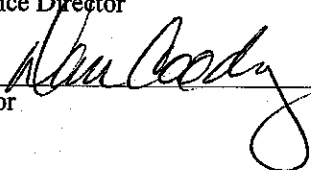
Increase Budget

Account Name	Account Number	Amount	Project Number
Overtime - Uniformed	1010 2940 5104 00	15,000	08071 1
Fuel	1010 2940 5213 04	10,500	08071 1
Travel & Training	1010 2940 5304 00	2,000	08071 1
Lease Expense	1010 2940 5309 00	7,500	08071 1

Decrease Budget

Account Name	Account Number	Amount	Project Number
IRS Reimbursement	1010 0001 4310 02	35,000	08071 1

Approval Signatures

	10/17/08	
Requested By	Date	
	10-22-08	
Budget Director	Date	
	10/22/08	
Department Director	Date	
	10-22-08	
Finance Director	Date	
	10/22/08	
Mayor	Date	

Budget & Research Use Only

Type:	A	B	C	<u>D</u>	E
General Ledger Date	3/31/2008				
Approval Date	Initial	Date			
Posted to General Ledger	Initial	Date			
Posted to Project Accounting	Initial	Date			

STANDARD LEASE AND OPTION AGREEMENT

LESSOR: CAPPS RENT A CAR, INCORPORATED
8555 JOHN CARPENTER FREEWAY
DALLAS, TEXAS 75247

LESSEE: Fayetteville Police Department

Fayetteville, Arkansas

1. THIS LEASE AGREEMENT IS ENTERED INTO BETWEEN CAPPS RENT A CAR, INC. (LESSOR) AND THE _____ (LESSEE). THE LESSEE IS (a) A _____ CORPORATION, OR (b) A CORPORATION INCORPORATED IN THE STATE OF _____ AND AUTHORIZED TO DO BUSINESS IN THE STATE OF _____, OR (c) _____ THE _____ IS AUTHORIZED:

TO ENTER INTO THIS AGREEMENT FOR THE PURPOSES DESCRIBED AND BOTH PARTIES AGREE AS FOLLOWS:

LESSEE DESIRES TO LEASE FROM LESSOR, THE VEHICLE OR VEHICLES IN ACCORDANCE WITH THIS AGREEMENT AND TO HOLD THE VEHICLE OR VEHICLES FOR THE TERM OF THE LEASE. THIS AGREEMENT COVERS ALL VEHICLES DELIVERED BY LESSOR AND ACCEPTED BY LESSEE.

2. EXCEPT AS MAY BE CANCELLED IN PARAGRAPH 5, HERE OF; THIS AGREEMENT SHALL BE IN EFFECT THROUGH OUT THE ENTIRE LEASE TERM. THE LEASE TERM SHALL BE A PERIOD OF AT LEAST SIX MONTHS NOT TO EXCEED TWELVE MONTHS, UNLESS OTHERWISE MUTUALLY AGREED UPON BY BOTH LESSOR AND LESSEE.
- 2a. LESSOR AGREES TO PROVIDE LESSEE DURING THE LEASE TERM WITH QUIET USE AND ENJOYMENT OF THE EQUIPMENT. LESSEE WILL NOT USE, OPERATE OR MAINTAIN THE VEHICLE(S) IMPROPERLY, CARELESSLY, IN VIOLATION OF ANY APPLICABLE LAW OR IN ANY MANNER CONTRARY TO THAT CONTEMPLATED BY THIS AGREEMENT.
3. LESSEE SPECIFICALLY UNDERSTANDS AND AGREES THAT THERE ARE NO UNDERSTANDINGS, AGREEMENTS, REPRESENTATIONS, OR WARRANTIES, (INCLUDING ANY WARRANTIES OR FITNESS FOR A PARTICULAR PURPOSE), THAT ARE NOT SPECIFIED HEREIN, RESPECTING THIS CONTRACT OR VEHICLES LEASED HEREUNDER. THIS CONTRACT STATES THE ENTIRE OBLIGATION OF THE LESSOR IN CONNECTION WITH THIS TRANSACTION, AND PAROL STATEMENTS ARE NOT A PART OF THIS AGREEMENT.
- 3a. LESSEE IS LEASING THE VEHICLES IN "AS IS" CONDITION
- 3b. IN NO EVENT SHALL THE LESSOR BE LIABLE FOR ANY LOSS OR DAMAGE, INCLUDING ACTUAL OR CONSEQUENTIAL DAMAGE, IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT RELATED TO LESSEE'S USE OF ANY VEHICLES, PRODUCTS, OR SERVICES PROVIDED FOR IN THIS AGREEMENT.
- 3c. LESSEE IS RESPONSIBLE FOR ALL ROUTINE MAINTENANCE, SUCH AS OIL AND FILTER CHANGES (AT INTERVALS NOT TO EXCEED 5,000 MILES BETWEEN CHANGES), TIRE REPAIR OR REPLACEMENT AND ANY MINOR REPAIRS. IN THE EVENT OF A TIRE REPLACEMENT, LESSEE AGREES TO REPLACE THE TIRE WITH AN IDENTICAL LIKE BRAND AS WAS ORIGINALLY PROVIDED. LESSEE AGREES TO PAY AN ADDITIONAL PREMIUM IN THE EVENT THAT OIL CHANGES ARE NOT PERFORMED TIMELY. MINOR REPAIRS ARE DEFINED AS THOSE REPAIRS COSTING \$150.00 OR LESS AND NOT COVERED BY FACTORY WARRANTY. ANY REPAIR THAT WOULD BE LESSOR'S RESPONSIBILITY IS TO BE APPROVED BY LESSOR PRIOR TO REPAIRS BEING PERFORMED.
- 3d. ANY REPAIRS OR MAINTENANCE IN EXCESS OF \$150.00 AND NOT COVERED BY MANUFACTURER'S WARRANTY AND DEEMED TO BE THE RESPONSIBILITY OF THE LESSOR, SHALL NOT BE PERFORMED WITHOUT PRIOR APPROVAL OF LESSOR. NORMAL WEAR AND TEAR IS ACCEPTABLE. ABNORMAL WEAR AND TEAR OR SUBSTANDARD BODY REPAIRS ARE NOT ACCEPTABLE AND WILL BE CHARGED BACK TO LESSEE. DAMAGED WINDSHIELDS MUST BE REPLACED (REPAIRED OR 'PLUGGED' WINDSHIELDS WILL NOT BE ACCEPTED) AT LESSEE'S EXPENSE. REPLACED WINDSHIELDS ARE TO BE 'CARLITE', 'PPG' OR 'LOF' GLASS. LABOR TO REPAIR HOLES THAT HAVE BEEN DRILLED IN VEHICLES BY LESSEE WILL BE CHARGED BACK TO LESSEE AT AUTHORIZED NEW CAR DEALERSHIP RATES.
4. THE OBLIGATION OF THE LESSEE TO MAKE RENTAL PAYMENT HEREUNDER IS A CURRENT EXPENSE OF LESSEE AND NOT A DEBT OF LESSEE IN CONTRAVENTION OF ANY APPLICABLE LIMITATIONS OR REQUIREMENTS, NOR SHALL ANYTHING CONTAINED HEREIN CONSTITUTE A PLEDGE OF THE GENERAL TAX REVENUES, FUNDS OR MONIES OF LESSEE.

- 4a. THE OBLIGATIONS OF LESSEE TO MAKE RENTAL PAYMENTS, AND TO PERFORM AND OBSERVE THE COVENANTS AND AGREEMENTS CONTAINED HEREIN, SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS, EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NOT WITHSTANDING ANY DISPUTE BETWEEN LESSEE AND LESSOR, ANY VENDOR OR ANY OTHER PERSON, LESSEE SHALL NOT ASSERT ANY RIGHT OF SET-OFF OR COUNTERCLAIM AGAINST ITS OBLIGATION TO MAKE PAYMENTS UNDER THIS AGREEMENT.
- 4b. LESSEE AGREES TO DO ALL THINGS LAWFULLY WITHIN ITS POWER TO OBTAIN AND MAINTAIN FUNDS FROM WHICH THE RENTAL PAYMENTS MAY BE MADE.
5. IF SUFFICIENT FUNDS ARE NOT APPROPRIATED FOR RENTAL PAYMENT DUE IN ANY FISCAL YEAR AND THE LESSEE SHALL HAVE AT SUCH TIME NO FUNDS DULY AUTHORIZED FOR THE RENTAL PAYMENTS, AN EVENT OF NON APPROPRIATION SHALL BE DEEMED TO HAVE OCCURRED. THE LESSEE SHALL PROMPTLY DELIVER NOTICE THEREOF TO THE LESSOR. UPON THE OCCURRENCE OF AN EVENT OF NON APPROPRIATION, THE LESSEE AGREES THAT THE LESSOR MAY RECLAIM POSSESSION OF THE VEHICLE(S). LESSEE AGREES PEACEABLY TO DELIVER THE VEHICLE(S) TO LESSOR AT A REASONABLE LOCATION SPECIFIED BY LESSOR, ALL AT LESSEE'S EXPENSE. ALL PAYMENTS ARE DUE AND PAYABLE IN DALLAS COUNTY TEXAS.
- 5a. LESSEE SHALL PROMPTLY DISCHARGE ANY MECHANIC'S OR MATERIALMEN'S LIENS PLACED ON THE VEHICLE(S) BY ANY AGENT, CONTRACTOR OR SUPPLIER OF THE LESSEE.
6. IN THE EVENT THAT THE USE, POSSESSION OR ACQUISITION OF THE VEHICLE(S) IS FOUND TO BE SUBJECT TO TAXATION IN ANY FORM (EXCEPT FOR INCOME TAX OF LESSOR) GOVERNMENT CHARGES OR UTILITY CHARGES AND EXPENSES, LESSEE WILL PAY ALL SUCH TAXES AND CHARGES AS THEY COME DUE.
7. AT ITS OWN EXPENSE, LESSEE SHALL BE WHOLLY RESPONSIBLE FOR LIABILITY DAMAGES TO THIRD PARTIES AS A RESULT OF ITS USE OF THE VEHICLES, FURTHERMORE, IN THE EVENT OF AN ACCIDENT OR LOSS, LESSEE SHALL BE FINANCIALLY RESPONSIBLE TO FULLY RESTORE THE VEHICLE(S) TO BEFORE DAMAGE STATUS, AND TO INDemnIFY AND HOLD LESSOR HARMLESS, FROM ANY CLAIMS OR LOSS AS A RESULT OF LESSEE'S ACTIONS OR INACTIONS.
8. THIS AGREEMENT AND THE INTEREST OF THE LESSEE IN THE VEHICLE(S) MAY NOT BE SOLD, ASSIGNED OR ENCUMBERED BY LESSEE WITHOUT THE PRIOR WRITTEN CONSENT OF THE LESSOR.
9. TO THE EXTENT PERMITTED BY THE LAWS AND CONSTITUTION OF THE STATE, LESSEE SHALL PROTECT, HOLD HARMLESS AND INDemnIFY LESSOR FROM AND AGAINST ANY AND ALL LIABILITY, OBLIGATIONS, LOSSES, CLAIMS AND DAMAGES WHATSOEVER, REGARDLESS OF CAUSE THERE OF EXCEPT THOSE RESULTING FROM LESSOR'S INTENTIONAL OR NEGLIGENT ACTS OR OMISSIONS, AND EXPENSES IN CONNECTION THEREWITH, INCLUDING, WITHOUT LIMITATION, COUNSEL AND EXPENSES PENAL TIES AND INTEREST ARISING OUT OF OR AS THE RESULT OF THE ENTERING INTO OF THIS AGREEMENT, THE OWNERSHIP OF ANY ITEM OF THE VEHICLE(S), THE ORDERING, ACQUISITION, USE, OPERATING, CONTITION, PURCHASE, DELIVERY, REJECTION, STORAGE OR RETURN OF ANY ITEM OF THE VEHICLE(S) OR ANY ACCIDENT IN CONNECTION WITH THE OPERATION, USE, CONDITION, POSSESSION, STORAGE OR RETURN OF ANY ITEM OF THE VEHICLE(S) RESULTING IN DAMAGE TO PROPERTY OR INJURY TO OR DEATH TO ANY PERSON. THE INDemnIFICATION ARISING UNDER THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.
10. IF BY REASON OF FORCE MAJEURE LESSEE IS UNABLE IN WHOLE OR IN PART TO CARRY OUT ITS ARRANGEMENT ON ITS PART HEREIN CONTAINED, OTHER THAN THE OBLIGATIONS ON THE PART OF LESSEE, LESSEE SHALL NOT BE DEEMED IN DEFAULT DURING THE CONTINUANCE OF SUCH INABILITY. THE TERM 'FORCE MAJEURE' AS USED HEREIN SHALL MEAN, WITHOUT LIMITATION, THE FOLLOWING: ACTS OF GOD, STRIKES, LOCKOUTS OR OTHER INDUSTRIAL DISTURBANCES, ACT OF PUBLIC ENEMIES, ORDERS OR RESTRAINTS OF ANY KIND OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA OR THE STATE OF TEXAS OR ANY OF THEIR DEPARTMENTS, AGENCIES OR OFFICIALS, OR ANY CIVIL OR MILITARY AUTHORITY, INSURRECTIONS, RIOTS, LANDSLIDES, EARTHQUAKES, FIRES, STORMS, DROUGHTS, FLOODS OR EXPLOSIONS.
11. IN THE EVENT ANY PROVISION OF THIS AGREEMENT SHALL BE HELD INVALID OR UNENFORCEABLE BY ANY COURT OF COMPETENT JURISDICTION, SUCH HOLDING SHALL NOT INVALIDATE OR RENDER UNENFORCEABLE ANY OTHER PROVISION HEROF. ANY SUIT BROUGHT TO INTERRUPT OR ENFORCE ANY PROVISION OF THIS AGREEMENT WILL BE BROUGHT IN A COURT OF COMPETENT JURISDICTION IN DALLAS, COUNTY, TEXAS.
12. ALL ATTACHMENTS/EXHIBITS, ONCE ACCEPTED AND APPROVED BY BOTH PARTIES, BECOMES PART OF THIS AGREEMENT.

LESSEE: _____
BY: _____
TITLE: _____
DATE: _____

LESSOR: CAPPS RENT-A-CAR, INC.
BY: Dan Asbill DAN ASBILL
TITLE: SENIOR ACCOUNTS MANAGER
DATE: _____

93LEAAGRMNT

City of Fayetteville Staff Review Form

A. 11
Arkansas Economic
Development Commission
1 of 18

City Council Agenda Items and Contracts, Leases or Agreements

Nov 4th
City Council Meeting Date
Agenda Items Only

Steve Cattaneo

Submitted By

Building Safety

Division

Operations

Department

Action Required:

Approval to accept grant and approval of budget adjustment

\$ 2,500.00

Cost of this request

\$ 2,500.00

Category / Project Budget

Energy Efficiency Grant

Program Category / Project Name

1010.6400.5200.00

Account Number

\$ -

Funds Used to Date

Grant

Program / Project Category Name

08065.1

Project Number

\$ 2,500.00

Remaining Balance

General Fund

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

X

Ray D.

Department Director

10.17.08

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

D. J. White

City Attorney

10/14/08

Date

Paul A. Beckman

Finance and Internal Service Director

10/14/08

Date

Received in City
Clerk's Office

ENTERED
10/14/08
aw

Don Coody

Mayor

Date

Received in
Mayor's Office

ENTERED
10/15/08
p.f.

Comments:



The City of Fayetteville, Arkansas

BUILDING SAFETY DIVISION

CITY COUNCIL AGENDA MEMO

TO: Mayor and City Council

THRU: Gary Dumas, Operations Director

FROM: Steve Cattaneo, Building Safety Director

DATE: October 14, 2008

RE: Arkansas Energy Office Grant Review and Approval

- Grant process initiated by the Building Safety Division.
- Granting Agency is the Arkansas Economic Development Commission/Energy Office.
- \$2500 grant to be used for development and printing of building efficiency scorecard and display signage to promote compliance with the 2004 Arkansas Energy Code.
- Steve Cattaneo, Building Safety Director, is responsible for administration of this grant.
- The City has no financial obligation under the grant terms.
- There are no future obligations under the grant terms.
- The City will benefit by providing a consistent mechanism for potential homeowners to evaluate the energy efficiency of new homes built in Fayetteville and will encourage builders to exceed the minimum requirements of the Arkansas Energy Code.
- Attached: Grant Application; Notice of Grant / Grant Conditions Award and Acceptance.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE BUILDING SAFETY DIVISION TO ACCEPT A GRANT FROM THE ARKANSAS ECONOMIC DEVELOPMENT COMMISSION ENERGY OFFICE IN THE AMOUNT OF \$2,500.00 TO FUND THE FAYETTEVILLE RESIDENTIAL ENERGY EFFICIENCY PROMOTION PROGRAM; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Building Safety Division to accept a grant from the Arkansas Economic Development Commission Energy Office in the amount of \$2,500.00 to fund the Fayetteville Residential Energy Efficiency Promotion program.

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

PASSED and APPROVED this _____ day of _____, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 11
Arkansas Economic
Development Commission
4 of 18

Budget Year 2008	Department: Operations Division: Building Safety Program: Building Safety	Date Requested 10/14/2008	Adjustment Number
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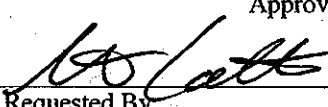
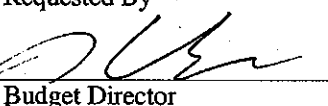
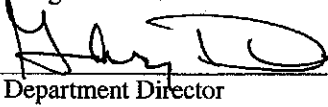
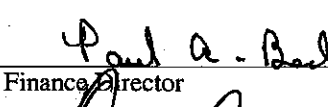
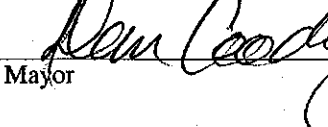
Project or Item Added/Increased: To increase Office Supplies and Printing by \$2,500	Project or Item Deleted/Reduced: None. To recognize \$2,500 in the State Grants - Operational account.
Justification of this Increase: To inform the community of the importance of building and purchasing energy efficient homes.	Justification of this Decrease: Grant money to be received from the State for this purpose.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Office supplies/printing	1010 6400 5200 00	2,500	08065 1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
State Grants-Operational	1010 0001 4302 01	2,500	08065 1

Approval Signatures  Requested By 10-14-08 Date  Budget Director 10-14-08 Date  Department Director 10-17-08 Date  Finance Director 10-14-08 Date  Mayor 10/16/08 Date	Budget Office Use Only Type: A B C <u>D</u> E Posted to General Ledger Initial Date Posted to Project Accounting Initial Date Entered in Category Log Initial Date
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**ARKANSAS ECONOMIC DEVELOPMENT COMMISSION
ENERGY OFFICE
NOTICE OF FINANCIAL ASSISTANCE AWARD**

This grant is awarded pursuant to the authority of Public Law 101-440 and is subject to legislation, regulation and policies applicable to Part C of Title III of the Energy Policy and Conservation Act and Arkansas Act 7 of 1981.

- 1. Project Title:** "City of Fayetteville Residential Energy Efficiency Promotion"
- 2. Recipient:** City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
- 3. Instrument Type:** Grant
- 4. Type of Award:** New
- 5. Instrument Number:** AEO-08-008
- 6. Amendment Number:** N/A
- 7. Budget/Program Period:** July 15, 2008 through June 30, 2009
- 8. Recipient Project Director:** Steve Cattaneo
(479) 575-8239
SCattaneo@ci.fayetteville.ar.us
- 9. Agency Project Manager:** Evan Brown
Buildings Programs Coordinator
(501) 682-7396
ebrown@1800arkansas.com
- 10. Administered for DOE by:** Arkansas Economic Development Commission
Energy Office
One State Capitol Mall
Little Rock, Arkansas 72201
- 11. Recipient Type:** City-Government
- 12. Employer Identification Number:** 71-0126904

13. Budget and Funding Information:

A. Current Budget Period Information

(1) AEO funds obligated this action:	\$2,500
(2) AEO funds authorized for carry over:	\$0
(3) AEO funds previously obligated in this budget period:	\$0
(4) AEO share of approved budget:	\$2,500
(5) Recipient Share of Approved Budget:	\$0
(6) Total approved budget:	\$2,500

14. Awards Terms and Conditions:

- Grant funding in excess of that necessary to meet immediate expenses is required to be deposited into a separate interest bearing account;
- Quarterly *progress reports* must be submitted to the Arkansas Energy Office by the first day of *October 2008* and *January and April 2009*. The reports should address a summary of the work that has been done.
- A final report is required summarizing quarterly report data. The final report should also contain a statement that assures all grant expenditures were made in accordance with the approved plan (Attachment 1). The final report shall be submitted to the Energy Office no later than **July 15, 2009**.
- A site-monitoring visit may be conducted upon completion of the project. Please make available expense records, labor and pay records for work done, and documentation of any changes made in the original scope of work or grant extensions.
- Failure to comply with the terms of this agreement may result in ineligibility to receive future grant funds.

15. Approved Reimbursement Methodology: Funds will be released upon receipt of a signed grant agreement in accordance with procedures established and/or approved by the Arkansas Energy Office and the Arkansas Economic Development Commission.

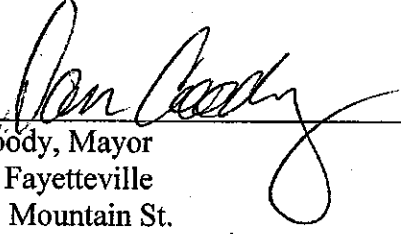
16. Awarded By:



Randy Zook, Deputy Director/Administration Finance
Arkansas Economic Development Commission
One State Capitol Mall
Little Rock, Arkansas 72201-1015

7.7.08
Date

17. Grant and Conditions of Award Accepted By:



Dan Coody, Mayor
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

8/6/08
Date

ATTACHMENT 1

City of Fayetteville Residential Energy Efficiency Promotion

Scope of Work

Promote compliance with the **2004 Arkansas Energy Code for New Building Construction** by developing and providing the following materials and procedures:

- The development and printing of a building efficiency “scorecard” that documents the efficiency characteristics of new residential buildings. Information on this scorecard includes the window to wall ratio, R-values of ceiling, wall, perimeter slab or crawl space, and ductwork; U-factors of windows and doors; and the type and efficiency of heating, cooling and water heating equipment.
- A procedural requirement that this completed scorecard be installed inside the electrical panel door before the builder is issued a Certificate of Occupancy,
- The development of and construction of display signage to promote public awareness of individual homes that, at minimum, have met the requirements of the Arkansas Energy Code,
- Provide the Energy Office with efficiency details and other information (omitting builder names) that has been collected in this program,
- Submit quarterly and final progress reports as detailed in the “Awards Terms and Conditions” of this grant agreement.

Arkansas Office of Economic Development

Arkansas Energy Office

Grant Seeker:

City of Fayetteville

For:

Fayetteville Energy Efficiency Program

Submitted by:

Steve Cattaneo, Building Safety Director

Chris Benson
Executive Director
Arkansas Energy Office

June 4, 2008

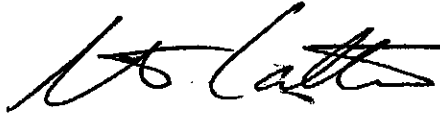
Mr. Benson:

The City of Fayetteville is seeking financial assistance in implementing a program to encourage energy efficient construction in residential structures. Attached is a copy of the press release announcing the formation of this committee, outlining its goals, and providing a list of participants.

The Committee has met on a twice-monthly basis since January. We have formulated a program we believe will be of great benefit to the citizens of Fayetteville using education and positive recognition as tools to facilitate greater energy efficiency.

John Coleman, Sustainability Coordinator and I have been serving as facilitators for the committee. I would be glad to discuss this project and answer any questions that you may have. You may reach me at 479-575-8239 or scattaneo@ci.fayetteville.ar.us.

Thank you for considering this request.

A handwritten signature in black ink, appearing to read "Steve Cattaneo", with a stylized, cursive script.

Steve Cattaneo

Executive Summary:

The City of Fayetteville seeks funds to purchase promotional materials for its Energy Efficiency Program. We also aim to provide funding for third party verification of recognized programs such as Energy Star, the US Green Building Council's LEED for New Homes and the National Home Builders Association's Green Builder Program. The Energy Efficient Construction Committee will have oversight on spending of the funds.

Our intent is to provide understandable and consistent information to prospective owners about the energy efficiency of dwelling units to assist them in making educated choices concerning energy usage. To accomplish this, the committee has developed a scoring system with a label that will be displayed inside the primary electrical panel cover indicating the expected energy performance of the envelope and base systems relative to buildings that meet the minimum performance requirements of the Arkansas Energy Code.

Energy conservation involves a multitude of variables but this program concentrates on the building envelope and base systems efficiencies. Education of consumers and realtors is critical to the success of this program and will be accomplished by a series of press releases, presentations to professional organizations and promotional features. The Committee will promote participation in the program by offering signage announcing a builder's participation, web site recognition, media resources and other accolades.

Participants will be required to submit documents to determine an anticipated score they may use as a marketing tool. The final score will be verified during construction and awarded upon completion. The program allows builders to demonstrate compliance using the Arkansas Energy Code as a baseline, but will require a scorecard on every new home.

We believe that the consumer will make educated decisions when provided with the proper information that will result in a consumer driven move towards high performance building practices. The market will shift towards higher efficiencies as builders compete to meet consumer demand.

We will display logos or other information that indicates sponsorship of the program by the Arkansas Energy Office and/or Arkansas Office of Economic Development and will provide feedback in the form of actual money spent, photos, success stories, etc. if desired.

Fayetteville, Arkansas:

Fayetteville has positioned itself as the anchor city of the "Green Valley" that Northwest Arkansas is quickly becoming with local startup companies establishing themselves in the burgeoning green economy on a national scale. Last year, the City of Fayetteville hired the state's first sustainability coordinator, hosted the ICLEI North American Conference, transitioned half of its fleet to bio-diesel, and became the first city in Arkansas to require LEED-Silver designation for all new, municipally owned buildings. Mayor Coody has distinguished himself in the US Council of Mayors as a leader in the sustainability movement among mid-sized cities. The Energy Scorecard is another step in the right direction for the Fayetteville community, and could be easily adopted by other cities in Arkansas.

BACKGROUND:

Mayor Coody initiated an ad-hoc committee in January 2008 to provide recommendations in the areas of education, energy code upgrades and incentives for energy efficient construction.

Initial discussion about adopting a more recent version of the International Energy Conservation Code resulted in a consensus among the stakeholders to work with the Arkansas Energy Code, and concentrate on public education, awareness and creating a competitive environment, as well as to place accolades on those who participate in the program. The Committee came to the conclusion that focusing on new residential construction was the best place to begin.

RESIDENTIAL PROGRAM:

The intent is to promote energy efficiency above the code minimum by providing:

- A method for potential homeowners to compare the efficiency of homes in an easy to interpret format (Scorecard Label).
- Education and incentives to participating builders.
- General education about the program to the public and specific education to realtors and potential buyers.

The committee is devoted to keeping this initial program simple for builders as well as inspectors, and to develop an easy to understand score that potential home buyers can use to compare homes they consider for purchase. This will require the education of buyers and realtors to know to look for the label, and a general understanding of what the values mean.

Under the new program the builder will have two options:

1. Follow the prescriptive provisions of the AEC or show compliance using ArkCheck to receive the baseline score indicating they have met the minimum requirements.
2. Participate in the program by providing readily available information and input it into the scorecard spreadsheet to receive the efficiency score for the home. The spreadsheet is designed to take just a few minutes to fill out and receive a score.

Builders will have the option to display signage (to be provided) that will indicate they are participating in the "Fayetteville Residential Energy Efficiency Program" and receive a preliminary score based on initial input.

After the preliminary score items are verified through the inspection process, a final score is calculated. The scorecard must be installed inside the electrical panel door and is a requirement for a Certificate of Occupancy.

Builders will also be required to supply a "commissioning" document containing product and maintenance information as well as a standard "energy efficiency do's and don'ts" list for homeowners. Builders will also be encouraged to include other documents and information that support and promote their energy efficiency measures.

Creating the Scorecard

Initial discussion revolved around using ArkCheck as the evaluation tool to determine the level above code. The committee created a "check list" of items that can be incorporated into a new home that will have a positive effect on energy efficiency based off of checklists from Aspen, Colorado; Madison, Wisconsin; and LEED for Homes. (See draft at the end of this document)

The committee decided to consider ACCA Manual J as the evaluation tool because load calculations are already required by code and because it can give a more accurate account of building performance due to the many design option inputs. Jason Brannen created an Excel spreadsheet that uses the load values from the Manual J weighed with the home square footage to create an "efficiency value". The baseline value for a home that just meets the AEC is 0 and a "zero net energy home" value is 100. Included in the final value are "extra points" earned by incorporating items from the check list created by the Committee. (The detail of the extra point system is on going.) The Score will be displayed on a label installed inside the door of the electrical panel that also contains other information (see draft label at the end of this document).

The spreadsheet final page contains the equipment size and efficiency ratings as well as the proposed extra point items. A copy of this page will go to the builder as a reminder of the anticipated score and a copy will be used by the inspector for verification.

Energy Star; LEED for Homes; NAHB Green Build and other approved programs that require a 3rd party verification will receive extra points, but the scale value from all homes will be determined by the same methodology. The same is true of those that complete a thermal by-pass checklist.

Where We Are Now:

We are presently going through the ordinance process for label requirement. Our goal is to have the Scorecard finalized and present it to the community on August 1st.

We have already had contact with local media sources that are eager to cover this story.

Changes Are Anticipated

This is a dynamic program that will continue to evolve over time. Provisions will be made to receive feedback and incorporate that into a formal review process on a regular basis. We anticipate the program will continue in some form indefinitely.

CONCLUSION:

The City of Fayetteville seeks funds to purchase promotional materials for its Energy Efficiency Program and to provide financial assistance for third party verification through recognized energy efficiency programs. Our intent is to provide understandable and consistent information to prospective owners about the energy efficiency of dwelling units to assist them in making educated choices concerning energy usage. The education of builders, consumers and realtors is critical to the success of this program and will be accomplished by a series of press releases, presentations to professional organizations and promotional features.

Please consider funding all or part of this request:

100 Labels	\$250
100 Yard Signs:	\$2,000
Energy Star or NAHB-CGB (20 homes @ \$200 per)	\$4,000
LEED for Homes (10 homes @ \$300 per)	\$3,000

(Financial assistance is contingent on certificate award.)

Thank you for considering this request.



Residential Energy Efficiency Program

The City of Fayetteville, Arkansas

Window/walls ratio _____ %

R-value of the predominate insulation:

Roof/ceilings _____

Walls _____

Perimeter slab _____

Crawl space _____

Ductwork installed in
Un-conditioned space _____

U-factor of:

Windows _____

Exterior doors _____

Type and Efficiency of:

Heating

Gas _____ AFUE

Electric _____ HP COP

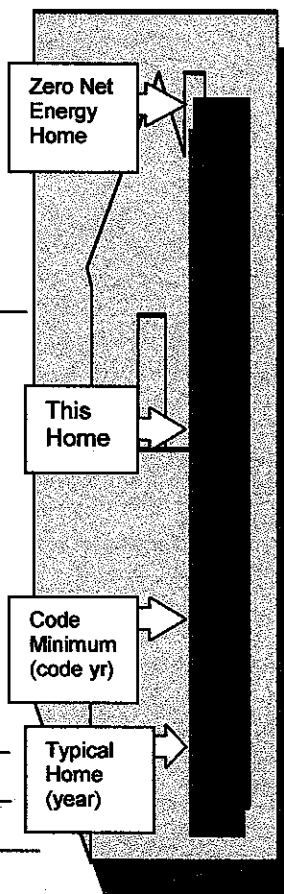
Cooling _____ SEER

Water heater _____

Builder signature: _____

Address: _____

Date of completion: _____



Extra Credit Check list

Score (0-5)

24" OC
studs

2 stud corners and wall intersections

Efficient Headers

Stacked joists and studs to eliminate top plate
"solar board" or reflective roof surface ($SRI \geq 78$)

Reflective wall sheathing

SIP's

ICF's

Mech equip centrally located

Energy star program (or others)

Ductwork sealed with mastic

No Ductwork in conditioned space

Insulate all hot water piping $\geq R 2.5$

Ground source Heat Pump

Programmable thermostat

Whole house fan

Tankless HWH

Air to air heat exchanger (ERV)

Energy Star appliances

Clothesline (inside or outside)

Energy efficient clothes washer (from list on www.cee1.org – Tier 2 or higher)

Compact fluorescent bulbs/LED lights

Lighting Occupancy sensors

No can lights into unconditioned space

Humidistat / exhaust fan timers

Natural cooling (no air conditioning)

Vertical shading devices for East and West windows

Reflective film on E/W windows

Landscaping shades E/W windows within 5 years

Overhangs to shade South windows (or shading devices)

Solar heating system for Hot Water

Pre-plumbing for active solar heat and/or hot water

Low consumption water fixtures and appliances

On-site energy generation

Sq. footage credit



FOR IMMEDIATE RELEASE

FEBRUARY 27, 2008

CONTACT: John Coleman
479-575-8272
jcoleman@ci.fayetteville.ar.us

**MAYOR'S INITIATES AD-HOC COMMITTEE TO
ENCOURAGE ENERGY EFFICIENT CONSTRUCTION**

FAYETTEVILLE, AR – Mayor Dan Coody has assembled a group of Fayetteville citizens and building professionals to make recommendations on how to enhance our construction practices to encourage energy efficient construction.

Commercial and residential buildings consume the vast majority of energy in the United States, including Fayetteville. As energy costs continue to rise the owners of these buildings will be hit the hardest. The uncertainty of future energy costs is reflected in a recent decision by Citigroup, J.P. Morgan Chase, and Morgan Stanley to only provide debt financing to new power plants if their economic viability can be proven under future climate change policies.

In short, new climate change policies at the Federal level will impact those most dependent on coal-fired power, such as Northwest Arkansas. Fayetteville residents and businesses will feel a greater impact if we do not begin to focus on energy efficient construction in our community. However, if we are proactive we can gain an advantage by creating an energy efficient building stock, which will limit future costs for residents and businesses alike.

Members of the group include:

Thad Kelly - Cromwell Architects Engineers, Inc.
Greg Anderson - GA Engineers, Inc.
Jeff Borgsmiller - CDI Contractors, LLC
Steve Cattaneo - City of Fayetteville
Edward Hejzmanek - Heartwood Creations
Fred Rausch - Rausch Coleman Homes

Jeff Martin - Martin Custom Home Builders
Jeff Beaver - Green Lighting Company
Tim McMahon - Fayetteville Resident
John Coleman - City of Fayetteville
Jason Brannen - Arkansas Western Gas
Keith Kaderly - Ozarks Electric Cooperative

They will meet on a twice-monthly basis and in the end will provide recommendations in the areas of education, energy code upgrades and incentives for energy efficient construction.

###

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

11/4/2008

City Council Meeting Date

Greg Tabor
Submitted By

Police
Division

Police
Department

Action Required:

Council approve a resolution amending Policy 41.2.8 "Vehicular Pursuit" of the Fayetteville Police Department's Policies, Procedures & Rules manual.

\$0

Cost of this request

Category / Project Budget

Program Category / Project Name

Account Number

Funds Used to Date

Program / Project Category Name

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution #

Department Director

Date

Original Contract Date:

City Attorney

Date

Original Contract Number:

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

10-17-08

ENTERED

Received in Mayor's Office

ENTERED

10/21/08

Comments:

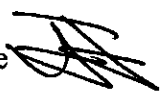


FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police 

DATE: October 17, 2007

SUBJECT: Policy Amendment

Recommendation: Council approves a resolution amending the Fayetteville Police Department Policy 41.2.8 "Vehicular Pursuit"

Background: The current Fayetteville Police Department Policies were approved by council resolution #3-99 on January 5th, 1999.

Discussion:

This policy was modeled after reviewing policies from the Commission for Accreditation of Law Enforcement Agencies (CALEA), Police Executive Research Forum (PERF), International Association of Chiefs of Police (IACP), and other area agencies.

Budget Impact: None

RESOLUTION NO. _____

**A RESOLUTION APPROVING AND ADOPTING POLICY No. 41.2.8
"VEHICULAR PURSUIT" TO THE FAYETTEVILLE POLICE
DEPARTMENT'S POLICIES, PROCEDURES & RULES MANUAL.**

**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 and adopts Policy No. 41.2.8 "Vehicular Pursuit" to the Fayetteville Police Department's Policies, Procedures & Rules Manual. A copy of the Policy, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this _____ day of November, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Effective Date [REDACTED]		Number 41.2.8
Subject VEHICULAR PURSUIT		
Reference Stop Stick G.O. #11		Special Instructions
Distribution All Personnel	Reevaluation Date 1-Year	No. Pages -8-

I. PURPOSE

The purpose of this policy is to state the guidelines to be followed during vehicular pursuit. (Note: In instances where there is no Field Supervisor on-duty, the wording "Shift Supervisor" applies throughout this policy.)

II. POLICY

Vehicular pursuit of fleeing suspects presents a danger to the lives of the public, officers, and suspects involved in the pursuit. It is the policy of this department to protect all persons' lives to the extent possible when enforcing the law. In addition, it is the responsibility of the department to assist officers in the safe performance of their duties. To effect these obligations, it shall be the policy of the department to narrowly regulate the manner in which vehicular pursuit is undertaken and performed.

The professional, well-trained, and well-disciplined officer is aware that the decision to terminate a pursuit is determined under those circumstances in which the most intelligent and professional course of action would probably result in saving the life of a citizen or fellow officer. Any officer or supervisor's decision not to pursue or to terminate a pursuit will not be subject to review or discipline.

III. DEFINITION

A. Vehicular Pursuit: For the purposes of this policy, pursuit is defined as an active attempt by an officer operating an emergency vehicle and simultaneously utilizing all emergency equipment to apprehend the occupant(s) of another moving vehicle, when the driver of a fleeing vehicle is aware of the attempt and is resisting apprehension by increasing his speed or disobeying traffic laws. Following a vehicle that is being operated legally, but ignoring the law enforcement officer's attempt to stop them, does not constitute a pursuit.

B. Supervisor/Field Supervisor: For the purposes of this policy, Supervisor/Field Supervisor excludes the rank of Corporal.

IV. PROCEDURES

A. Initiation of Pursuit

1. Any law enforcement officer in an authorized emergency vehicle may initiate a vehicular pursuit only when ALL of the following criteria are met:

a. The decision to initiate pursuit must be based on the pursuing officer's conclusion that the immediate danger to the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large;

b. When an officer reasonably believes that the suspect exhibiting the intention to avoid arrest by using a vehicle to flee apprehension has committed a serious felony or is suspected of DWI. For the purposes of this policy, a serious felony shall be restricted to the following offenses: Murder, Robbery, Burglary, Kidnapping, Rape, Aggravated Assault, Battery 1st Degree, Battery 2nd Degree, Felony Domestic Cases, and any other felony offense which involves the use or threat of physical force or violence against another person. Facts gathered after initiation of a pursuit will not be considered part of the justification to initiate a pursuit;

c. The suspect operating the vehicle refused to stop at the direction of the officer;

d. The officer's unit is not occupied by a prisoner, suspect, complainant, witness, civilian observer, or any person not a law enforcement officer; and

e. The officer intending to pursue is equipped with a marked patrol unit. Exceptions to this will only occur with supervisory approval and should be limited to special circumstances.

2. The pursuing officer shall have considered and come to the conclusion that the following factors would not increase the danger to the lives of the public, officers, or suspects involved in or affected by the pursuit:

- a. The performance capabilities of the pursuit vehicle;
- b. The condition of the road surface upon which the pursuit is being conducted;
- c. The amount of vehicular and pedestrian traffic in the area;
- d. Weather conditions; and
- e. The officer's own driving skills and knowledge of the roadway. (The officer should know his or her driving abilities and limitations and should not exceed them.)

B. Pursuit Officer Responsibilities

1. The pursuing officer shall immediately notify communications center personnel that a pursuit is underway. The officer shall provide communications personnel with the following information:

- a. Unit identification;
- b. Location, approximate speed and direction of travel of the fleeing vehicle;
- c. Description and license plate number, if known, of the fleeing vehicle;
- d. Number of occupants in the fleeing vehicle and descriptions, where possible; and
- e. Reasons supporting the decision to pursue.

2. Failure to provide this information to communications personnel may result in an immediate decision by a field supervisor assigned to monitor the pursuit to order its termination.

3. The primary pursuit unit shall reduce the level of pursuit to that of support, backup, or other assignments as directed by a supervisor when another vehicle has been assigned primary pursuit responsibility.

4. Any primary or backup unit sustaining damage or failure of essential vehicular equipment during pursuit shall not be permitted to continue in the pursuit. The unit shall notify communications so that another unit may be assigned to the pursuit. A unit shall terminate pursuit at any time it appears that a defect has

developed in the police vehicle, which would in any way affect the safe operation of that vehicle, including loss of any emergency equipment.

C. Communications Center Responsibilities

1. Upon notification that a pursuit is in progress, communications personnel shall immediately advise a field supervisor of essential information regarding the pursuit.

2. Communications personnel shall carry out the following activities and responsibilities during the pursuit:

- a. Receive and record all incoming information on the pursuit and the pursued vehicle;
- b. Control all radio communications and clear the radio channels of all non-emergency calls;
- c. Obtain criminal record and vehicle checks of the suspects;
- d. Coordinate and dispatch backup assistance under the direction of the field supervisor; and
- e. Notify neighboring jurisdictions, where practical, when pursuit may extend into their locality.

D. Field Supervisor Responsibilities during Vehicular Pursuit

1. Upon notification that a vehicular pursuit incident is in progress, the field supervisor shall assume responsibility for the monitoring and control of the pursuit as it progresses.

2. The field supervisor shall continuously review the incoming data to determine whether the pursuit should be continued or terminated. The field supervisor shall permit a pursuit to continue only if all criteria required to initiate the pursuit continues to be met.

3. The field supervisor shall order the termination of a pursuit for any of the following circumstances:

- a. Anytime the supervisor concludes that the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension of the suspect;
- b. When the suspect's identity is established to the point where later apprehension may be accomplished and when there is no immediate threat to public safety;

c. When officers lose all radio communications with: Fayetteville Dispatch, Washington County Dispatch or the Field Supervisor;

d. When a vehicular pursuit becomes prolonged in recognition of the increased risk associated with the overall population density and volume of vehicular traffic in Fayetteville, unless the supervisor determines that further pursuit is justified to respond to an immediate threat to public safety;

e. Weather or traffic conditions substantially increase the danger of pursuit beyond the worth of apprehending the suspect;

f. The distance between the pursuit and fleeing vehicles is so great that further pursuit is futile;

g. The fleeing vehicle travels the wrong direction on any freeway, freeway frontage road, or divided highway; or

h. For any other reason a supervisor deems necessary.

4. In controlling the pursuit incident, the field supervisor shall be responsible for coordination of the pursuit as follows:

a. Directing pursuit vehicles into or out of the pursuit;

b. Re-designation of primary, support, or other backup vehicle responsibilities;

c. Approval or disapproval, and coordination of pursuit tactics; and

d. Approval or disapproval to leave jurisdiction to continue pursuit.

5. The field supervisor may approve and assign additional backup vehicles to assist the primary and backup pursuit vehicles based on an analysis of:

a. The nature of the offense for which pursuit was initiated;

b. The number of suspects and any known propensity for violence;

c. The number of officers in the pursuit vehicles;

d. Any damage or injuries to the assigned primary or backup vehicles or officers;

e. The number of officers necessary to make an arrest at the conclusion of the pursuit; and

f. Any other clear and articulated facts that would warrant the increased hazards caused by numerous pursuit vehicles.

E. Traffic Regulations during Pursuit

1. Each unit authorized to engage in vehicular pursuit shall be required to activate headlights and all emergency vehicle equipment prior to beginning pursuit.

2. Officers engaged in pursuit shall at all times drive in a manner exercising reasonable care for the safety of themselves and all other persons and property within the pursuit area.

3. Officers are permitted to suspend conformance with normal traffic regulations during pursuit as long as reasonable care is used when driving in a manner not otherwise permitted, and the maneuver is reasonably necessary to gain control of the suspect.

F. Pursuit Tactics

1. Unless expressly authorized by a field supervisor, a pursuit will involve no more than three units to include the primary unit, a back-up unit, and a supervisor. Officers are not otherwise permitted to join the pursuit team or follow the pursuit on parallel streets. However, officers are permitted to attempt to terminate the pursuit with deployment of Stop Sticks.

2. Officers may not intentionally use their vehicle to bump or ram the suspect's vehicle, unless "Deadly Force" is justified.

3. Departmental policy pertaining to use of deadly force shall be adhered to during the pursuit.

4. Boxing in a suspect's vehicle or heading off a suspect's moving vehicle is unauthorized.

5. Roadblocks are unauthorized.

6. K-9 units and motorcycles are prohibited from initiating, engaging in and/or following vehicle pursuits unless authorized by a supervisor.

G. Termination of Pursuit

1. A decision to terminate pursuit may be the most rational means of preserving the lives and property of both the public and the officers and suspects engaged in pursuit. The pursuing officer, the field supervisor, or any higher-ranking supervisor to the field supervisor may terminate the pursuit.

2. The pursuit shall be immediately terminated in any of the following circumstances:

a. When the officer concludes that the danger to the pursuing officer(s) or the public outweighs the necessity for immediate apprehension of the suspect;

b. If the suspect's identity or probable identity is established to the point where later apprehension may be accomplished and where there is no immediate threat to the safety of the public or police officers;

c. When officers lose all communications with: Fayetteville Dispatch, Washington County Dispatch or the Field Supervisor;

d. When a vehicular pursuit becomes prolonged in recognition of the increased risk associated with the overall population density and volume of vehicular traffic in Fayetteville, unless the supervisor determines that further pursuit is justified to respond to an immediate threat to public safety;

e. Weather or traffic conditions substantially increase the danger of pursuit beyond the worth of apprehending the suspect;

f. The distance between the pursuit and fleeing vehicles is so great that further pursuit is futile;

g. The fleeing vehicle travels the wrong direction on any freeway, freeway frontage road, or divided highway; or

h. For any other reason a supervisor deems necessary.

3. The pursuing officer shall relay suspect information to communications personnel along with any further information acquired which may assist in an arrest at a later date.

H. Inter-jurisdictional Pursuits

1. Pursuits Originated by Fayetteville Police Department

a. The pursuing officer shall notify communications when it is likely that a pursuit will continue into a neighboring jurisdiction or across the state line.

b. Regarding our pursuits entering other jurisdictions, our units will maintain their pursuit positions in their efforts to bring the pursuit to conclusion.

c. Pursuit into a bordering state shall conform to the department's inter-jurisdictional pursuit agreement, if existent, and state law.

2. Pursuits Originated by Other Agencies

a. Since it is almost impossible to know all circumstances surrounding another agency's decision to pursue, or the charges pending against the pursued driver in the short period of time we are notified of the pursuit, Fayetteville Police units will assume a backup role in pursuits conducted through our jurisdiction by other law enforcement agencies.

b. Pursuits by other agencies through our jurisdiction terminate for Fayetteville Police Officers at the city limits, unless specifically authorized by a supervisor to proceed outside of our jurisdiction.

c. If another agency specifically requests our assistance in their pursuit, the dispatcher will attempt to get all of the known information and charges pending against the driver.

d. Once the field supervisor is informed of the specific charges by communications, an immediate decision shall be made by the field supervisor on the continuation of the pursuit by Fayetteville Police units outside our jurisdiction. In any event, as other jurisdictions join the pursuit to assist the originating agency, Fayetteville Police units shall cease their participation.

I. Pursuit Analysis

1. The field supervisor shall prepare a comprehensive analysis of the pursuit and forward through the Patrol Captain to the Deputy Chief for review.

2. The Administrative Lieutenant will be responsible for maintaining pursuit records, completing the monthly Pursuit Analysis Report and for retaining records according to retention schedule.

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

11/4/2008

City Council Meeting Date

Greg Tabor
Submitted By

Police
Division

Police
Department

Action Required:

Council approve a resolution adding Policy 26.2.1 "Nepotism" to the Fayetteville Police Department's Policies, Procedures & Rules manual.

\$0

Cost of this request

Category / Project Budget

Program Category / Project Name

Account Number

Funds Used to Date

Program / Project Category Name

Project Number

Remaining Balance

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

Previous Ordinance or Resolution #

[Signature]
Department Director

10-18-08
Date

Original Contract Date:

[Signature]
City Attorney

10/21/08
Date

Original Contract Number:

Paul A. Becher
Finance and Internal Service Director

10-21-08
Date

Received in City Clerk's Office

10-17-08 WDK

ENTERED

[Signature]
Mayor

10/22/08
Date

Received in Mayor's Office

10/21/08
ENTERED

Comments:



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police 

DATE: October 17, 2007

SUBJECT: Policy Addition

Recommendation: Council approve a resolution adding policy 26.2.1 "Nepotism to the Fayetteville Police Department's Policies, Procedures & Rules manual.

Background: The current Fayetteville Police Department Policies were approved by council resolution #3-99 on January 5th, 1999.

Discussion:

This policy was modeled after the Fayetteville Fire Department Policy. The Human Resources Department was consulted when drafting this policy.

Budget Impact: None

RESOLUTION NO. _____

**A RESOLUTION APPROVING AND ADOPTING POLICY No. 26.2.1
"NEPOTISM" TO THE FAYETTEVILLE POLICE DEPARTMENT'S
POLICIES, PROCEDURES & RULES MANUAL.**

**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 and adopts Policy No. 26.2.1 "Nepotism" to the Fayetteville Police Department's Policies, Procedures & Rules Manual. A copy of the Policy, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this ____ day of November, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Effective Date		Number 26.2.1
Subject NEPOTISM		
Reference		Special Instructions
Distribution All Personnel	Reevaluation Date 1-Year	No. Pages - -

I. PURPOSE

The purpose of this policy is to define guidelines to follow concerning Nepotism during situations that involve hiring and placement within the Fayetteville Police Department. The term nepotism refers to the practice of showing preferential treatment to immediate family members in the area of employment.

II. POLICY

A. Procedures

1. The following procedures will apply in relationship to the practice of nepotism for permanent assignments.

a. No two or more immediate family members shall be permanently assigned to the same Fayetteville Police Department unit, on the same shift at the same time.

b. Immediate family is defined as spouse, child, mother, father, sister, brother, guardian, grandparent, or grandchild. Other relatives, including relatives by marriage also fall under the definition of "Immediate Family Member" if the two reside or have resided in the past in the same household.

c. A member shall not directly supervise an immediate family member.

d. During the hiring or promotional process, no police department employee shall interview or review an immediate family member.

e. A family member shall not conduct an annual evaluation for an immediate family member. Similarly immediate family members may not directly or indirectly influence the hiring decisions, disciplinary actions, performance evaluations, promotions, transfers, scheduling, or any other job or job performance related determinations of other immediate family members.

City Council Agenda Items
and
Contracts, Leases or Agreements

8/19/2008

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

Action Required:

ANX 08-2897 (Southpass Development, 673-676): Submitted by Appian Centre for Design for property located west of I-540 and Cato Springs Road. The property is in the Planning Area and contains approximately 855.97 acres. The request is to annex the subject property into the City of Fayetteville.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐*Gary D.*
Department Director8-1-08
Date

Previous Ordinance or Resolution #

JK
City Attorney8-1-08
Date

Original Contract Date:

Original Contract Number:

Paul A. B.
Finance and Internal Service Director8-4-08
DateReceived in City
Clerk's Office

8-1-08

ENTERED

Don
Mayor8/6/08
DateReceived in
Mayor's OfficeENTERED
8/11/08

BEP

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: July 31, 2008

Subject: Annexation for SouthPass (ANX 08-2897)

RECOMMENDATION

Planning staff and the Planning Commission recommend approval of the subject annexation request for approximately 855.97 acres of property located west of I-540 and Cato Springs Road.

BACKGROUND

The overall SouthPass property consists of approximately 910 acres located south of the City of Fayetteville on the west side of Interstate 540 and west of Cato Springs Road (State Highway 265). A majority of the property is in unincorporated Washington County (855.97 acres), and a portion is within the City limits (54 acres) and zoned R-A, Residential Agricultural. Access to the site from I-540 is off of Exit 60, the southernmost access into Fayetteville. The property is less than one mile from the University of Arkansas campus and two miles from downtown Fayetteville. The site has been used for agricultural and rural residential uses over the years and consists of rolling hills and pasture along the lower portions of the site adjacent to Cato Springs Road. The SouthPass property has been previously identified for a number of years as the site for a new 200+ acre regional park and as a growth area on the City Plan 2025 Future Land Use Plan.

DISCUSSION

This item was heard at the regular Planning Commission meeting on July 28, 2008. The Planning Commission voted 6-0-0 to recommend forwarding this annexation request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 08-2897 (CC2008-38), FOR PROPERTY LOCATED WEST OF I-540 AND CATO SPRINGS ROAD, CONTAINING APPROXIMATELY 855.97 ACRES.

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

Section 1: That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4: That the above-described property is hereby assigned to Ward No. Four.

PASSED and APPROVED this of , 2008.

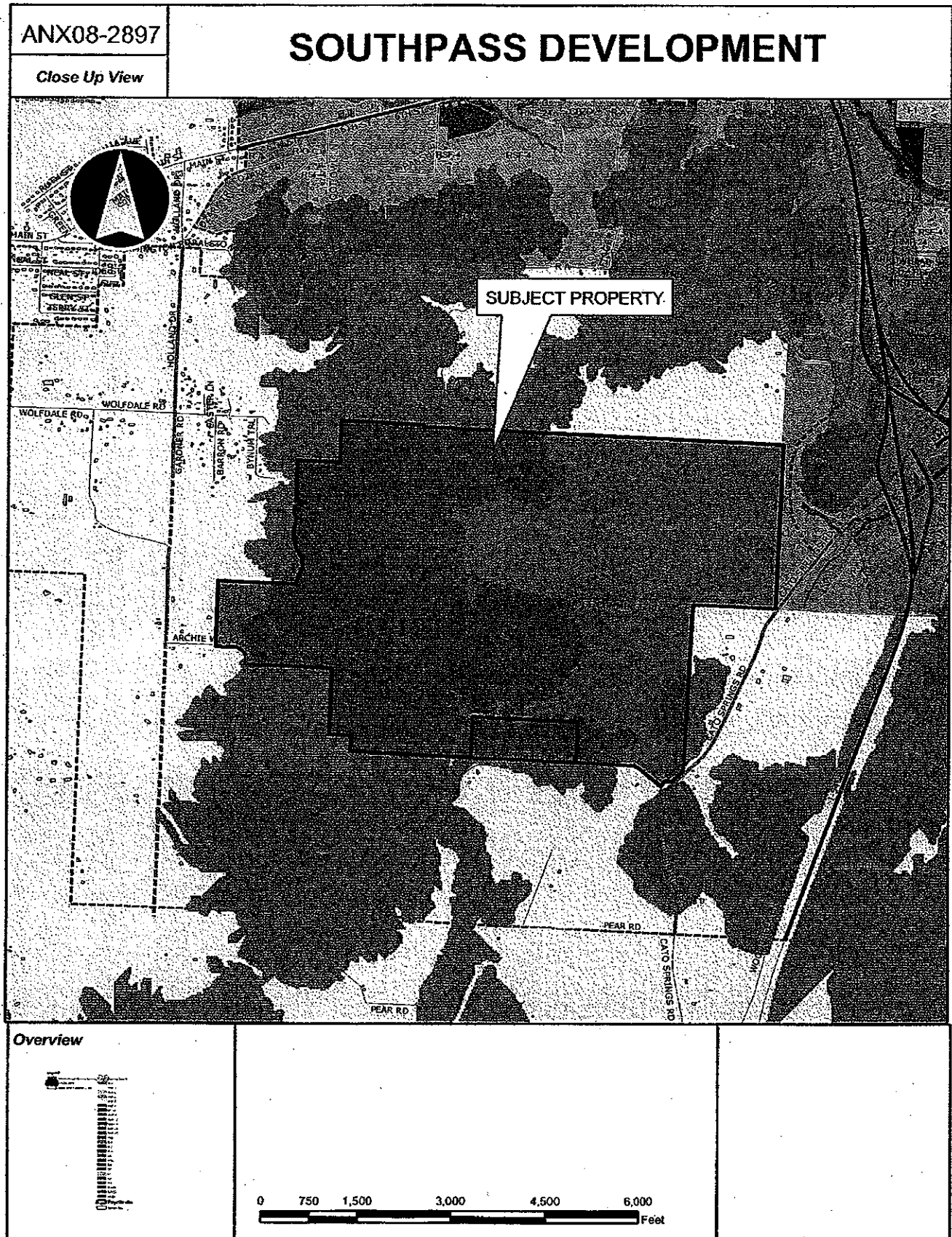
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"



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EXHIBIT "B"
ANX 08-2897

LEGAL DESCRIPTION OF ANNEXATION AREA

A TRACT OF LAND TO BE ANNEXED INTO THE CITY OF FAYETTEVILLE, ARKANSAS AND GENERALLY FALLING WITHIN SECTIONS 30 AND 31 OF TOWNSHIP 16 NORTH, RANGE 30 WEST, AND SECTIONS 25 AND 36 OF TOWNSHIP 16 NORTH, RANGE 31 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS. THE ABOVEMENTIONED TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHWEST CORNER OF THE FRACTIONAL NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF THE AFORESAID SECTION 30;
THENCE COINCIDENT WITH THE NORTHERN LINE OF SAID NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 30, SOUTH 87°15'10" EAST FOR A DISTANCE OF 1834.34 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF THE AFORESAID SECTION 30;
THENCE COINCIDENT WITH THE NORTHERN LINE OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 30, SOUTH 87°15'10" EAST FOR A DISTANCE OF 1315.53 FEET TO THE NORTHEAST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF THE AFORESAID SECTION 30;
THENCE COINCIDENT WITH THE NORTHERN LINE OF THE NORTHEAST QUARTER (NW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 30, SOUTH 87°15'10" EAST FOR A DISTANCE OF 1315.53 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE AFORESAID SECTION 30;
THENCE COINCIDENT WITH THE NORTHERN LINE OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 30, SOUTH 87°15'10" EAST FOR A DISTANCE OF 1315.53 FEET TO THE NORTHEAST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE AFORESAID SECTION 30;
THENCE LEAVING SAID NORTHERN LINE, COINCIDENT WITH THE EASTERN LINE OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 30, SOUTH 02°33'03" WEST FOR A DISTANCE OF 1320.46 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE AFORESAID SECTION 30;
THENCE COINCIDENT WITH THE EASTERN LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 30, SOUTH 02°33'03" WEST FOR A DISTANCE OF 1320.46 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE AFORESAID SECTION 30;

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EXHIBIT "B"
ANX 08-2897

THENCE LEAVING SAID EASTERN LINE, COINCIDENT WITH THE SOUTHERN LINE OF SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 30, NORTH 87°14'32" WEST FOR A DISTANCE OF 1322.98 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE AFORESAID SECTION 30;
THENCE LEAVING SAID SOUTHERN LINE, COINCIDENT WITH THE EASTERN LINE OF NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 31, SOUTH 03°10'31" WEST FOR A DISTANCE OF 1314.09 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF THE AFORESAID SECTION 31;
THENCE COINCIDENT WITH THE EASTERN LINE OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 31, SOUTH 03°10'31" WEST FOR A DISTANCE OF 1314.09 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF THE AFORESAID SECTION 31;
THENCE SOUTH 02°56'56" WEST FOR A DISTANCE OF 39.83 FEET TO A POINT ON THE NORTHERN RIGHT-OF-WAY LINE FOR SOUTH CATO SPRINGS ROAD AS EXISTING;
THENCE COINCIDENT WITH SAID RIGHT-OF-WAY LINE, SOUTH 47°24'43" WEST FOR A DISTANCE OF 246.67 FEET TO A POINT;
THENCE LEAVING SAID RIGHT-OF-WAY LINE, NORTH 87°30'29" WEST FOR A DISTANCE OF 120.91 FEET TO A POINT;
THENCE SOUTH 33°00'07" WEST FOR A DISTANCE OF 99.00 FEET TO A POINT;
THENCE NORTH 51°59'53" WEST FOR A DISTANCE OF 528.00 FEET TO A POINT ON THE SOUTHERN LINE OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF THE AFORESAID SECTION 31;
THENCE COINCIDENT WITH SAID SOUTHERN LINE OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 31, NORTH 86°59'53" WEST FOR A DISTANCE OF 542.91 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF THE AFORESAID SECTION 31;
THENCE COINCIDENT WITH THE SOUTHERN LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 31, NORTH 87°09'20" WEST FOR A DISTANCE OF 423.69 FEET TO A POINT;
THENCE LEAVING SAID SOUTHERN LINE, NORTH 02°36'50" EAST FOR A DISTANCE OF 650.79 FEET TO A POINT.;
THENCE NORTH 87°10'03" WEST FOR A DISTANCE OF 1671.80 FEET TO A POINT;
THENCE SOUTH 02°37'31" WEST FOR A DISTANCE OF 650.44 FEET TO A POINT ON THE SOUTHERN LINE OF THE FRACTIONAL SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF THE AFORESAID SECTION 31;
THENCE COINCIDENT WITH THE SOUTHERN LINE OF THE FRACTIONAL SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 31, NORTH 87°09'20" WEST FOR A DISTANCE OF 963.77 FEET TO THE

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EXHIBIT "B"
ANX 08-2897

SOUTHWEST CORNER OF THE FRACTIONAL SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF THE AFORESAID SECTION 31. SAID CORNER BEING ALSO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 36 AND DESIGNATING THE DIVIDING LINE BETWEEN RANGES 30 AND 31 WEST;
THENCE COINCIDENT WITH THE SOUTHERN LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 36, NORTH 87°03'18" WEST FOR A DISTANCE OF 962.79 FEET TO A POINT;
THENCE NORTH 03°06'30" EAST FOR A DISTANCE OF 249.93 FEET TO A POINT;
THENCE NORTH 86°53'02" WEST FOR A DISTANCE OF 350.00 FEET TO A POINT ON THE WESTERN LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 36;
THENCE COINCIDENT WITH THE WESTERN LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 36, NORTH 01°47'26" EAST FOR A DISTANCE OF 1060.68 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF THE AFORESAID SECTION 36; THENCE NORTH 87°16'27" WEST FOR A DISTANCE OF 1343.38 FEET TO A POINT; THENCE NORTH 04°02'35" EAST FOR A DISTANCE OF 72.47 FEET TO A POINT; THENCE NORTH 11°19'49" EAST FOR A DISTANCE OF 40.24 FEET TO A POINT; THENCE ALONG THE ARC OF A CURVE TO THE LEFT FOR A DISTANCE OF 90.32 FEET TO A POINT. SAID CURVE HAVING A RADIUS OF 101.22 FEET WITH A CHORD WHICH BEARS NORTH 24°09'50" WEST FOR A DISTANCE OF 87.35 FEET TO SAID POINT; THENCE NORTH 48°44'10" WEST FOR A DISTANCE OF 34.21 FEET TO A POINT; THENCE ALONG THE ARC OF A CURVE TO THE LEFT FOR A DISTANCE OF 160.88 FEET TO A POINT. SAID CURVE HAVING A RADIUS OF 215.87 FEET WITH A CHORD WHICH BEARS NORTH 67°02'42" WEST FOR A DISTANCE OF 157.18 FEET TO SAID POINT;
THENCE NORTH 89°17'23" WEST FOR A DISTANCE OF 123.09 FEET TO A POINT;
THENCE NORTH 87°11'38" WEST FOR A DISTANCE OF 161.28 FEET TO A POINT;
THENCE NORTH 01°57'34" EAST FOR A DISTANCE OF 1055.60 FEET TO A POINT;
THENCE SOUTH 87°31'37" EAST FOR A DISTANCE OF 1230.87 FEET TO A POINT;
THENCE NORTH 17°08'05" EAST FOR A DISTANCE OF 157.76 FEET TO A POINT;
THENCE NORTH 23°29'30" EAST FOR A DISTANCE OF 127.51 FEET TO A POINT;
THENCE NORTH 02°25'44" EAST FOR A DISTANCE OF 131.20 FEET TO A POINT;
THENCE NORTH 30°29'11" WEST FOR A DISTANCE OF 198.42 FEET TO A POINT;
THENCE NORTH 16°15'45" WEST FOR A DISTANCE OF 180.52 FEET TO A POINT;
THENCE NORTH 03°00'58" EAST FOR A DISTANCE OF 113.62 FEET TO A POINT;
THENCE NORTH 14°13'54" EAST FOR A DISTANCE OF 202.18 FEET TO A POINT;
THENCE NORTH 24°51'02" WEST FOR A DISTANCE OF 100.73 FEET TO A POINT;
THENCE NORTH 08°41'17" EAST FOR A DISTANCE OF 110.59 FEET TO A POINT;
THENCE NORTH 67°53'42" EAST FOR A DISTANCE OF 173.71 FEET TO A POINT;

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EXHIBIT "B"
ANX 08-2897

THENCE NORTH 87°18'22" WEST FOR A DISTANCE OF 147.50 FEET TO A POINT;
THENCE NORTH 01°28'04" EAST FOR A DISTANCE OF 659.86 FEET TO A POINT;
THENCE SOUTH 87°13'07" EAST FOR A DISTANCE OF 660.25 FEET TO A POINT;
THENCE NORTH 01°27'39" EAST FOR A DISTANCE OF 675.06 FEET TO THE
NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST
QUARTER (SE1/4) OF SECTION 25;
THENCE COINCIDENT WITH THE NORTHERN LINE OF THE NORTHEAST QUARTER
(NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SAID SECTION 25, SOUTH
87°09'38" EAST FOR A DISTANCE OF 1314.52 FEET TO THE NORTHEAST CORNER OF
THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF
SECTION 25; THENCE SOUTH 02°25'51" WEST FOR A DISTANCE OF 36.60 FEET TO
THE **POINT OF BEGINNING** AND CONTAINING 831.00 ACRES MORE OR LESS.

THE ABOVE DESCRIBED TRACT BEING SUBJECT TO ANY AND ALL EXISTING
EASEMENTS, RESTRICTIONS, COVENANTS OR RIGHTS-OF-WAY, WHETHER OF
RECORD OR PRESCRIPTION.

AND

A PART OF THE FRACTIONAL SOUTHWEST QUARTER OF THE NORTHWEST
QUARTER AND A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST
QUARTER OF SECTION 31, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON
COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS,
TO-WIT: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER
OF THE NORTHWEST QUARTER OF SAID SECTION 31 AND RUNNING THENCE
N87°09'20"W 785.52' TO A FOUND IRON PIN, THENCE N02°37'31"E 650.44' TO A
FOUND IRON PIN, THENCE S87°10'03"E 787.44' TO A SET IRON PIN, THENCE
S87°10'03"E 884.36' TO A FOUND IRON PIN, THENCE S02°36'50"W 650.79' TO A FOUND
PIPE, THENCE N87°09'20"W 886.41' TO THE POINT OF BEGINNING. CONTAINING IN
ALL 24.97 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-
WAY OF RECORD, IF ANY.



PC Meeting of July 28, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: *July 24, 2008 Updated July 31, 2008*

ANX 08-2897: (SOUTHPASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 855.97 acres. The request is to annex the subject properties into the City of Fayetteville.
Planner: Andrew Garner

BACKGROUND:

SouthPass Development Background:

Fayetteville Parks and Recreation Master Plan

In April 2000, the City conducted a series of public meetings and a public survey as part of the 10 Year Master Plan for Fayetteville Parks and Recreation. The results of the public survey and meetings were incorporated into the 10 Year Master Plan, which went through Parks and Recreation Advisory Board, Planning Commission, and was adopted by City Council on February 19, 2002. The findings in the 10 Year Master Plan included a desire to create a city wide network of trails, provide more neighborhood parks, preserve open space, and build a multi-sport complex (regional park). In addition to sports facilities, the regional park was identified to have other amenities such as pavilions, picnic areas, playgrounds, aquatic features, trails, volleyball, tennis, nature areas, children's areas, horseshoes, an amphitheatre and much more.

Regional Park Site Selection

As a result of the adopted 10 Year Master Plan, in December 2002, Fayetteville Parks and Recreation staff identified 18 sites to evaluate for Fayetteville's new regional park. The sites were evaluated and analyzed based on a number of different variables, and on August 3, 2003 the Parks and Recreation Advisory Board determined that the most suitable location for the regional park was located in south Fayetteville, on the west side of I-540 and Cato Springs Road, referred to as the Cummings property, now referred to as the SouthPass property.

Regional Parks Land Acquisition

Based on the results of the site selection, the Parks Recreation Advisory Board appointed three members to work with staff to determine several possible funding methods for purchase and development of this land. Through this process it was determined that the funding should take place through a public/private partnership. A request for proposals (RFP 04-13) was advertised by the City in May 2004 requesting interested developers to submit a proposal to purchase the Cummings property land for the regional park and deed a minimum of 200 acres for the future development of a regional park. The SouthPass Development proposal was reviewed and selected on September 7, 2004. Resolution 138-04 was approved by City Council and authorized the Mayor to execute an agreement with SouthPass Development Company to accept 200 acres of park land, a 10-acre water tank site, one million dollars for park land development, and other consideration for the City's acceptance of ownership of a 22-acre landfill. The remaining acreage surrounding the future park would be used for a mixed neighborhood development, within the City of Fayetteville.

Current SouthPass Status

Since June 10, 2004 City staff has been working with SouthPass Development Company to create a master plan for the park. A conceptual plan was approved by the Parks and Recreation Advisory Board in May 2007. Parks and Recreation staff anticipates receiving the deed for the park land within the next few months, subsequent to the annexation and PZD process. The applicant now proposes to annex the site into the City and have the property rezoned for a Residential Planned Zoning District (R-PZD) to allow for a new urban center and population center for Fayetteville with 4,320 attached and detached planned dwellings as well as 344,000 square feet of non-residential/commercial space, in addition to the 200+ acres of regional parkland and approximately 247 acres of permanently preserved open space. On February 19, 2008 the City Council passed a resolution to allow the SouthPass PZD to be submitted prior to annexation into the City.

Property Description:

The overall SouthPass property consists of approximately 910 acres located south of the City of Fayetteville on the west side of Interstate 540 and west of Cato Springs Road (State Highway 265). A majority of the property is in unincorporated Washington County (855.97 acres), and a portion is within the City limits (54 acres) and zoned R-A, Residential Agricultural. Access to the site from I-540 is off of Exit 60, the southernmost access into Fayetteville. The property is less than one mile from the University of Arkansas campus and two miles from downtown Fayetteville. The site has been used for agricultural and rural residential uses over the years and consists of rolling hills and pasture along the lower portions of the site adjacent to Cato Springs Road.

The property is surrounded by rural residential, agricultural, and undeveloped land in unincorporated Washington County to the north, west, and south. There is some adjacent property to the east and north in the City of Fayetteville that is zoned R-A, Residential Agricultural. The City of Farmington is located approximately 1-2 miles to the west of the site.

Proposal: The applicant proposes annexation of 855.97 acres into the City of Fayetteville.

INFRASTRUCTURE:

- Streets:** The site has access to Cato Springs Road. Cato Springs Road is currently an improved two lane paved state highway. Street improvements will be evaluated with the proposed development.
- Water:** Public water is adjacent to the site. There is an 8-inch water main along Cato Springs Road. There are also water storage tanks located on this site that are fed by a 30-inch transmission main. The capacity of the existing system will need to be studied at the time of development.
- Sewer:** Sanitary sewer is not available to the site. Off-site improvements will be required to bring sewer to this site. Improvements to the existing sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.
- Fire:** The subject property is located approximately 2.2 miles from Engine 6 located at 900 South Hollywood with a projected response time of 5 minutes. The Fire Department discussed that the SouthPass annexation will affect response times along with calls for service in this part of the city. The number of residents proposed in this development alone would put the Fire Department in one of the threshold points for expansion. The developers have expressed interest in helping the fire department reserve a suitable location for a fire station within their development and have identified a tentative location on their plans.
- Police:** It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area. The police department has discussed with the developers the need for a new police substation and a tentative location has been identified on the plans.

RECOMMENDATION:

Staff recommends forwarding the requested annexation with a recommendation for approval based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		
Required	<u>YES</u>	
☒ Forwarded		☐ Denied
Date: <u>July 28, 2008</u>	Motion: <u>Anthes</u>	
	Second: <u>Graves</u>	
	Vote: <u>6-0-0</u>	
CITY COUNCIL ACTION:		
Required	<u>YES</u>	
☐ Approved		☐ Denied
Date: <u>August 19, 2008 (1st reading if recommended)</u>		

LAND USE PLAN: *General Plan 2025 identifies this property within the Planning Area as a City Neighborhood Area, Civic and Private Open Space/Parks, and Residential Neighborhood Area. These designations indicate a dense primarily residential urban fabric with mixed uses and a wide range of residential building types and encourage compact, complete, and connected neighborhoods. The City and Private Open Space/Areas indicates permanently dedicated open space or parkland, which was anticipated as part of the planned Regional Park for the site.*

FINDINGS:

12.3.4 POTENTIAL ANNEXATION AREAS

The potential annexation areas should be identified by the City using the following criteria:

1. Areas that are already urban in character.

Finding: The subject property is surrounded on all sides by undeveloped agricultural and forested hillsides and sparsely populated rural residential land uses. This area is not considered urban in character but has been previously identified as the preferred site for a regional park and mixed use center by the City Council and has been included as a major growth area on the Future Land Use Plan adopted by the Planning Commission and City Council.

2. Areas that can be developed at urban densities.

Finding: Portions of the subject property can be developed at urban densities and has been identified as a growth area on the Future Land Use Plan. The SouthPass project has been anticipated and planned for a number of years by City staff and administration. Substantial street and infrastructure improvements will be required at the time of development, in order for the project to function properly. The site is adjacent to on/off ramps of I-540, which provides convenient and efficient transportation for future residents, business and park visitors.

3. Immediate areas are those that are peninsulas or islands, where municipal services have already been extended.

Finding: There is an existing water tank located on the subject property and available to the subject development, and the adjacent street is an improved two-lane highway. The developer is planning on providing sewer from sewer transmission lines being installed in association with the Wastewater Treatment Plant Project. This annexation would establish a new southern boundary for the City of Fayetteville and would support a new urban center and population growth area, as anticipated for a number of years in the adopted Future Land Use Plan. As stated in Finding No. 2, street and infrastructure and public service improvements (including new police and fire stations) will be required as SouthPass builds out, however adequate infrastructure largely exists to begin the first phases of development.

4. Vacant lands that are subject to development pressure.

Finding: As described in the background of this report and stated in Finding No. 2 the SouthPass project has been anticipated for a number of years by the City and has been included in the Future Land Use Plan as an area intended for City growth. The site is located adjacent to the major regional transportation corridor, I-540, which affords a higher intensity and density of land use patterns. The SouthPass project proposes a new urban center for the City of Fayetteville and approximately 4,320 residential units and 344,000 square feet of non-residential space, in addition to the community park.

5. Areas where urban services are already provided.

Finding: Surrounding properties are largely undeveloped in a rural-residential and agricultural pattern. However, City services including water, police and fire are provided to adjacent property to the north.

6. Areas where urban services are needed.

Finding: This area is largely undeveloped and is not in immediate need of urban services. Improvements to urban services will be needed to develop the subject property.

12.3.5 ANNEXATION GUIDING POLICIES

BOUNDARIES

12.3.5.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property in combination with the Frank Sharp annexation to the northeast will create an island of unincorporated property to the north, if both are approved. Although the creation of islands are not typically recommended because of efficiency of public services, the SouthPass and Frank Sharp annexations are desired to create a more contiguous southern boundary for the City, and to provide a City boundary that extends from Cato Springs Road all the way to Holland Drive, and north to State Highway 62 (6th Street). Further, the island created is sparsely populated and not easily accessed at this time; calls for service are likely very low. Additionally, the SouthPass annexation has been anticipated for a number of years and is identified in the City's Future Land Use Plan as an anticipated growth area.

12.3.5.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the east.

12.3.5.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: The subject property is not a part of a platted subdivision.

12.3.5.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels and right-of-way.

12.3.5.e The provisions of services should be concurrent with development.

Finding: Public services will be required to be provided concurrent with development in accordance with Fayetteville Unified Development Code requirements.

ENVIRONMENTALLY SENSITIVE AREAS

12.3.5. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: This area has been identified on the Future Land Use Plan as a City Neighborhood Area, Civic and Private Open Space/Parks, and Residential Neighborhood Area. A majority of this site is also within the Hillside Hilltop Overlay District (HHOD). This area contains an environmentally sensitive area with a number of natural resources including natural landforms, densely forested areas, streams, a number of informal hiking and mountain biking trails and wildlife. There are several properties in the area south of State Highway 62 in these local mountains that have been placed within conservation easements. The associated SouthPass development incorporates a number of these environmental features into the design of the project and leaves a majority of the site in permanently preserved greenspace. The proposed R-PZD Master Development Plan allows for preservation and rehabilitation of many sensitive areas on this property, consistent with this policy. Development regulations within the City are better suited to protect the environmentally sensitive areas than those in the County.

EMERGENCY AND PUBLIC SERVICES

12.3.5.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: Water service is available to this property and will need to be evaluated for improvements at the time of development. Sewer will have to be extended as the SouthPass development builds out, new Police and Fire stations will need to be provided and the Master Development Plan has identified a tentative location for these stations. Impacts to public services will be adequately addressed with improvements required with development.

12.3.5.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire service response time is anticipated at five minutes from Engine 6 located at 900 South Hollywood off of 6th Street. As discussed in previous findings, improvements to all public services will be required with the development of SouthPass to ensure that appropriate levels of service are provided.

12.3.5.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

12.3.5.j Areas currently served by utilities and other public services should be annexed.

Finding: Sewer service is not currently available to this property, though there is an existing water tank on the site. Land to the east is located within the City limits and is currently covered by City Police and Fire service. Improvements to provision of services will be required at the time of development.

12.3.5.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Annexation and development of this property will result in an increased demand on the existing infrastructure systems. Improvements to sewer, street, Police and Fire service would be needed by the annexation with development on the subject property.

12.3.5.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

12.3.5.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

12.3.5.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

12.3.5.o Develop a land use plan for annexation initiated by the city.

Finding: N/A

12.3.5.p Designate zoning districts for the property during the annexation process.

Finding: The applicants have requested that the property be rezoned to R-PZD if the

annexation request is approved.

12.3.5.q An annexation study should be completed on all annexation proposals.

Finding: **Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property. Comments from each department have been provided herein.**

12.3.5.r Development proposals require a separate review from the annexation proposals.

Finding: **Development of this property has been proposed and is being reviewed under a separate R-PZD application.**

12.3.5.s Residents should be fully informed of annexation activities.

Finding: **Adjoining neighbors have been notified of the annexation request and a public notice sign has been placed on the property. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.**

12.3.5.t Encourage larger annexations to create acceptable boundaries.

Finding: **The proposed SouthPass annexation combined with the Frank Sharp annexation adjacent to the northeast would annex over 880 acres into the City. The SouthPass property combined with the Frank Sharp annexation would create a more desirable city boundary than if either property were annexed separately. The subject properties create a link between Cato Springs Road and Holland Drive to the west and State Highway 62 to the north.**

12.3.5.u Conduct a fiscal impact assessments on large annexations.

Finding: **Though the proposal constitutes a rather large annexation, staff has not conducted a fiscal impact assessment for this annexation of 855.97 acres for SouthPass or the 53.23 acres for Frank Sharp. It is anticipated that the City will provide a level of support for infrastructure improvements, due to the extent of the City's Community Park proposed on the site and the contract agreement that states the City will cost share (50/50) all costs of extending sewer to the Community Park Site. A supplemental cost share agreement will be submitted for consideration by the City Council to better understand the fiscal impact of the proposed annexation and development.**

Date 1/31/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **ANX 08-2897: (South Pass Development, 632): Submitted by Appian Center for Design for property located** would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The **property contains approximately 825.0 acres.**

It is the opinion of the Fayetteville Police Department that this **ANX 08-2897 will not** substantially alter the population density, and **will not** create an appreciable or undesirable increase in the load on police services. This **ANX will not** create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

Engineering Division comments – Matt Casey

ANX 08-2899: (FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject properties into the City of Fayetteville. Planner: Andrew Garner

RZN 08-2900: (FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to rezone the subject property to RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE. Planner: Andrew Garner

Public water is not available to this site. The nearest water is a 6" water main at Wolfdale Rd. which is about 1,000 feet to the south of this property. The capacity of the existing main may need to be studied at the time of development

Sanitary sewer is not available to the site. The nearest sewer is a 6" sewer main at Holland Dr. and Holsten which is about 1,600 feet to the north of this property. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Holland Drive and Wolfdale Road. Both are currently un-improved two lane roads. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

ANX 08-2897: (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 825.00 acres. The request is to annex the subject properties into the City of Fayetteville. Planner: Andrew Garner

R-PZD 08-2898: Planned Zoning District (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for review of a Zoning and Land Use approval only request for a Residential Planned Zoning District. Planner: Andrew Garner

Public water is located adjacent to the site. There is an 8" water main along Cato Springs Road. There are also water storage tanks located on this site that are fed by a 30" transmission main. The capacity of the existing system will need to be studied at the time of development

Sanitary sewer is not available to the site. Off-site improvements will be required to bring sewer to this site. Improvements to the existing sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Cato Springs Road. Cato Springs Road is currently an improved two lane paved state highway. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.



Fayetteville Fire Department

ANX 08-2899:

(FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject properties into the City of Fayetteville.

RZN 08-2900:

(FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to rezone the subject property to RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE.

This property will be covered by Engine 6 located at 900 S Hollywood.

It is approximately 3.5 miles from the station with an anticipated response time of 7 minutes.

The Fire Department anticipates 9 (6 EMS-3 Fire/other) calls for service once the development is completed and maximum build out has occurred. The Fayetteville Fire Department feels that along with the South Pass Development that joins this property that this will affect our response times along with our calls for service in this part of the city. The developers of Southpass have expressed interest in helping us locate a suitable location for a fire department within their development.

ANX 08-2897: (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 825.00 acres. The request is to annex the subject properties into the City of Fayetteville.

R-PZD 08-2898: Planned Zoning District (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for review of a Zoning and Land Use approval only request for a Residential Planned Zoning District.

This property will be covered by Engine 6 located at 900 S Hollywood.

It is approximately 2.2 miles from the station with an anticipated response time of 5 minutes to the start of this development and approximately 7 minutes to the northern most property line once the roads are put in place and build out has occurred.

Based on the 3666 total units within this development, the Fire Department anticipates 608 (387 EMS-221 Fire/other) calls for service once the development is completed and maximum build out has occurred.

The Fayetteville Fire Department feels that this development will affect our response times along with our calls for service in this part of the city. The number of residents in this development alone with put us in one of our trigger points for expansion. The developers have expressed interest in helping us locate a suitable location for a fire department within their development.

If you have any questions concerning these comments please don't hesitate to call me

Dale Riggins Captain, Fayetteville Fire Department

RESOLUTION NO. 138-04

MICROFILMED

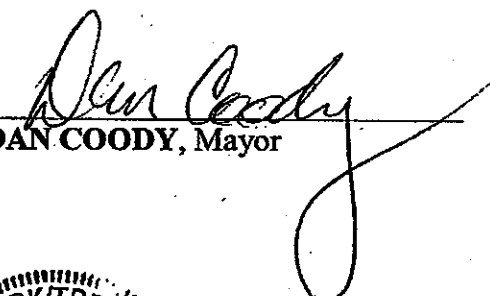
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH SOUTHPASS DEVELOPMENT COMPANY TO ACCEPT 200 ACRES OF PARK LAND, A 10 ACRE WATER TANK SITE, ONE MILLION DOLLARS FOR PARK LAND DEVELOPMENT AND OTHER CONSIDERATION FOR THE CITY'S ACCEPTANCE OF OWNERSHIP OF A 33 ACRE LANDFILL.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby accepts and approves the Contract with SouthPass Development Company (attached as Exhibit "A") to accept 200 acres of park land, a 10 acre water tank site, one million dollars for park land development and other consideration for the City's acceptance of a 33 acre landfill and its agreement to spend the money currently identified in its Parks Capital Improvement Plan for the community park development.

PASSED and APPROVED this 7th day of September, 2004.

APPROVED:

By: 

DAN COODY, Mayor

ATTEST:

By: 

SONDRA SMITH, City Clerk



AGREEMENT TO ACQUIRE AND DEVELOP THE COMMUNITY PARK FOR FAYETTEVILLE

This contract and agreement is entered into by the City of Fayetteville and SouthPass Development Company, LLC (hereinafter "SouthPass");

Whereas, the City of Fayetteville desires to obtain a 200 acre Community Park for its citizens and tourists; and

Whereas, the Parks and Recreation Advisory Board has carefully studied available sites and determined that the Cummings' property is the most desirable site for the Community Park; and

Whereas, The City of Fayetteville does not have the current resources to both purchase the necessary acreage and develop such acreage into a functioning, attractive Community Park and so publicly requested proposals from developers for a public/private partnership to facilitate the acquisition and development of the Community Park; and

Whereas, SouthPass Development Company, LLC submitted a workable, attractive proposal which was selected by the City's selection committee as the recommended proposal.

NOW, THEREFORE, pursuant to the terms and conditions of the City's Request for Proposals and SouthPass Development Company, LLC's recommended Proposal, the City and SouthPass agree as follows:

1. Upon approval of this contract by the Fayetteville City Council and SouthPass Development Company, LLC and the accomplishment of all contingencies listed below, SouthPass shall tender to the trustee/owners of the Eight Hundred Acre (more or less) Cummings property an unconditional offer to purchase all said property for the sum of Six Million Nine Hundred Thousand Dollars (\$6,900,000.00). The obligation of SouthPass Development Company, LLC shall not become binding or enforceable until all the below contingencies have been fully accomplished:

(A) A Master Plan for the development of the approximately 800 acre site has been prepared and approved by SouthPass Development Company LLC and the City of Fayetteville;

(B) The City Council has annexed or committed itself to annex the entire 800 acre site;

(C) The zoning of the portion of the 800 acre site to be owned by SouthPass has been accomplished or the City Council has committed itself to rezone that portion in conformance with the approved Master Plan;

(D) The Greenland School District and Fayetteville School District have agreed that this entire site shall be within the Fayetteville School District;

(E) The Arkansas Department of Environmental Quality has agreed with the present owners of the Cummings landfill and assured the City of Fayetteville that the costs of the necessary corrective actions for the landfill shall not be borne by, recovered from, assessed to, or collected from the City of Fayetteville or SouthPass Development Company, LLC.

2. If this Offer is accepted by the Trustee and the Court, and all others necessary to accept the offer and legally deed the entire tract of 800 acres, more or less, SouthPass Development company, LLC shall pay the agreed price to the trustee/owners and the land shall be conveyed by warranty deed free from all encumbrances to the following parties:

(A) SouthPass Development Company, LLC shall be deeded the entire Eight Hundred (800) acre tract, more or less, except the 33 acre landfill;

(B) The City of Fayetteville shall be deeded (free and clear of any obligation to pay, repay, or otherwise fund the necessary corrective actions for the landfill: partial or full recapping of the landfill and restoration of the stream corridor) the Thirty-Three (33) acre abandoned and closed landfill located within the 800 acre property;

(C) South Pass Development Company LLC shall convey by warranty deed to the City of Fayetteville a Two Hundred (200) acre parcel for the Community Park which location shall be determined by the City;

(D) SouthPass Development Company LLC shall convey by warranty deed the Ten (10) acre City of Fayetteville water tank site to the City of Fayetteville.

3. To facilitate the preparation of the Master Plan, the City shall immediately pay for the perimeter survey of the property and the 200 acre Community Park site.

4. SouthPass shall fund up to \$10,000.00 and retain a mutually acceptable community master planning consultant for recommendations for a Master Plan for this entire 800 acre area (including the 200 acre Community Park area).

5. The City of Fayetteville shall assist in facilitating the planning, zoning and other development approval processes which are in accordance with the mutually acceptable master plan.

6. The City of Fayetteville shall recommend to the Fayetteville School Board and Greenland School Board that this property should be within the Fayetteville School District.

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

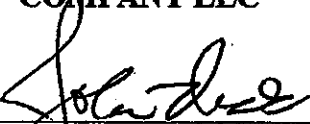
8. If all the contingencies listed in paragraph 1 have been accomplished and all the actions listed in paragraph 2 have been achieved, SouthPass Development Company LLC shall contribute One Million Dollars (\$1,000,000.00) when the City is ready to award the first construction contract utilizing the 2004 and 2005 budgeted CIP allocation as shown in Exhibits A and B*.

Signed this 31 day of August, 2004.

Signed this 7th day of September, 2004.

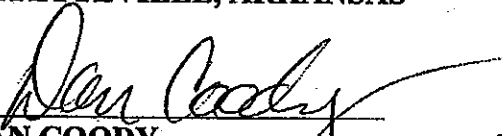
**SOUTHPASS DEVELOPMENT
COMPANY LLC**

By:

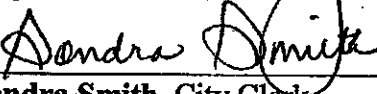

JOHN NOCK
Managing Member

**CITY OF
FAYETTEVILLE, ARKANSAS**

By:


DAN COODY
Mayor

Attest:


Sondra Smith, City Clerk



*Attached as Exhibit A are copies of the current Capital Improvement Program adopted last December by the City Council showing 2004-2008 Parks Development Fund allocations for Community Park Development (total about \$2.4 million) and Sales Tax CIP funds allocated to Community Park Development (total about \$1.2 million).

Attached as Exhibit B is the amount of funds that have been allocated by the City Council that will be available on January 1, 2005 for development of the Community Park (about \$1.6 million).

City of Fayetteville, Arkansas
2004 - 2008 Capital Improvements Program
Recommended Ranking by Project Category by Year

Year	Division	Project	Amount	Priority
<u>Parks Development Fund: Parks & Recreation Improvements</u>				
2004	Parks & Recreation	Community Park Development	466,000	1
			466,000	
2005 *	Parks & Recreation	Community Park Development	473,000	1
			473,000	
2006 *	Parks & Recreation	Community Park Development	457,000	1
			457,000	
2007 *	Parks & Recreation	Community Park Development	489,000	1
			489,000	
2008 *	Parks & Recreation	Community Park Development	506,000	1
			506,000	



* Denotes Continuing Project From Previous Year

CITY OF FAYETTEVILLE, ARKANSAS **2004 - 2008 CAPITAL IMPROVEMENTS PROGRAM** **PROJECT DETAIL**

PROJECT TITLE:	Community Park Development
REQUESTING DIVISION:	Parks & Recreation
FUNDING SOURCE:	Sales Tax Capital Improvements Fund
PROJECT CATEGORY:	Parks & Recreation Improvements
INITIAL YEAR PRIORITY:	2

PROJECT COST		
2004	\$	165,000
2005		338,000
2006		319,000
2007		186,000
2008		188,000
TOTAL PROJECT COST \$		1,196,000

PROJECT TYPE: REPLACEMENT _____ EXPANSION Y

PROJECT DESCRIPTION & JUSTIFICATION:

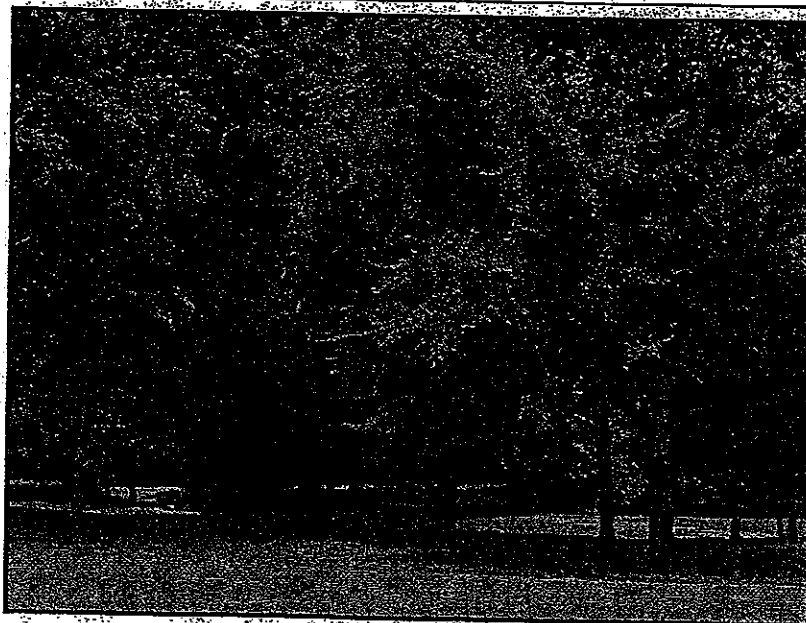
The Parks and Recreation Master Plan recommends development of a Community Park. Facilities would include baseball, soccer, and softball complexes, as well as trails, tennis courts, sand volleyball courts, a pavilion, picnic tables/grills/benches, disc golf, and multi-purpose fields, to name a few possibilities. Facilities would be developed on a priority basis depending upon public desires. With the Lewis Soccer Complex to be returned to the U of A, there is an urgent need to relocate this facility as well as the Walker Park Baseball Complex due to its poor condition and a need for future growth. This project is included in both Parks Development and Sales Tax Capital Improvements Funds. In addition, there is \$20,000,000 in Sales Tax funding in the unfunded projects list.

PROJECT STATUS (IF IN PROGRESS):

\$206,173 is included in 2003 CIP funds. Staff evaluated 18 sites and six (6) of these have been appraised. A recommendation for a Community Park site will be presented to City Council after the sites have been fully evaluated, including wetlands/flood plains and land special analysis.

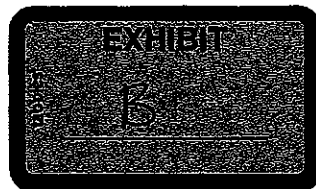
EFFECT OF THE PROJECT ON ANNUAL OPERATIONS

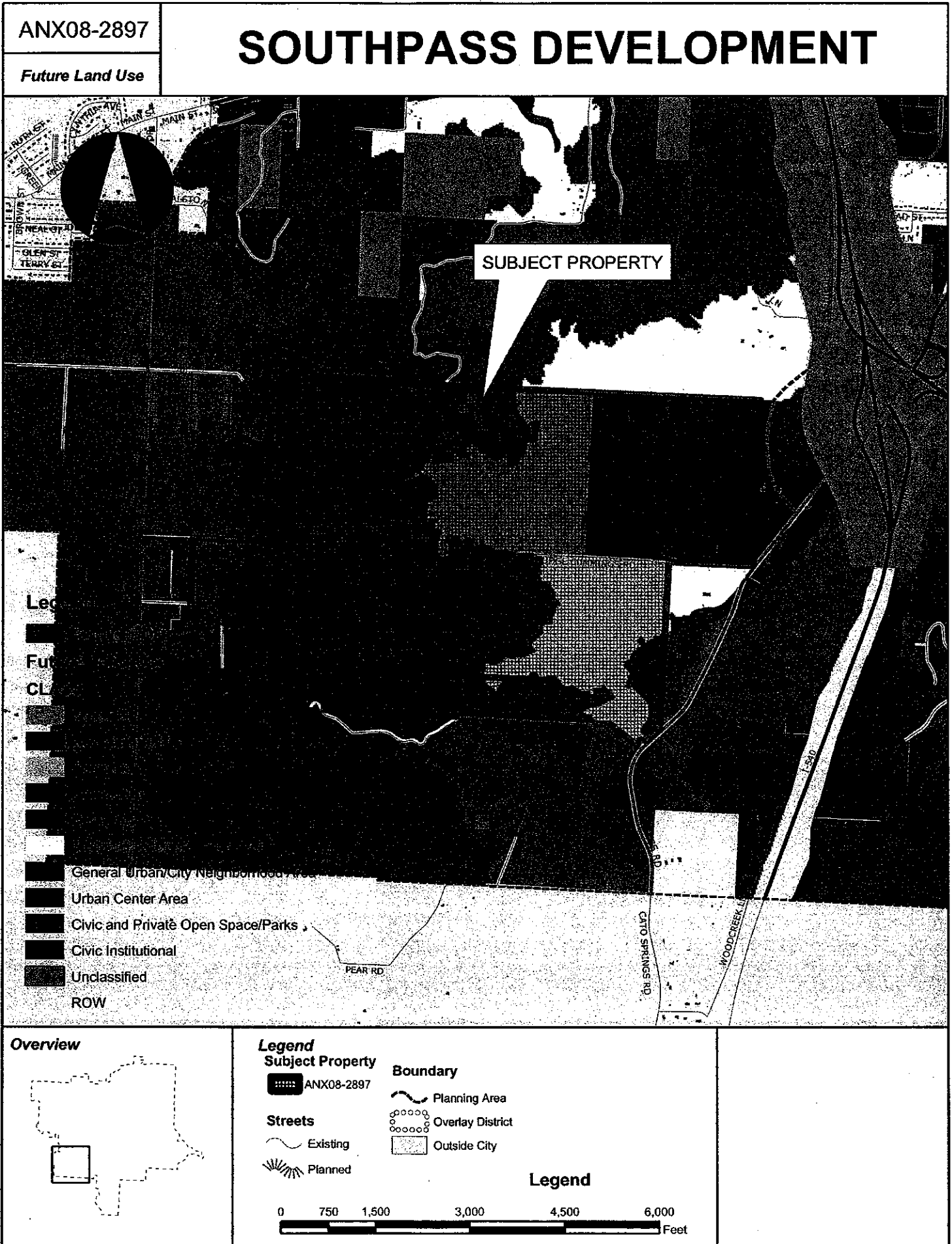
Depending on the site and conceptual plan, personnel, vehicles, utilities, and maintenance costs may increase accordingly. There would be income generated from sponsorships, entry fees, rentals, etc. No projections on the impact to the operating budget have been made. These figures will be estimated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



City of Fayetteville, Arkansas
Community Park Development Capital Project
- Funding 2004/2005

	<u>Budgeted 2004</u>	<u>Expenses 2004</u>	<u>Remaining 2004</u>	<u>Budgeted 2005</u>	<u>Total Available</u>
<u>Parks Development Fund:</u>					
2250.9255.5200.00	\$ 256	\$ 255	\$ 1	\$	1
2250.9255.5301.00	45	45	-		
2250.9255.5314.00	51,300	51,300	(0)		(0)
2250.9255.5806.00	531,049	2,000	529,049	473,000	1,002,049
	<u>582,650</u>	<u>53,600</u>	<u>529,050</u>	<u>473,000</u>	<u>1,002,050</u>
<u>Sales Tax Capital Improvements</u>					
4470.9470.5314.00	8,150	-	8,150		8,150
4470.9470.5806.00	275,000	-	275,000	338,000	613,000
	<u>283,150</u>	<u>-</u>	<u>283,150</u>	<u>338,000</u>	<u>621,150</u>
	<u>\$ 865,800</u>	<u>\$ 53,600</u>	<u>\$ 812,200</u>	<u>\$ 811,000</u>	<u>\$ 1,623,200</u>

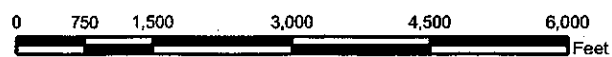




FRANK SHARP/SOUTHPASS DEVELOPMENT



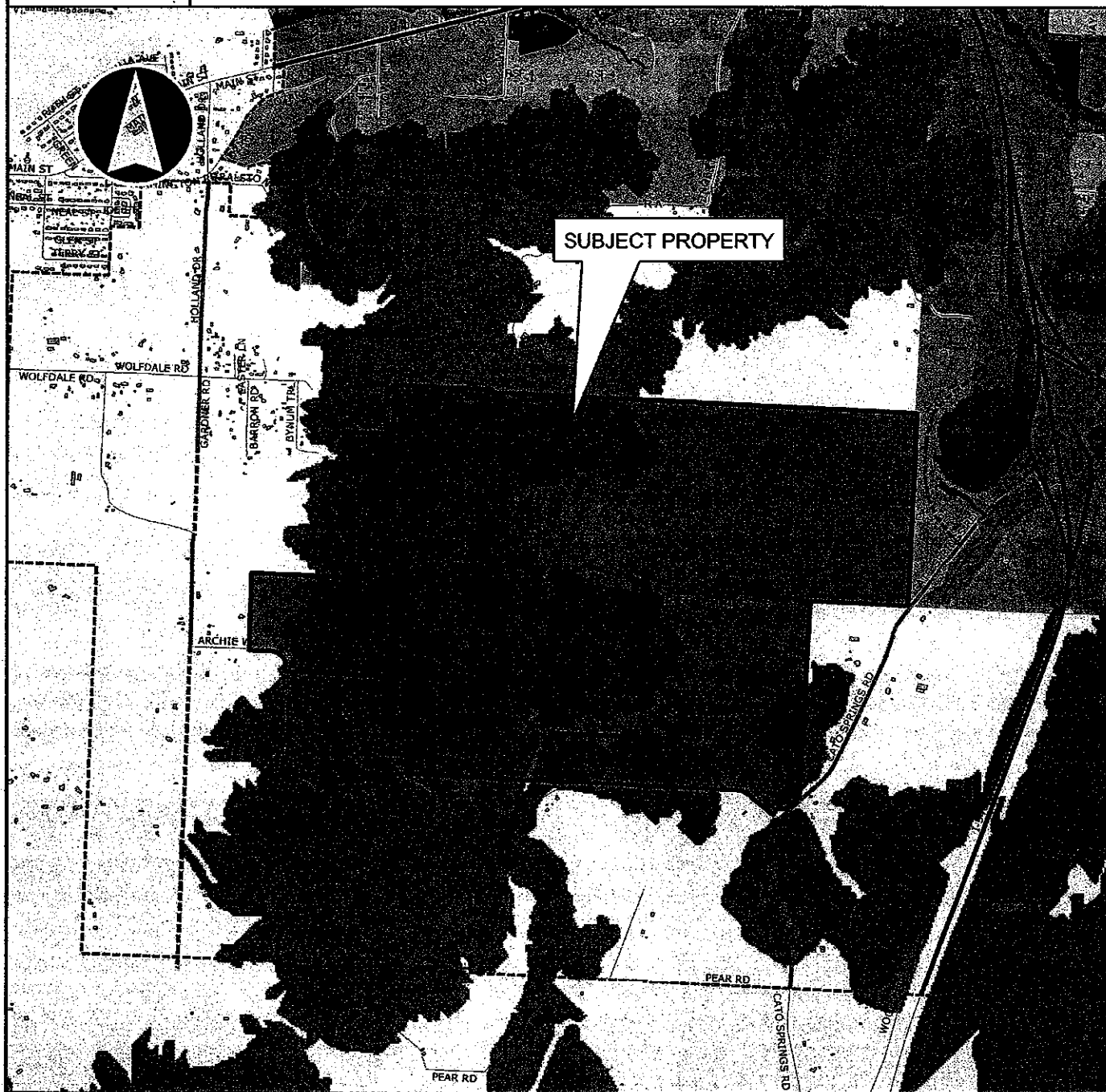
Overview



ANX08-2897

Close Up View

SOUTHPASS DEVELOPMENT



Overview

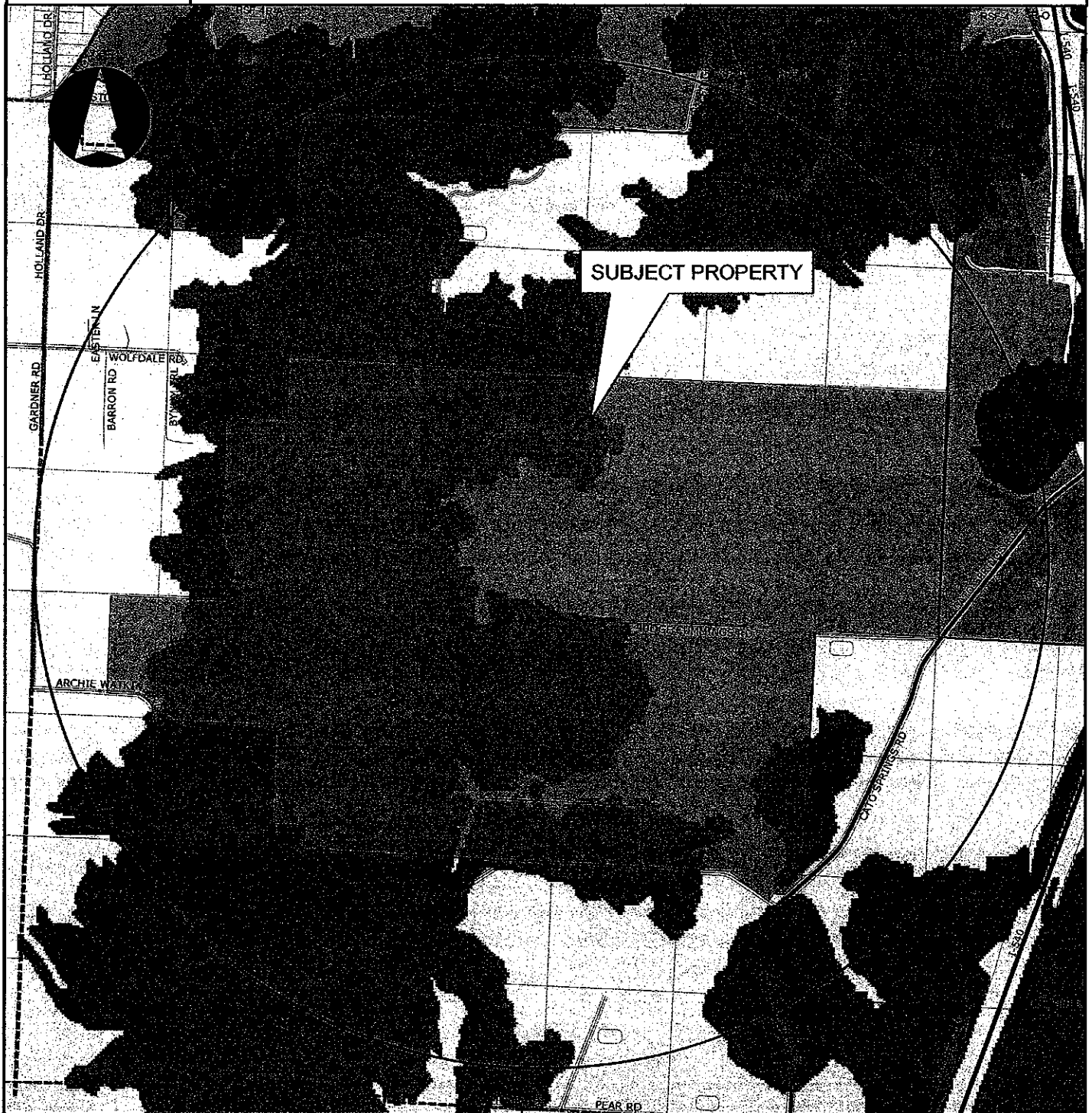


0 750 1,500 3,000 4,500 6,000
Feet

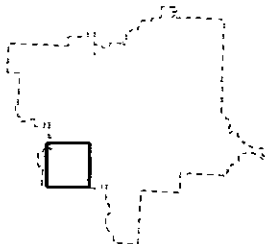
ANX08-2897

SOUTHPASS DEVELOPMENT

One Mile View



Overview



Legend

Subject Property

ANX08-2897

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

Southpass comments: City Council, Oct. 6, 2008 Barbara Moorman

The city staff says in its recommendation for Southpass approval: "[the project] does not contribute to **sprawl**. Urban or suburban sprawl is "the spreading of a city and its suburbs over rural land at the fringe of an urban area". It's "elimination of rural land by urban development".

What is the city calling this project if not sprawl? "**Greenfield development**." Greenfield development is "urban fabric" replacing rural land on the outskirts of a city. ... In other words, **sprawl**. The houses may be packed together, but it's still development taking over rural land and it still means people driving to it and driving from it. It's not next to downtown, medical facilities, mall, court house, city hall, library, etc.

Even though the 2025 plan was written after the Southpass contract was signed, the 2025 plan claims not to approve of sprawl. So to resolve the contradiction, the city tries to redefine sprawl. Whatever name they put on it, this project will spread urban development over rural land on the outside edge of a city.

What's wrong with sprawl? It's not good for the community economically, socially, or environmentally. As for this project in particular....

1) It's not economically sustainable especially in today's chaos and uncertainty. It relies on speculation and on mortgage subsidies and lending. Sprawl is always expensive to the taxpayers. ... road costs, costs of police, fire, trash pickup, sewer, water, dealing with more car wrecks because more driving, illness from more pollution haze and more emotional pressure, etc. Do we know year by year or in 5 year increments, how much Southpass and the ballfields will cost? Do we know what each element will cost? Can we know cost estimates are accurate and based on reality? If they're accurate, are they higher than the city can afford? Are there unforeseen economic problems that ought to be considered? There is no adequate, detailed economic study of the proposal.

2 It's not environmentally sustainable. How many animals and birds will be driven into smaller and smaller habitats? How many plant communities will slowly disappear because of changes in the bluff and forest ecology? The people doing this project don't have any notion what lives on those bluffs or in the woods. Animal life isn't considered but there are many hundreds of species that live there now. How much more air pollution haze will this add (remember it's a regional tournament venue plus 11,000 new inhabitants)? What temperature rise will result from more pavement. This land should not be zoned for dense development because of springs, shallow ground water, and creeks, and because of the environmental importance of the higher elevations. This is a massive project and will have massive impact but the city isn't giving us a study of the impact. It should be our right to know.

3. It's not socially sustainable. Will this subdivision make the city a healthier, tighter-knit community? Will it further divide the wrong side of the tracks from the parts of town where people are probably breathing a sigh of relief that this thing isn't going in near them? Whatever your answer is, it can't be based on a study because there is no study. It can only be based on speculation. Is there a requirement for public transportation adequate to really reduce car traffic? Where's the mandate for nearby medical facilities? Does the ordinance include demand for school, hospital, city hall and library annexes? There's talk of police, fire, etc. but no promises, no requirements, no penalties if hopes aren't fulfilled. How will a dog park, paved trails, and a noisy amphitheater help the stability and quality of life of this part of town? Aren't these features to visit but not to live near? How practical is this scheme really? The plan is for a huge athletic complex and a lot of other things that might be considered nuisances if they were on Mount Sequoyah. The "findings" by the staff claim that we rural residents will be adversely impacted by noise, pollution, lights, etc. Absolutely. But so will the 11,000 people they think will move in. Who on earth would move there in the first place or stay long enough to create a real community?

It's too bad it's gone this far, but I hope you'll exercise your right to re-examine this plan now.

**City Council Agenda Items
and
Contracts, Leases or Agreements**

10/7/2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate 
Submitted By

Planning
Division

Operations
Department

Action Required:

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

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

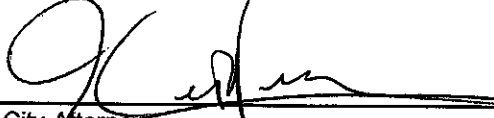
Budgeted Item ☐Budget Adjustment Attached ☐


Department Director

Date

9-19-08

Previous Ordinance or Resolution #

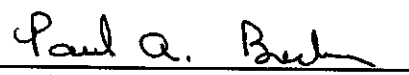

City Attorney

Date

9-19-08

Original Contract Date:

Original Contract Number:

Paul A. Buch 
Finance and Internal Service Director

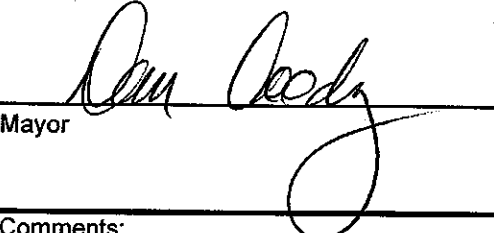
Date

9-21-08

Received in City
Clerk's Office

9-19-08

ENTERED


Mayor

Date

9/21/08

Received in
Mayor's Office

ENTERED
9/19/08

Comments:

City Council Meeting of October 7, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: September 18, 2008

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

RECOMMENDATION

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

BACKGROUND

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

DISCUSSION

The Planning Commission voted 7-1-0 (Myres voting 'No') in favor of this request on September 8, 2008. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 08-2898, SOUTHPASS, LOCATED SOUTH OF THE CITY OF FAYETTEVILLE AT THE INTERSECTION OF INTERSTATE 540 AND CATO SPRINGS ROAD (STATE HIGHWAY 265); CONTAINING APPROXIMATELY 910.36 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From R-A, Residential Agricultural to R-PZD 08-2898, Southpass, as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

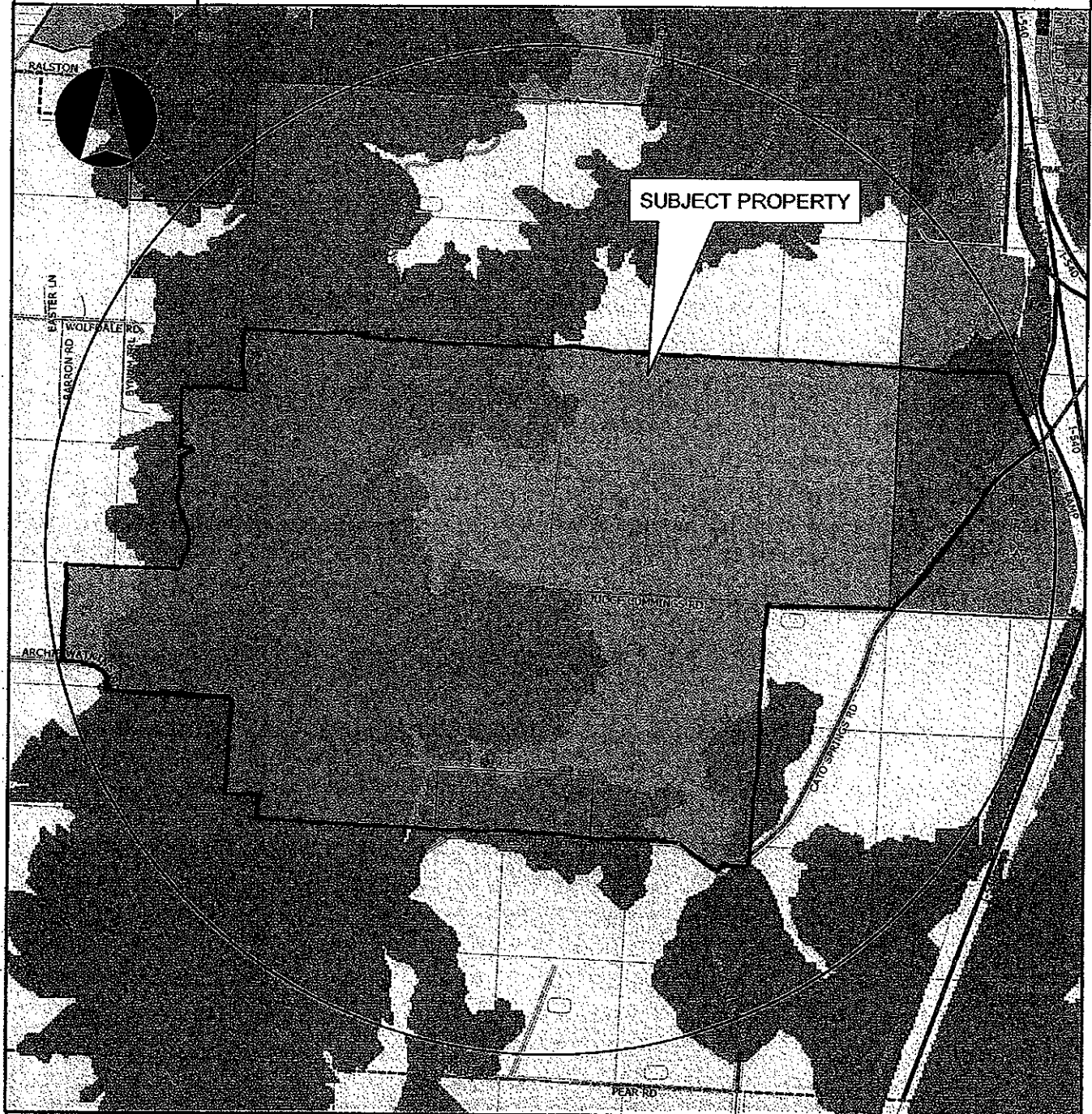
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

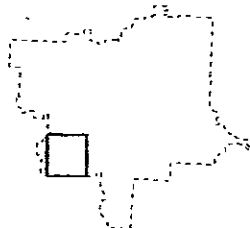
SOUTHPASS DEVELOPMENT

RPZD08-2898

One Mile View



Overview



Legend

Subject Property
RPZD08-2898

Boundary

Planning Area
Overlay District
Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

EXHIBIT "B"
R-PZD 08-2898

SOUTHPASS DEVELOPMENT (OVERALL DESCRIPTION)

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

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

CONDITIONS OF APPROVAL:

R-PZD 08-2898

Page 1 of 7

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

Conditions of Approval:

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

CONDITIONS OF APPROVAL:

R-PZD 08-2898

Page 2 of 7

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

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

A. Cato Springs Road:

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

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

CONDITIONS OF APPROVAL:

R-PZD 08-2898

Page 3 of 7

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

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

CONDITIONS OF APPROVAL:

R-PZD 08-2898

Page 4 of 7

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

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

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

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

26. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
27. Existing rights-of-way and utility easements that conflict with the proposed plans will have to be vacated at the time of development, and prior to issuance of building permits in those areas affected.
28. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
29. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
30. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
31. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
32. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.



Planning Commission Meeting
September 08, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~03 September, 2008~~ Updated September 18, 2008

R-PZD 08-2898: (SOUTHPASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 751 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.
Planner: Andrew Garner

Property Description and Setting:

Size: 910 acres

Zoning: Washington County/ R-A if annexed

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

Proximity:

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

Adjacent Master Street Plan Streets:

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

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

TABLE 1
SOUTH PASS LAND USE TABLE

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

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

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

This site layout and proposal would not be allowed under any standard zoning criteria, one of the purposes for which the Planned Zoning District ordinance was created: to promote and encourage projects that meet the adopted goals and policies of the city, yet do not fit the mold of current development or zoning requirements and to allow for surrounding property owners to see the project's product with the rezoning request, as opposed to a request for a blanket zoning district with few limitations. The proposed zoning criteria for each Planning Area are provided in duplicate in the project booklet and on the plats. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Access and Connectivity: The primary entrances into the site are off of the extension of Shiloh Drive into the northeastern portion of the site and from Cato Springs Road along the eastern boundary of the property. Several streets are proposed directly off of Cato Springs Road (State Highway 265), and access into the southern portion of the site is provided off of Kessler Mountain Road (County Road 201). The internal street pattern in the Town Center and Crescent Park planning areas are based on a modified grid pattern. As the development moves west over the site, streets follow the topography and wind along the ridgelines and valleys connecting the various clusters of development. Street connectivity outside of the Town Center is on the whole low, however, due to existing constraints of topography and the cluster development pattern which preserves approximately 487 acres of parks and open space, approximately 54% of the entire site. However, pedestrian connectivity is excellent with a number of pedestrian and mountain biking trails that will traverse the entire 910-acre site connecting the clusters of development to the 200-acre regional park in the central portion of the site and the urban center in the northeast portion of the site. Additional street connections and stub-out points will be evaluated at the time of development for each planning area to ensure the SouthPass neighborhoods are well connected to other surrounding areas.

Water & Sewer: Public water is adjacent to the site and a municipal water tank currently exists on the property. Sanitary sewer is not available to the site. Offsite improvements will be required to bring sewer to this site. Improvements to the existing sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

Table 2
SouthPass Project Description

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

Traffic Study Summary:

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

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

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

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

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

Sept 08, 2008 UPDATE:

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

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

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

Conditions of Approval:

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

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

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

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

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

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

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

A. Cato Springs Road:

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

e. Cato Springs Road and Cummings Landfill Road

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

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

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

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

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

- Planning Areas 3A-Kessler Mountain Bluff Single Family, 3C Kessler Mountain Bluff Single Family Cluster, and the northern portion of Planning Area 2A Crescent Park Single Family): a 50-foot building setback shall be provided off of all perimeter property lines, and placed in a tree preservation area or conservation easement; where such areas are not adequately vegetated, additional plantings of dense evergreen trees and shrubs shall be provided for a visual and aesthetic buffer at the time of development. This 50-foot buffer area shall be reviewed by the Planning Division and Urban Forester prior to development approval. Street connections and stub-outs are anticipated to cross these areas, at the time of development, to provide connectivity to adjoining properties.
15. **Solid Waste:** All trash enclosure locations and dimensions shall be fully reviewed and approved by the Solid Waste Division at the time of development. Where street cross-sections or curb return radii do not meet city standards, auto-turn or similar analyses shall be provided to determine if Solid Waste vehicles will be able to safely and efficiently access streets within the project boundary.
 16. **Public Service Improvements:** New police and fire substations may be required on-site in order to maintain adequate levels of service as the project develops. Impact fees for development on the property shall be contributed in accordance with City ordinances.
 17. **Development Review:** All phases of the proposal shall be reviewed through the appropriate development review process (Large Scale Development, Preliminary/Final Plat, etc.), as determined by the Zoning & Development Administrator, prior to commencement of construction.
 18. **Architectural Standards:** Buildings shall be constructed to be consistent with the concepts depicted in the building elevations in the PZD booklet. All buildings shall be designed and constructed to front onto public rights-of-way. All non-residential buildings or mixed use buildings shall adhere to Commercial Design Standards and all multi-family buildings shall adhere to Urban Residential Design Standards.
 19. **View protection:** Staff recommends that structures that will be located at higher elevations, such as along Kessler Mountain Bluff, that will be taking advantage of views from the site, be designed with materials, colors and rooflines that are muted and will dissolve into the natural background as much as possible. The intent is to prevent egregious structures from reducing the natural beauty of the surrounding hillside. Where possible, the design of structures should take into account the height of the ridgeline and surrounding tree canopy, to reduce and mitigate the visual impact.
 20. **Impact Fees:** All impact fees shall be paid in accordance with city ordinances.
 21. **Signage:** Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for specific

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

Standard Conditions of Approval:

28. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
29. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

30. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
31. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
32. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.

Planning Commission Action: ☐ Approval ☐ Tabled ☒ Forwarded to C.C.
Motion: Graves
Second: Lack
Vote: 7-1-0 (Myres voting 'No')
Meeting Date: September 8, 2008
Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 08-2989 (SouthPass)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

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

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

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

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

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

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

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

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

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

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

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

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

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

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer and the City as this project is a public/private partnership including the development of a 200+ acre regional park. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the

proposed development. Major improvements include the provision for a new police and fire station, a future elementary school, improvements to Cato Springs Road and the extension of Shiloh Road to the site.

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

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

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

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

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

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

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

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

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

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

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

(B) Development standards, conditions and review guidelines

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

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

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

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

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

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of a system of public streets and alleys as described earlier in this report accessing Cato Springs Road, Shiloh Drive, Kessler Mountain Road and Judge Cummings road. The dwellings face onto streets, and are generally accessed off of internal alleys, providing a hierarchy of circulation that encourage an efficient flow of traffic and a pedestrian friendly environment while minimizing impacts to sensitive landforms onsite. Internal streets follow a hierarchy, based on the context of use and anticipated traffic volume. See page 9 of the project booklet. Also see Staff Finding No. 6.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking is proposed in four forms: garages, underground parking decks, on-street, and surface parking lots. Much of the parking for mixed use and residential areas is proposed to be on-street. Parking structures and underground parking decks are proposed for the more intense commercial core areas and under many of the multi-family structures. A majority of surface parking lots will be to the interior of the mixed-use and multi-family residential lots as shown on the submitted plans. Most of the residences will be provided with private parking, either in alley-facing garages or driveways. The applicant requests Planning Commission approval to allow for on-street parking to count towards the fulfillment of parking requirements for non-residential uses, which staff supports. In addition, all parking structures will be required to meet the location and/or screening

standards set out by Ch. 166.22 of the UDC.

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

FINDING: This requirement will be met.

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

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

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

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

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

FINDING: Public water lines are being extended in accordance with city codes.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are being extended in accordance with city codes.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is

intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

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

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

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

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

for Commercial Structures.

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

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

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

(E) *Revocation.*

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

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

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

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

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

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

- (a) The homeowner's association must be legally established before building permits are granted.
- (b) Membership and fees must be mandatory for each home buyer and successive buyer.
- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

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

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of

new lands and in the renewal of existing deteriorating areas.

- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025 as discussed in Staff Finding No. 1, as well as the above ten criteria, including flexibility in density, provision of a variety of housing types, creative arrangement of land uses that are harmonious and beneficial to the community, maximum enhancement and minimum disruption of existing natural features and common open spaces. The following guiding policies within City Neighborhood Areas and Civic and Private Open Space/Parks are applicable to this development, and help to achieve the six primary goals of the City Plan 2025:

City Neighborhood Areas:

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

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

Civic and Private Open Space/Park Areas

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) *Bulk and area regulations*

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

FINDING: Surrounding development is undeveloped rural-residential and agricultural. The city's development goals and Future Land Use Plan for this area support a higher density than the surrounding area. This site has been identified by City Council on the Future Land Use Plan as a growth area for a number of years. Also see Staff Findings Nos. (E)(1), (E)(4), (E)(5), and (B)(1).

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

FINDING: Lot area minimums and setbacks are varied on this project with structures oriented to the street and minimal front setbacks. This project provides for a variety of building footprint types of unit, with a mixed unit type and mixed density. Due to the unique nature of this traditional neighborhood and cluster development, it is not possible to conform to existing standards for lot area minimums and setback requirements.

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

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

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

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

***Required Findings for Rezoning Request.**

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

project result in a development that meets many of the goals of the City Plan 2025 for new development.

FINDINGS OF THE STAFF

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

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

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

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

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

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

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

Finding: Staff finds that in evaluating this proposal, the population density would undoubtedly increase from that which currently exists, and that the commercial and park uses proposed would create additional demand on public services. Staff finds, however, that the load created on public services is not an undesirable or detrimental impact, with the improvements as recommended by

staff for this project.

Streets: The site has access to Cato Springs Road. Cato Springs Road is currently an improved two lane paved state highway. Street improvements will be evaluated with the proposed development.

Water: Public water is adjacent to the site. There is an 8-inch water main along Cato Springs Road. There are also water storage tanks located on this site that are fed by a 30-inch transmission main. The capacity of the existing system will need to be studied at the time of development.

Sewer: Sanitary sewer is not available to the site. Off-site improvements will be required to bring sewer to this site. Improvements to the existing sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

Fire: The subject property is located approximately 2.2 miles from Engine 6 located at 900 South Hollywood with a projected response time of 5 minutes. The Fire Department discussed that the SouthPass annexation will affect response times along with calls for service in this part of the city. The number of residents proposed in this development alone would put the Fire Department in one of the threshold points for expansion. The developers have expressed interest in helping the fire department reserve a suitable location for a fire station within their development and have identified a tentative location on their plans.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not immediately alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area in the near future. The police department does state that with a development of this size and scale, there is a need for a public safety substation near the site with frontage access to Highway 265, to provide services in a timely manner for residents and businesses. Over the course of build-out in the next 15-20 years, we will begin to see undesirable increases in the population density, traffic danger and congestion, as well as load on police services, without these improvements.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

- c. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

d. **Finding: N/A**



PC Meeting of July 28, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Greg Howe, Urban Forester

Date: July 23, 2008

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

TREE PRESERVATION PLAN

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

LANDSCAPE REGULATION

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



PARKS & RECREATION
113 West Mountain
Fayetteville, AR 72701

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

History

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

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

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

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

Site Selection

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

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

Land Acquisition

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

RFP 04-13 was advertised in May 2004 requesting interested developers to submit a proposal to purchase the land from the Cummings Family and deed a minimum of 200 acres for the future development of a regional park. A Professional Services Selection Committee reviewed and selected the proposal presented by Southpass Development. Resolution 138-04, approved on September 7, 2004, authorized the Mayor to execute an agreement with Southpass Development Company to accept 200 acres of park land, a 10 acre water tank site, one million dollars for park land development and other consideration for the city's acceptance of ownership of a 22 acre landfill. The remaining acreage surrounding the future park would be used for a mixed neighborhood development.

Current Status

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

FAYETTEVILLE

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

ENGINEERING DIVISION CORRESPONDENCE

479-575-8206

To: Andrew Garner, Planner

July 16, 2008

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

Re: PZD Review Comments

Development: **SouthPass PZD**

Engineer: **Appian Centre for Design**

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

PZD Guidelines:

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

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

Plans:

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

Engineering Division comments – Matt Casey

ANX 08-2899: (FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject properties into the City of Fayetteville. Planner: Andrew Garner

RZN 08-2900: (FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to rezone the subject property to RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE. Planner: Andrew Garner

Public water is not available to this site. The nearest water is a 6" water main at Wolfdale Rd. which is about 1,000 feet to the south of this property. The capacity of the existing main may need to be studied at the time of development

Sanitary sewer is not available to the site. The nearest sewer is a 6" sewer main at Holland Dr. and Holsten which is about 1,600 feet to the north of this property. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Holland Drive and Wolfdale Road. Both are currently un-improved two lane roads. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

ANX 08-2897: (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 825.00 acres. The request is to annex the subject properties into the City of Fayetteville. Planner: Andrew Garner

R-PZD 08-2898: Planned Zoning District (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for review of a Zoning and Land Use approval only request for a Residential Planned Zoning District. Planner: Andrew Garner

Public water is located adjacent to the site. There is an 8" water main along Cato Springs Road. There are also water storage tanks located on this site that are fed by a 30" transmission main. The capacity of the existing system will need to be studied at the time of development

Sanitary sewer is not available to the site. Off-site improvements will be required to bring sewer to this site. Improvements to the existing sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Cato Springs Road. Cato Springs Road is currently an improved two lane paved state highway. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.



Fayetteville Fire Department

ANX 08-2899:

(FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject properties into the City of Fayetteville.

RZN 08-2900:

(FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to rezone the subject property to RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE.

This property will be covered by Engine 6 located at 900 S Hollywood. It is approximately 3.5 miles from the station with an anticipated response time of 7 minutes. The Fire Department anticipates 9 (6 EMS-3 Fire/other) calls for service once the development is completed and maximum build out has occurred. The Fayetteville Fire Department feels that along with the South Pass Development that joins this property that this will affect our response times along with our calls for service in this part of the city. The developers of Southpass have expressed interest in helping us locate a suitable location for a fire department within their development.

ANX 08-2897: (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 825.00 acres. The request is to annex the subject properties into the City of Fayetteville.

R-PZD 08-2898: Planned Zoning District (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for review of a Zoning and Land Use approval only request for a Residential Planned Zoning District.

This property will be covered by Engine 6 located at 900 S Hollywood.

It is approximately 2.2 miles from the station with an anticipated response time of 5 minutes to the start of this development and approximately 7 minutes to the northern most property line once the roads are put in place and build out has occurred.

Based on the 3666 total units within this development, the Fire Department anticipates 608 (387 EMS-221 Fire/other) calls for service once the development is completed and maximum build out has occurred.

The Fayetteville Fire Department feels that this development will affect our response times along with our calls for service in this part of the city. The number of residents in this development alone with put us in one of our trigger points for expansion. The developers have expressed interest in helping us locate a suitable location for a fire department within their development.

If you have any questions concerning these comments please don't hesitate to call me

Dale Riggins Captain, Fayetteville Fire Department

Date 1/30/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed R-PZD 08-2898: (South Pass Development, 632): Submitted by Appian Center for Design for property located W of I-540 and S of HWY 62 and NW of Cato Springs Road would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 910.36 acres.

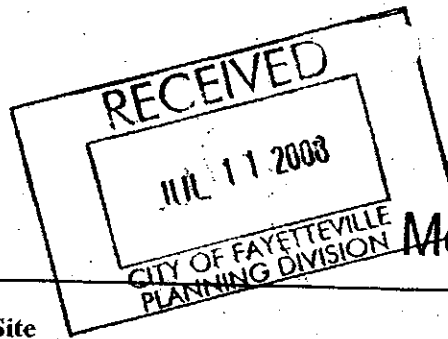
It is the opinion of the Fayetteville Police Department that this R-PZD will not immediately alter the population density, and will not immediately create an appreciable or undesirable increase in the load on police services. We further feel this R-PZD will not immediately create an appreciable increase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

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

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

Sincerely,

Captain William Brown
Fayetteville Police Department



Memorandum

Background on Former C & L Landfill Site

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

August 1996 Site Assessment at C & L Landfill

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

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

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

Analytical Results From Terracon

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

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

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

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

Terracon's Interpretation of Site Survey Results

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

ADEQ SWMD Evaluation of Site Assessment Report

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

Conclusions and Recommendations

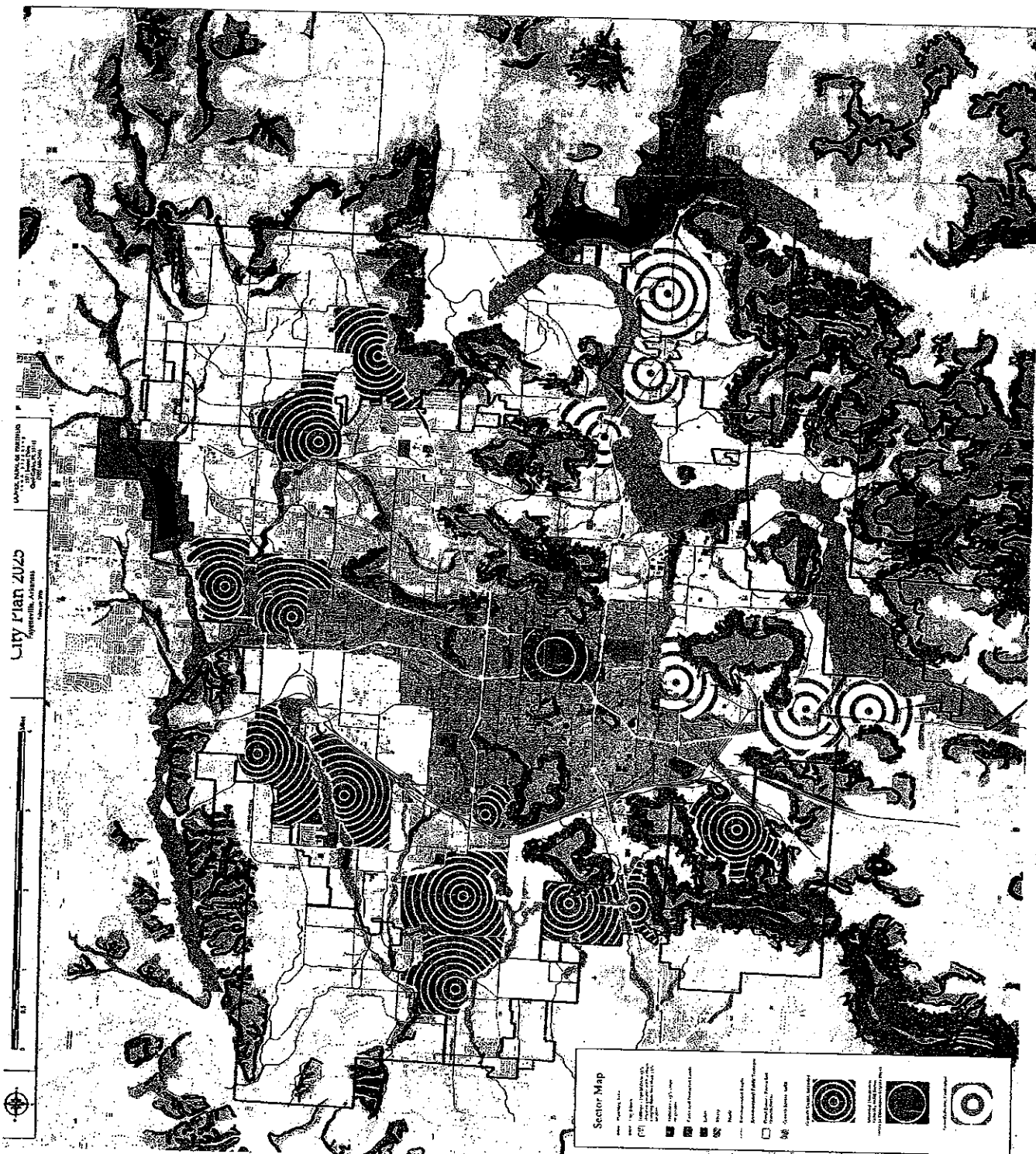
Based on the most recent water quality data collected, it is apparent there minor impacts on local ground water and surface water supplies in and around the old C & L Class 1 landfill site. GWM wells installed around the site have shown some degree of GW contamination. Surface water samples taken downstream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

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

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

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

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



SECTOR MAP DESCRIPTION

Growth Sector, Intended

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

INTENDED GROWTH SECTOR

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

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

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

Intended Downtown Growth/Infill Sector

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

Growth Sector, Controlled

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

CONTROLLED GROWTH SECTOR

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

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

Flood Zones, Restricted Growth Centers

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

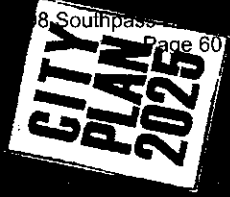
Steep slopes and floodplains are less suitable for more urban forms of development and may require special treatment. Ideally, these areas should be reserved for open space, passive recreation, conservation and agriculture. Where more intensive development of these areas is permitted, performance standards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

As described in the SmartCode:

RESTRICTED GROWTH SECTOR

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

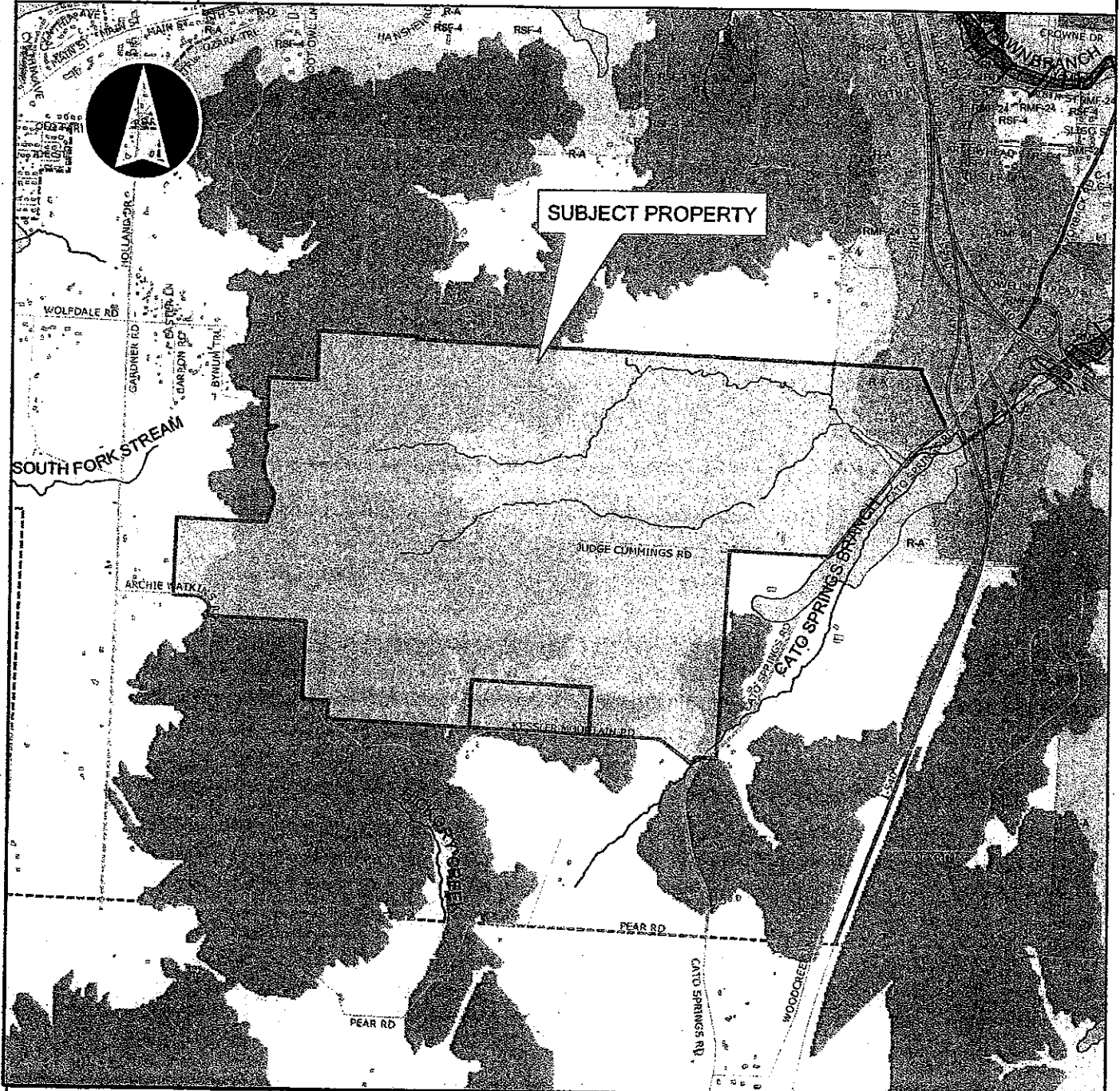
Within the Restricted Growth Sector, Cluster Land Developments (CLD) shall be permitted by right. CLDs shall consist of no more than one Standard Pedestrian Shed with that portion of its site assigned to the T1 Natural or T2 Rural Zones.



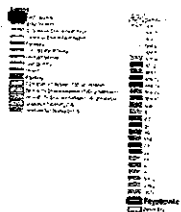
RPZD08-2898

Close Up View

SOUTHPASS DEVELOPMENT



Overview

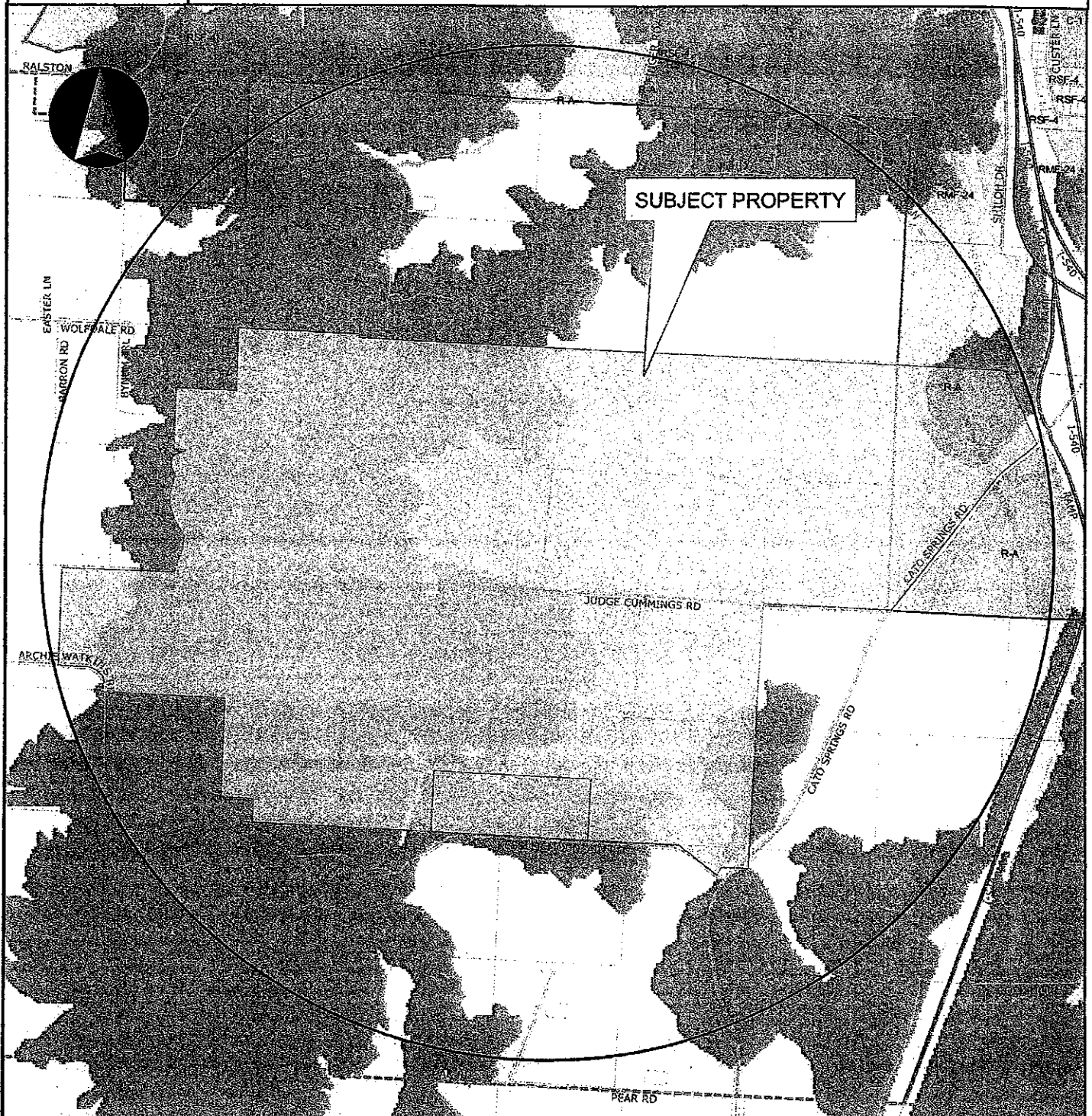


0 750 1,500 3,000 4,500 6,000
Feet

RPZD08-2898

SOUTHPASS DEVELOPMENT

One Mile View



Overview



Legend

Subject Property

RPZD08-2898

Boundary

Planning Area

Overlay District

Outside City

Legend

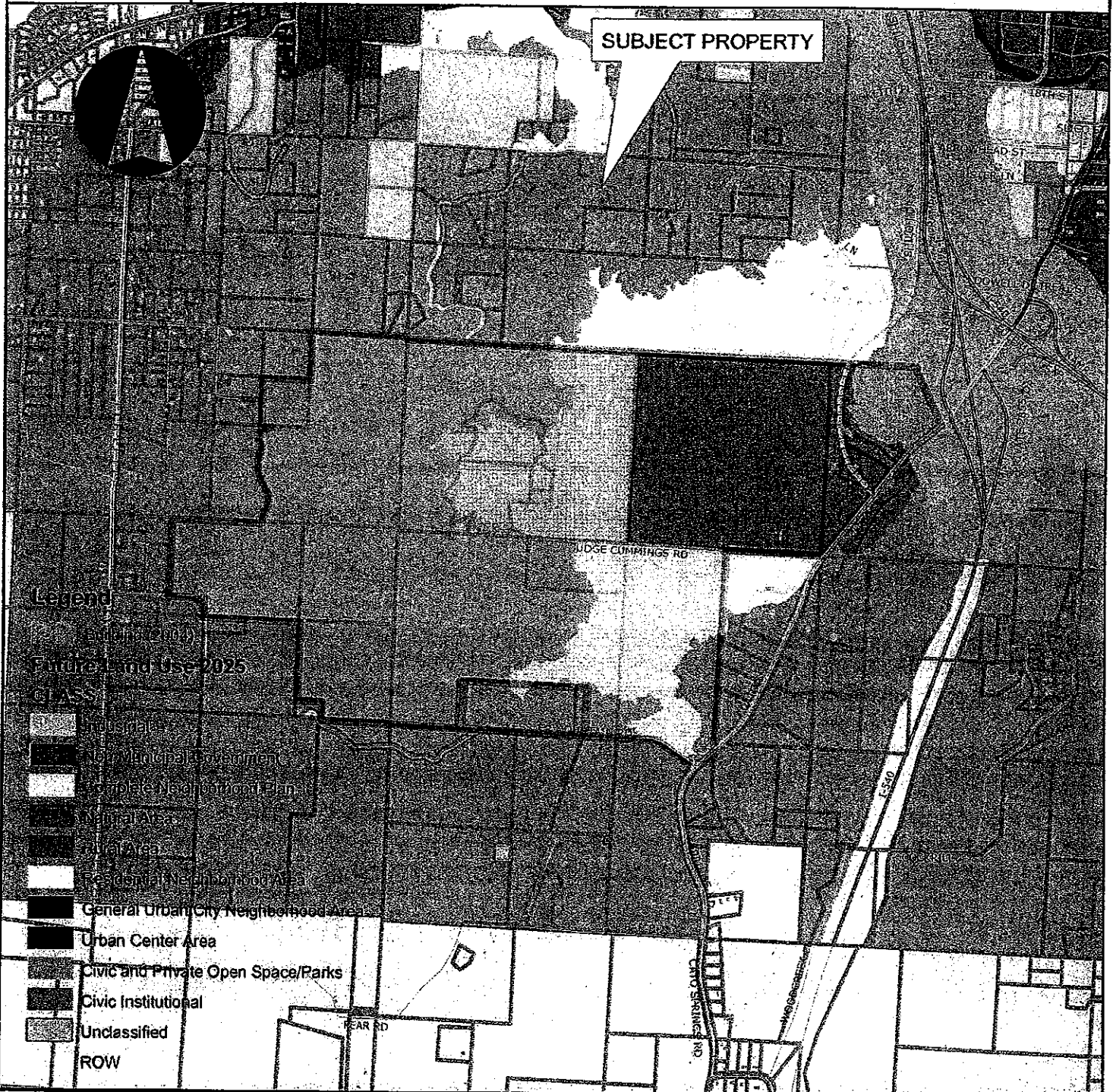
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

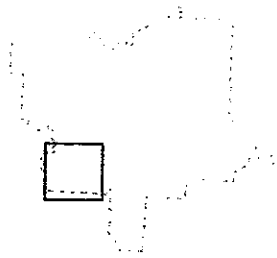
RPZD08-2898

Future Land Use

SOUTHPASS DEVELOPMENT



Overview



Legend

Subject Property

RPZD08-2898

Streets

Existing
Planned

Boundary

Planning Area
Overlay District
Outside City

Legend

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

Southpass 2008 Planning Commission Meeting Minutes

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

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ANX 08-2897: (SOUTHPASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 831.00 acres. The request is to annex the subject properties into the City of Fayetteville.

R-PZD 08-2898: (SOUTHPASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 809 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.

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

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

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

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

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

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

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

No public comment was received.

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

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

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

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

Motion:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Pate stated he did not believe so.

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

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

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this area.

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

(Video skips here)

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

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

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

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

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

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

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

Commissioner Anthes stated that that was a big issue.

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

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

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

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

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

Motion:

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

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Unfinished Business:

R-PZD 08-2898: (SOUTHPASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 809 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.

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

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

No public comment was received.

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

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

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

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

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

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

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

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

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

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

Newman stated this was correct.

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

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

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

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

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

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

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

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

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

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

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

Commissioner Winston asked when Shiloh will need to be extended.

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

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

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

Commissioner Anthes asked how Shiloh Dr. will be extended.

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

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

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

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

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

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

Discussion of Phasing

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

Commissioner Trumbo agreed.

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

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

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

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

Discussion of Planning Areas

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

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

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

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

PA-2a, Crescent Park

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

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

PA-3a/3b/3c:

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

Commissioner Winston asked about topography in PA-3C.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PA-4

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

PA-5 Civic

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

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

PA-6 Regional Park

Pate described PA-6.

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

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

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

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

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

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

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

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

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

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

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

Motion:

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

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Unfinished Business:

R-PZD 08-2898: (SOUTHPASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 809 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.

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

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

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

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

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

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

Public Comment:

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

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

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

No additional public comment was received.

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

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

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

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

Commissioner Trumbo asked about the overall cost.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Williams stated that that was correct.

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

Motion:

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

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

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

Unfinished Business:

R-PZD 08-2898: (SOUTHPASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 809 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.

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

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

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

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

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

Public Comment:

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

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

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

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

No more public comment was received.

Commissioner Trumbo asked City Attorney to discuss the landfill again.

Planning Commission
September 8, 2008
Page 6 of 18

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

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

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

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

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

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

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

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

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

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

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

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

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

Planning Commission

September 8, 2008

Page 7 of 18

anything. The City will deal directly with ADEQ.

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

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

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

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

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

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

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

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

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

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

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

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

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

Planning Commission

September 8, 2008

Page 8 of 18

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

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

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

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

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

Motion:

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

Commissioner Anthes asked if staff could explain its position.

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

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

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

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

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

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

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

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

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

Planning Commission
September 8, 2008
Page 9 of 18

Commissioner Lack stated agreement with these conditions.

Commissioner Trumbo asked about #3, connectivity.

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

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

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

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

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

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

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

Motion:

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

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

Planning Commission

September 8, 2008

Page 10 of 18

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

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

**Public Comment
Southpass 2008**

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

July 15, 2008

APPLICANT/REPRESENTATIVE CONTACT INFO:

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

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

Planning Commission Meeting:

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

PROJECT DESCRIPTION:

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

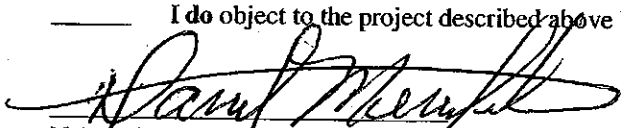
The SouthPass Master Plan emphasizes the principles of new urbanism, conservation design, a variety of land uses, traditional neighborhood design, parks and walkability. SouthPass incorporates diverse and distinctive homes, apartments, live/work units and a network of well connected walkable streets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

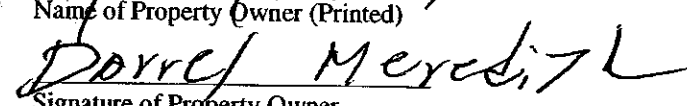
ADJOINING PROPERTY OWNERS COMMENTS
Return Comments concerning SouthPass Community back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

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

☒ I do not object to the project described above.

☐ I do object to the project described above because:


Name of Property Owner (Printed)


Signature of Property Owner

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

July 15, 2008

APPLICANT/REPRESENTATIVE CONTACT INFO:

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

Appian Centre for Design
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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:

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

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

July 15, 2008

APPLICANT/REPRESENTATIVE CONTACT INFO:

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

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

Planning Commission Meeting:

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

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

ADJOINING PROPERTY OWNERS COMMENTS

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

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

☒ I do not object to the project described above.

☐ I do object to the project described above because:

Goyce Moore
Name of Property Owner (Printed)

Goyce Moore
Signature of Property Owner

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

July 15, 2008

APPLICANT/REPRESENTATIVE CONTACT INFO:

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

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

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

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

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

JB HANNA LLC
Name of Property Owner (Printed)

[Signature]
Signature of Property Owner

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

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

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

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

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

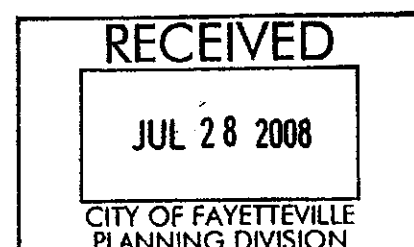
Although I have been unable to obtain the plan that conforms to the location designations in the PZD Application and Materials Submittal, I believe I am referring to the "Kessler Bluff" area.

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

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

This email is being sent from my home computer.

Tom Butt
235 East Scenic Avenue
Point Richmond, CA 94801



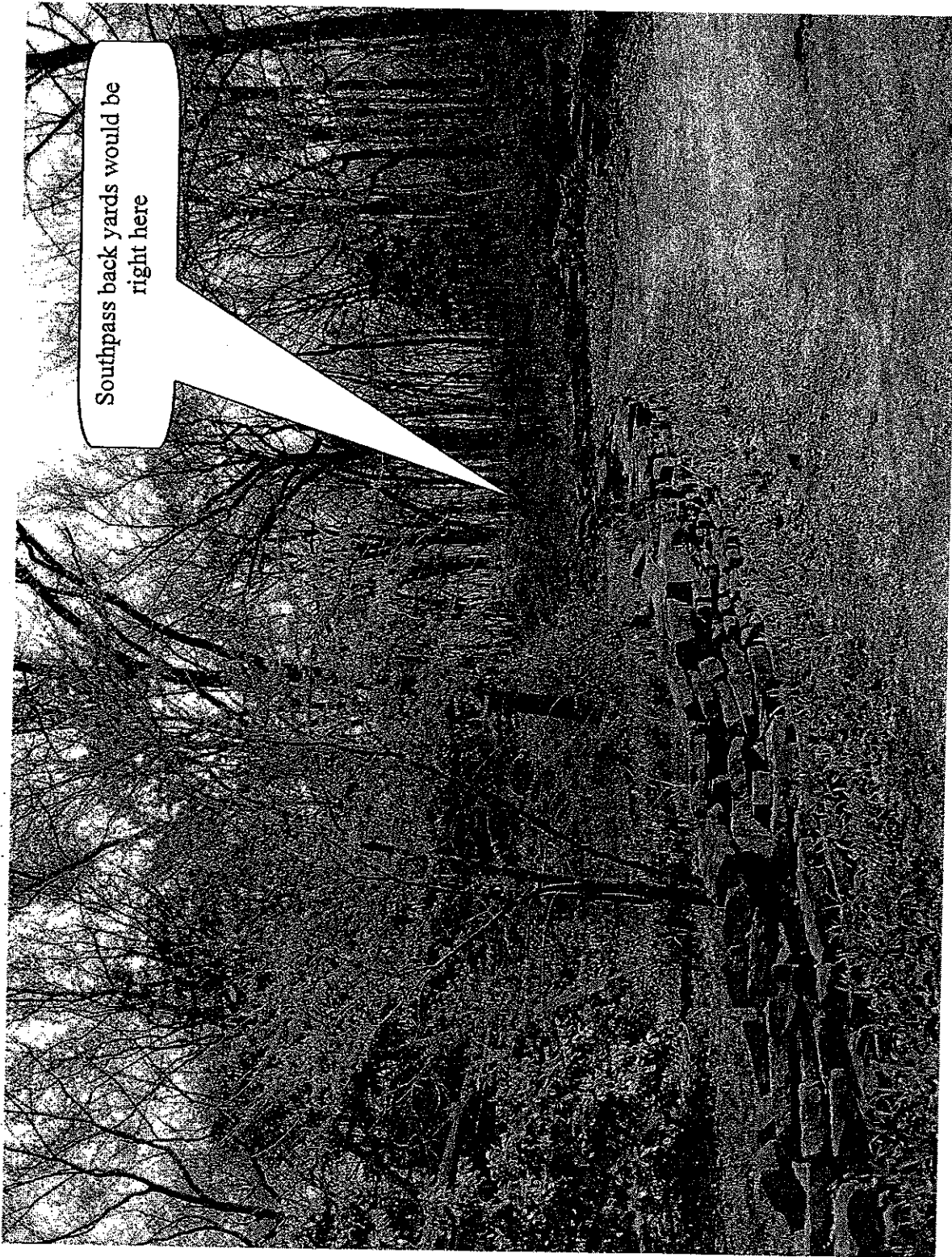


Photo 1, Driveway to Deepwood House

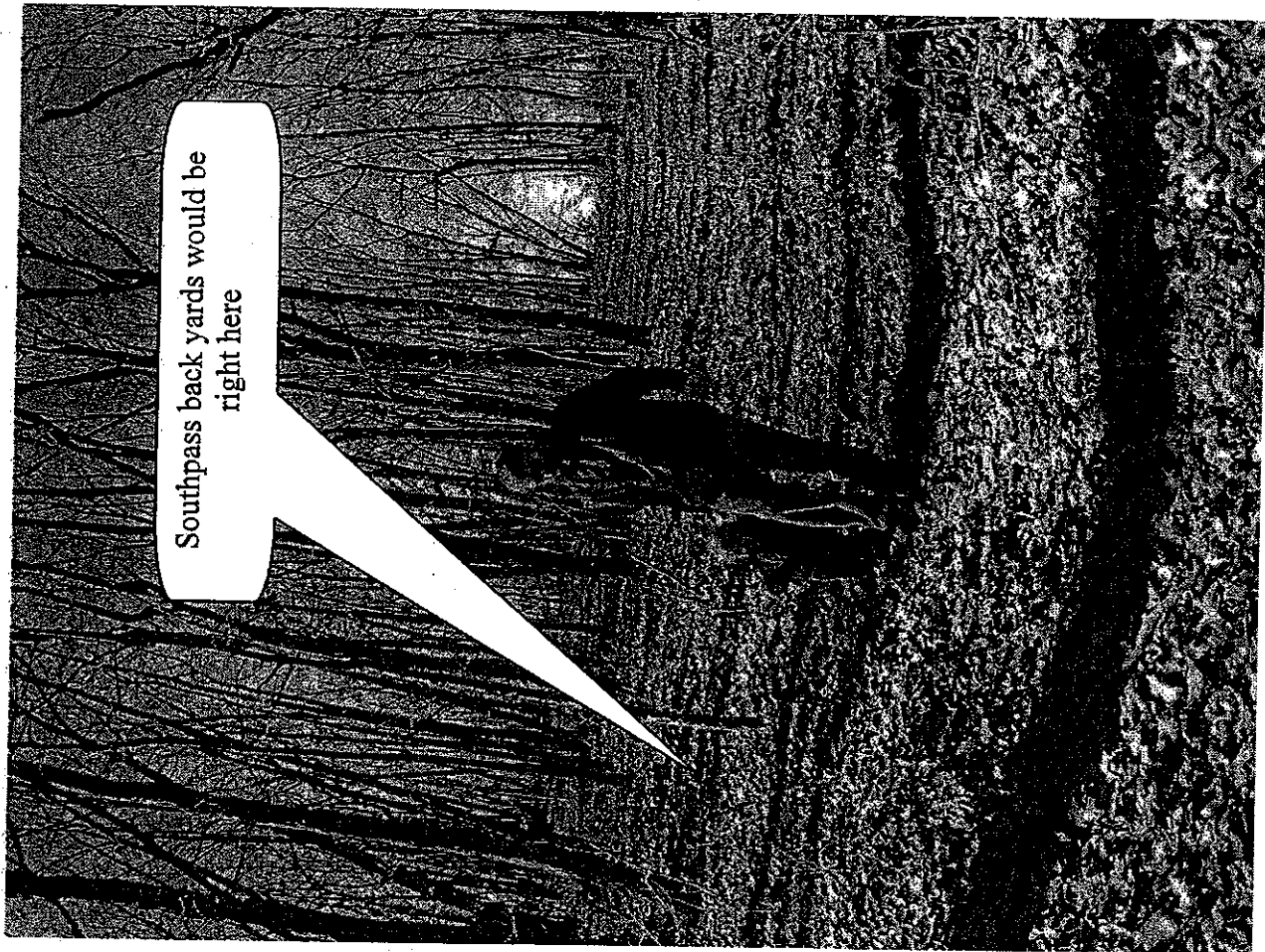
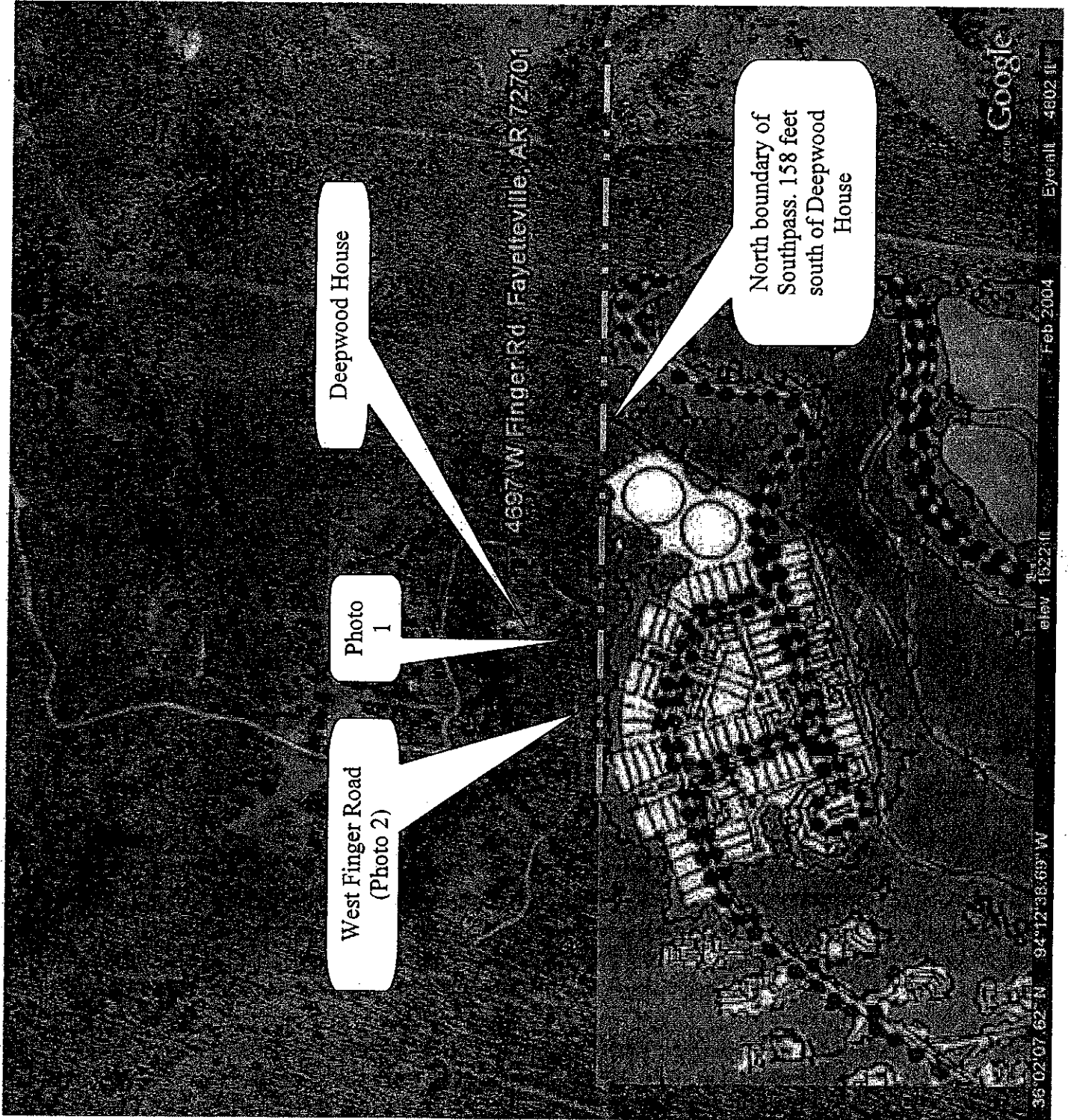


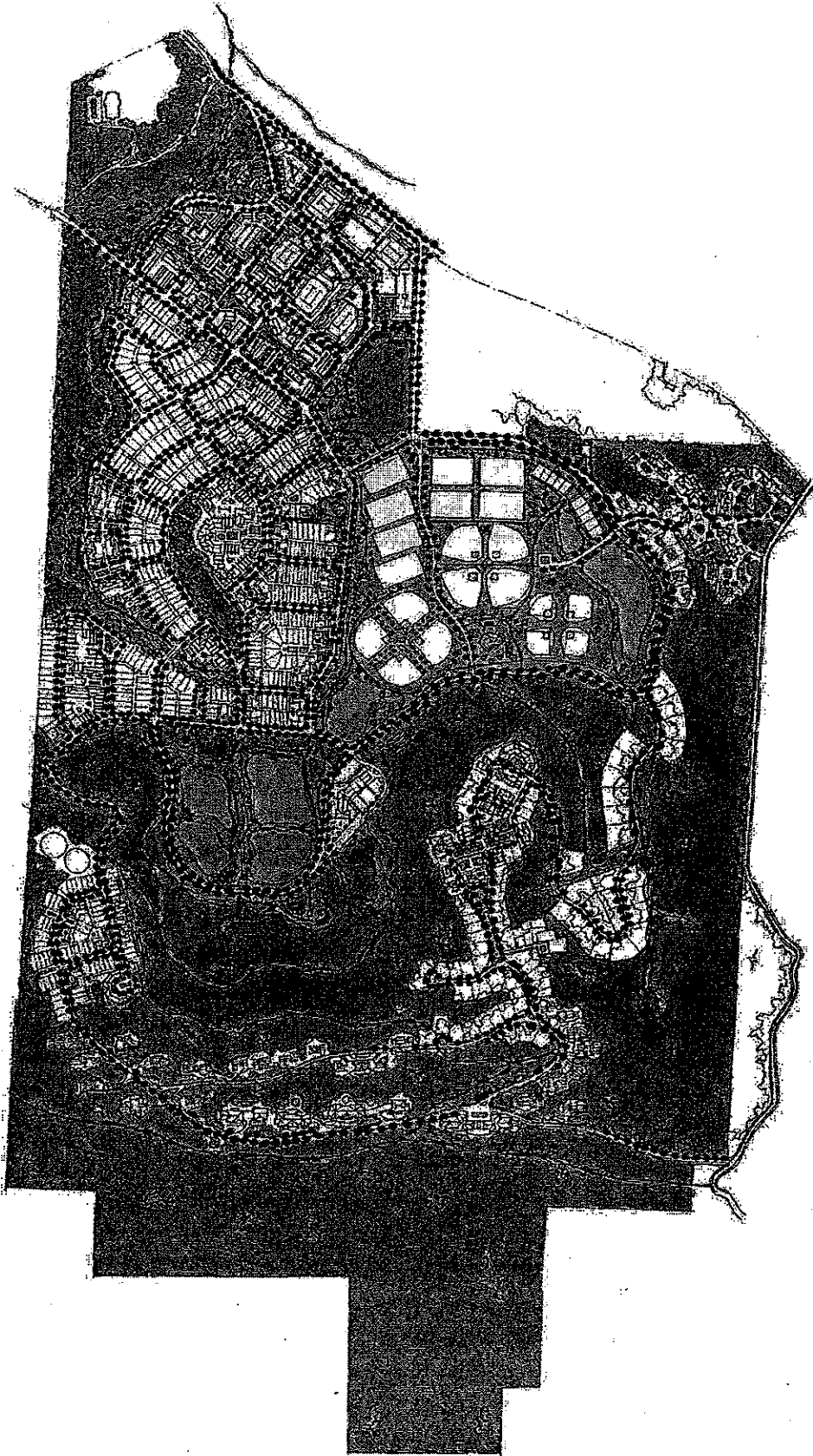
Photo 12 West Finger Road

Overlay showing
Southpass and
Deepwood



Deepwood in the spring





Deepwood is
located here

Southpass Conceptual Site Plan

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

Dear Mr. Garner:

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

Problems for Finger Road neighborhood:

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

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

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

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

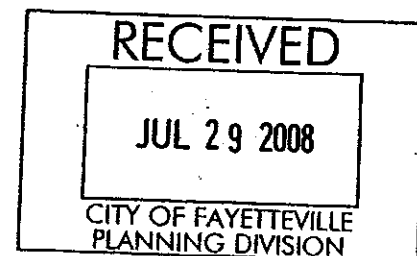
Drawbacks for Fayetteville:

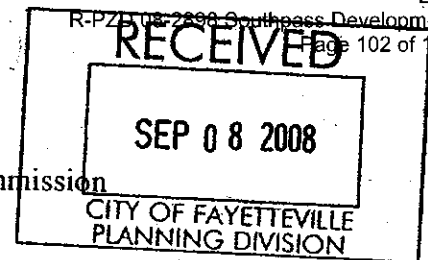
1. destruction of potential greenbelt and wildlife corridor
2. sprawl - violates city's stated intent to avoid sprawl
3. less money and effort available for smaller parks favored by majority
4. there is no established need for this housing
5. tax money will be channeled into infrastructure for this

Thanks for your attention to my comments.

Barbara Moorman
3450/3444 Finger Road
Fayetteville

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

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

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

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

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

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

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

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

(Moorman 1 of 2)

(over)

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

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

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

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

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

Barbara Moorman
3450 Finger Road
Fayetteville 72701



Supplementary Materials
R-PZD 08-2898 (SouthPass)

Contents:

Engineering Memo re: Traffic Study, Sept 04 2008

SouthPass Traffic Generation by Phase/Year

Traffic Study Addendum Dated 22 August 2008

Traffic Study Dated 16 July 2008

Resolution No. 138-04, Contract

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

City Council minutes: August 17 & Sept 07, 2004

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.

Fayetteville, AR 72701

Telephone: 479-575-8206

ENGINEERING DIVISION CORRESPONDENCE

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

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

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

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

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

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

SOUTHPASS TRAFFIC GENERATION BY PHASE

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

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



PETERS & ASSOCIATES
ENGINEERS, INC.

August 22, 2008

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

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

Dear Mr. Jacobs:

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

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

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

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

Mr. Todd Jacobs
August 22, 2008
Page 2

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

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

Findings and recommendations of this Addendum are summarized as follows:

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

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

Sincerely,
PETERS & ASSOCIATES ENGINEERS, INC.



Ernest J. Peters, P.E.
President

SouthPass Densities Phase 1 - 7

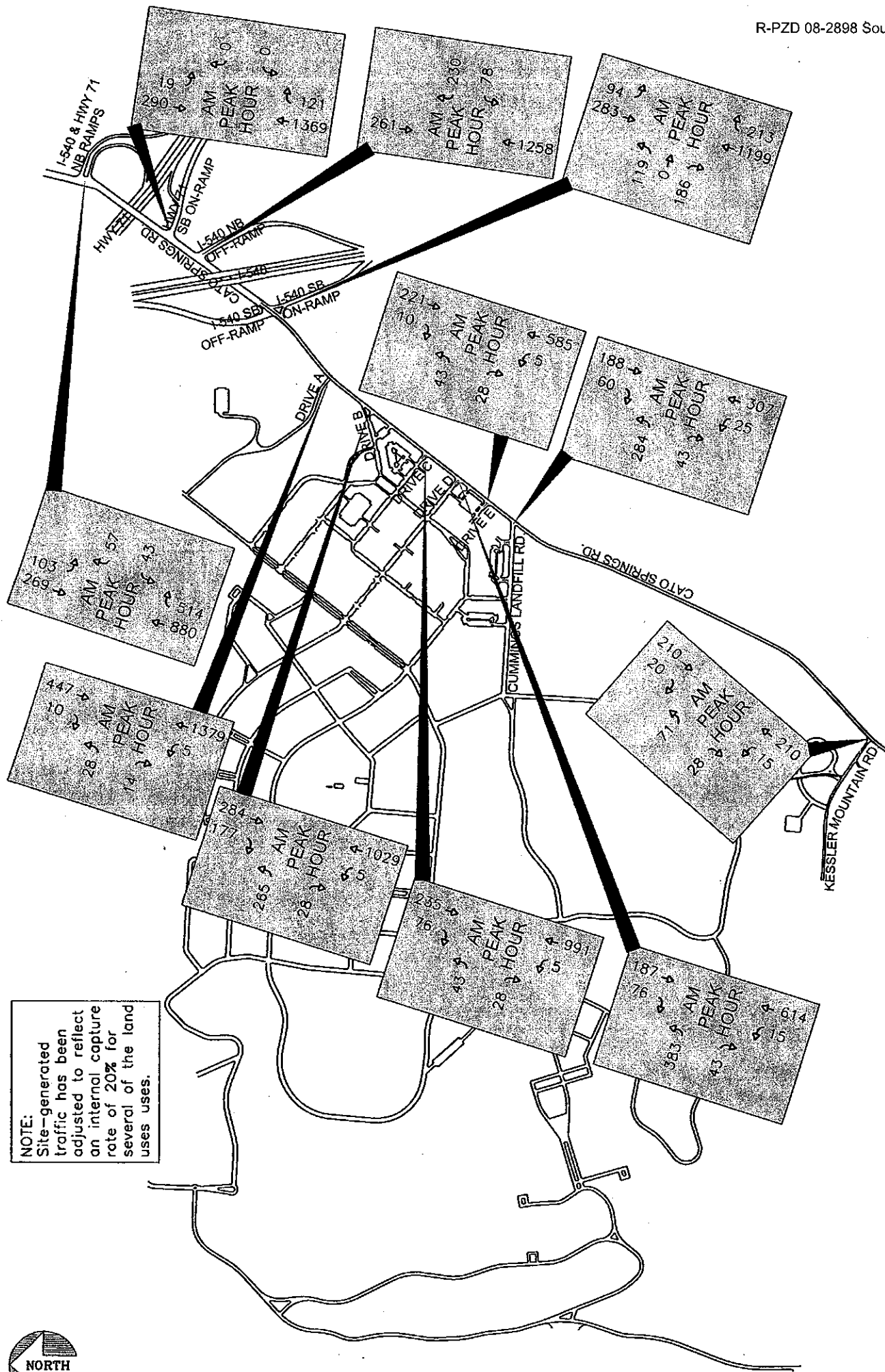
	Phase 1	Phase 2	Phase 3	Totals	Phase 1 - 7 Denalties
Total Acresage	355.06 acres	19.3 acres	15.8 acres	570.2 acres	129.3 acres
Residential Single Family (Lots)	42	24	81	147	364 Lots
Residential Multi-family (Units)	25	24	0	49	147 Units
Density (units/acre)	9.4	20.1	5.1	11.7	11.7 units/acre
General Office sq.ft.	13,600 sq.ft.	12,300 sq.ft.	N/A	25,900 sq.ft.	35,900 sq.ft.
General Retail sq.ft.	12,400 sq.ft.	17,000 sq.ft.	N/A	29,400 sq.ft.	45,100 sq.ft.
TOTAL Units/Lots	67	48	81	196	1511 units/lots
TOTAL General Office/Retail sq.ft.	26,000 sq.ft.	29,300 sq.ft.	N/A	55,300 sq.ft.	82,000 sq.ft.

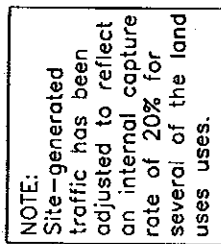
SouthPass Densities Phases 8 - 14

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



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





FAYETTEVILLE, ARKANSAS

**PETERS & ASSOCIATES
ENGINEERS, INC.**



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

Traffic Study

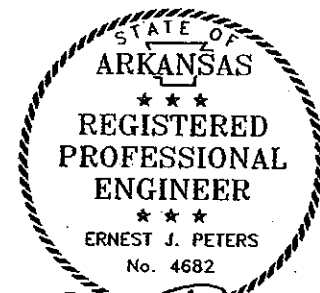
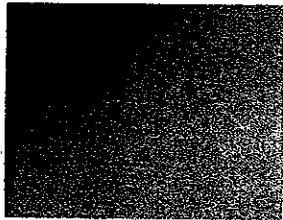
South Pass Development

prepared for:

Appian Centre for Design

Cato Springs Road

Fayetteville, Arkansas



*for
PC*

7-28-08

[Signature]

Project No.: P-1250



**PETERS & ASSOCIATES
ENGINEERS, INC.**

• CIVIL & TRAFFIC ENGINEERING •

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

FILE

Copies

July 16, 2008

Traffic Study

EXECUTIVE SUMMARY

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

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

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

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

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

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

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

Traffic Study

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

Recommendations of this study are summarized as follows:

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

Traffic Study

INTRODUCTION

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

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

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

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

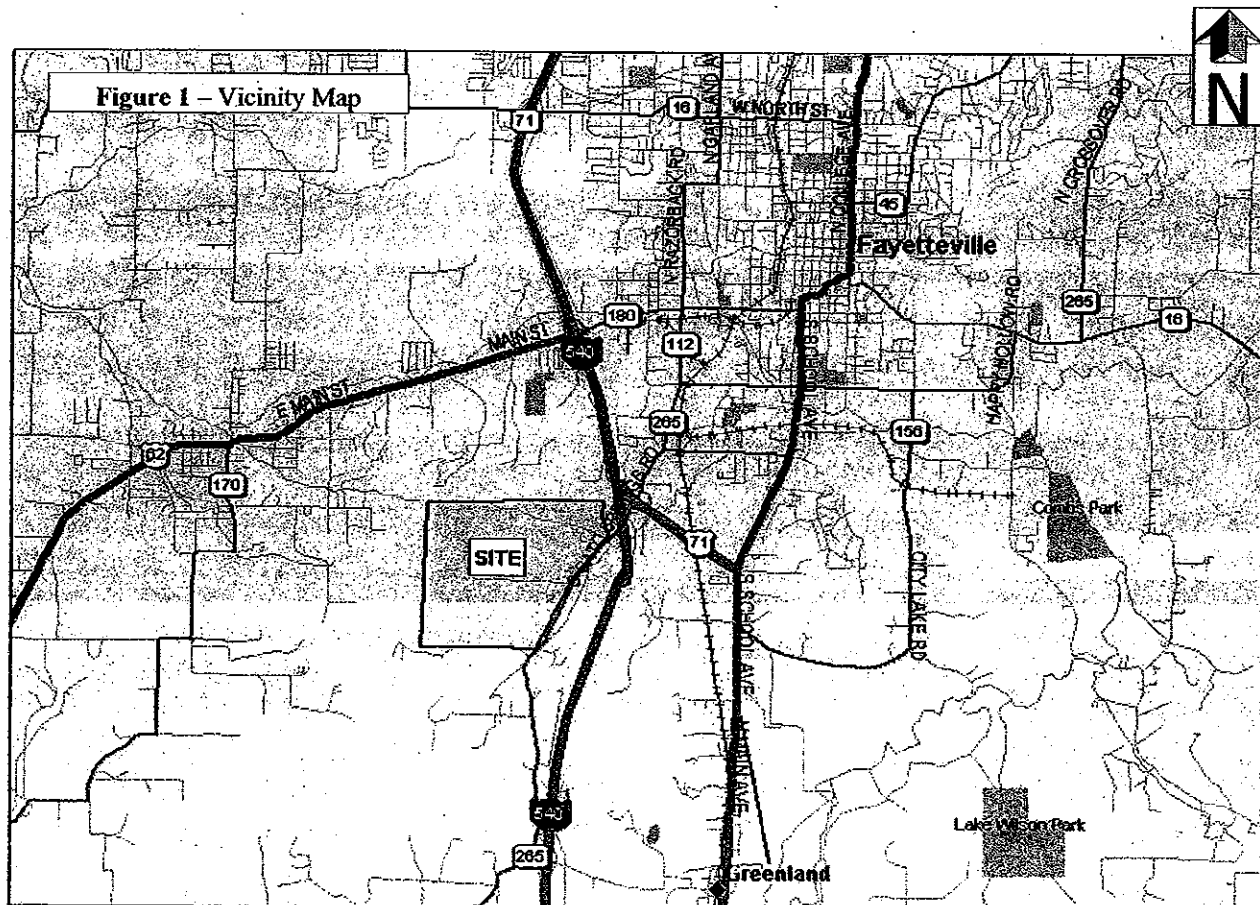
In the following sections of this report there are presented traffic data, study methods, findings and recommendations of this traffic engineering investigation. The traffic engineering study is technical in nature. Analysis techniques employed are those most commonly used in the

Traffic Study

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

THE SITE

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



Traffic Study

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

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

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

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

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

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

Traffic Study

STREET SYSTEM

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

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

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

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



Traffic Study

EXISTING TRAFFIC CONDITIONS

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

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

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

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

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

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

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

Traffic Study

TRIP GENERATION and SITE TRAFFIC PROJECTIONS

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

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

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

*These volumes adjusted to reflect 20% internal capture

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

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



PETERS & ASSOCIATES
ENGINEERS, INC.

Traffic Study

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

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

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

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

Traffic Study

CAPACITY ANALYSIS

Existing Traffic Conditions

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

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

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

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

Table 6 - Level of Service Summary - Existing Traffic Conditions

Traffic Study

Projected Traffic Conditions

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

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

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

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

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



Traffic Study

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

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

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

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

Traffic Study

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

Table 7 - Level of Service Summary - Projected Traffic Conditions

Traffic Study

TRAFFIC SIGNAL WARRANTS ANALYSIS

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

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

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

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

Signal Warrants Results

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

Traffic Study

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

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

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

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

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

Traffic Study

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

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



Traffic Study

FINDINGS AND RECOMMENDATIONS

Findings of this study are summarized as follows:

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



Traffic Study

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

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

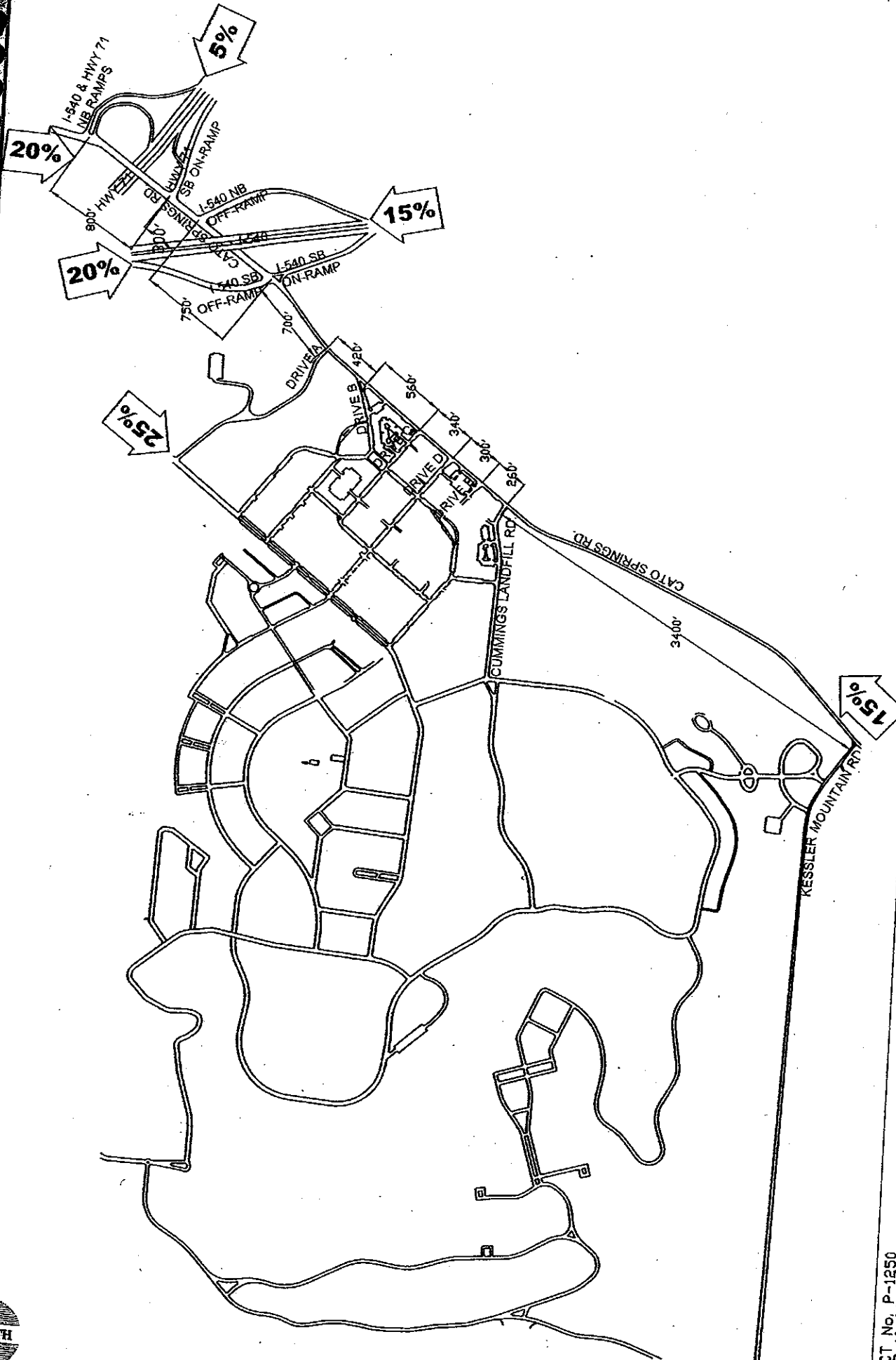
- All other vehicle movements are projected to operate at what calculates as an acceptable LOS "D" or better for the worst-case AM and PM peak hours. Additionally, during the worst-case AM and PM peak hours, overall intersection LOS is projected to operate at LOS "C" or better for each of the signalized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

Traffic Study

Recommendations of this study are summarized as follows:

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



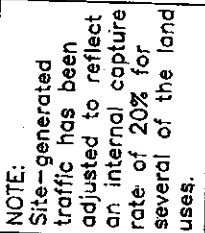


DIRECTIONAL DISTRIBUTION
SITE TRAFFIC

SOUTHPASS DEVELOPMENT
TRAFFIC STUDY
FAYETTEVILLE, ARKANSAS

PROJECT No. P-1250
DATE 7-10-2008
PETERS & ASSOCIATES
ENGINEERS, INC.
CIVIL & TRAFFIC ENGINEERING

FIGURE 14



SITE-GENERATED TRAFFIC PLUS
EXISTING TRAFFIC VOLUMES
PM PEAK HOUR

SOUTHPASS DEVELOPMENT
TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

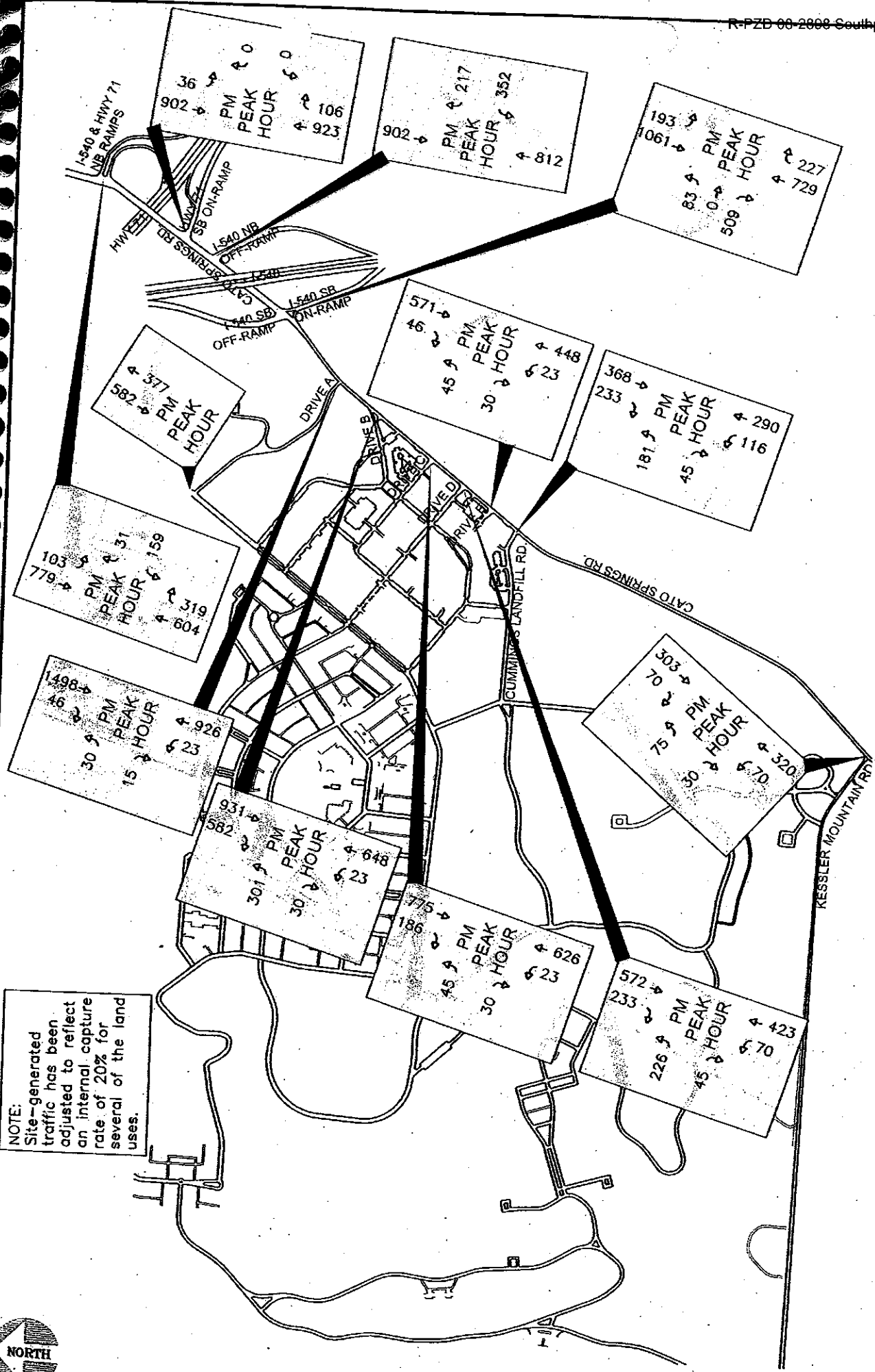
PROJECT No. P-1250
DATE 7-10-2008

PETERS & ASSOCIATES
ENGINEERS, INC.

CIVIL & TRAFFIC ENGINEERING



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

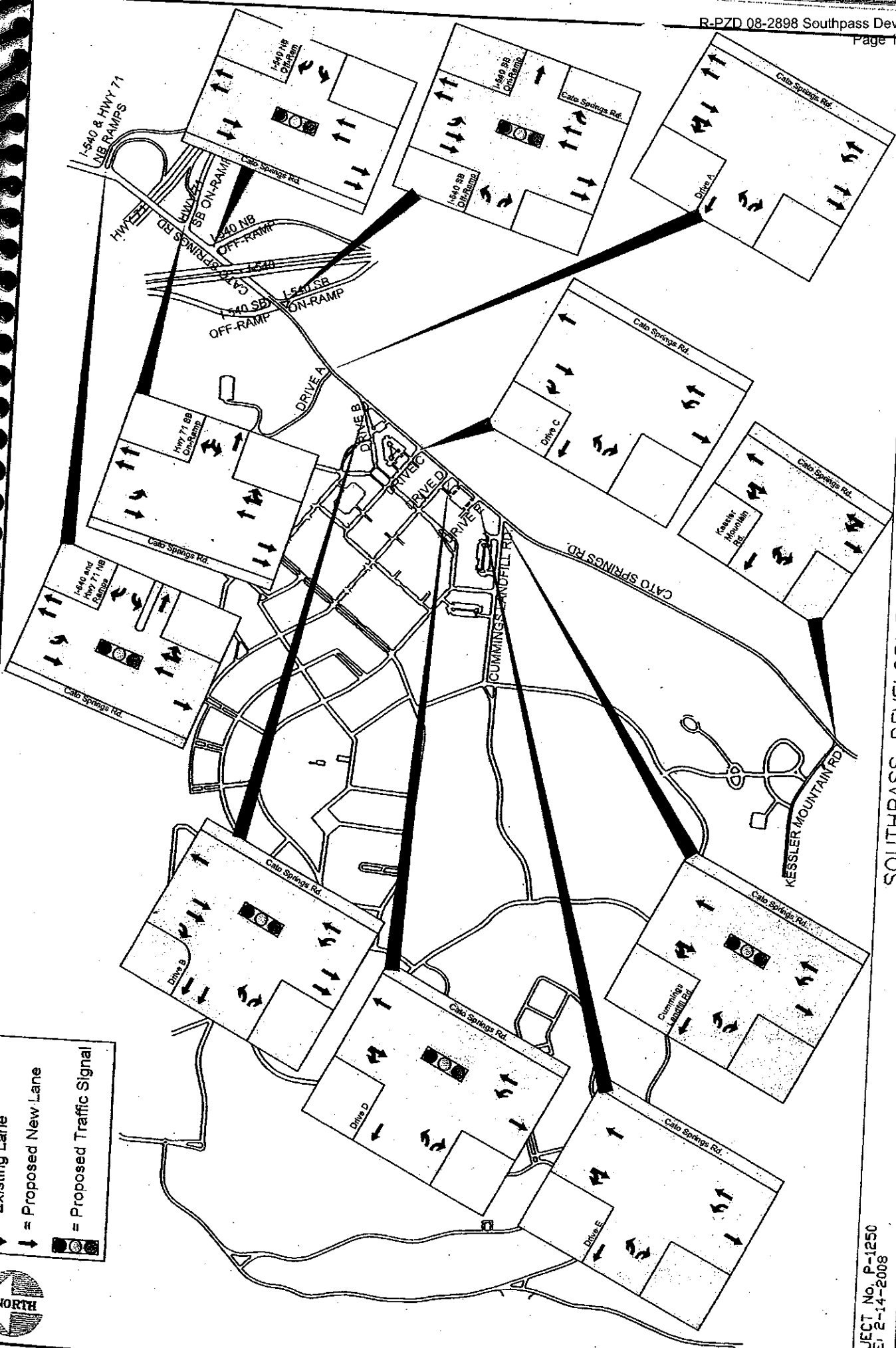
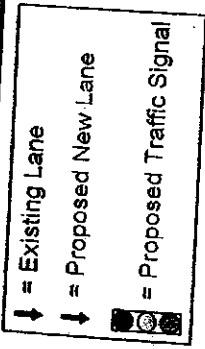


REVISED 2-15-08 RECOMMENDED
SCHEMATIC LANE GEOMETRY
AND TRAFFIC CONTROL

SOUTHPASS DEVELOPMENT
TRAFFIC STUDY
FAYETTEVILLE, ARKANSAS

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

PETERS & ASSOCIATES
ENGINEERS, INC.
CIVIL & TRAFFIC ENGINEERING



Resolution No. 138-04
Approved Resolution
Signed Contract

RESOLUTION NO. 138-04

SCANNED

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

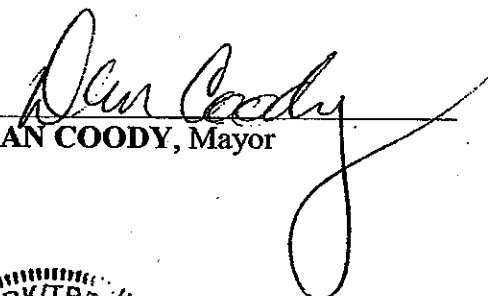
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby accepts and approves the Contract with SouthPass Development Company (attached as Exhibit "A") to accept 200 acres of park land, a 10 acre water tank site, one million dollars for park land development and other consideration for the City's acceptance of a 33 acre landfill and its agreement to spend the money currently identified in its Parks Capital Improvement Plan for the community park development.

PASSED and APPROVED this 7th day of September, 2004.

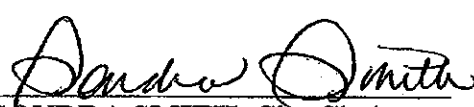
APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk



AGREEMENT TO ACQUIRE AND DEVELOP THE COMMUNITY PARK FOR FAYETTEVILLE

This contract and agreement is entered into by the City of Fayetteville and SouthPass Development Company, LLC (hereinafter "SouthPass");

Whereas, the City of Fayetteville desires to obtain a 200 acre Community Park for its citizens and tourists; and

Whereas, the Parks and Recreation Advisory Board has carefully studied available sites and determined that the Cummings' property is the most desirable site for the Community Park; and

Whereas, The City of Fayetteville does not have the current resources to both purchase the necessary acreage and develop such acreage into a functioning, attractive Community Park and so publicly requested proposals from developers for a public/private partnership to facilitate the acquisition and development of the Community Park; and

Whereas, SouthPass Development Company, LLC submitted a workable, attractive proposal which was selected by the City's selection committee as the recommended proposal.

NOW, THEREFORE, pursuant to the terms and conditions of the City's Request for Proposals and SouthPass Development Company, LLC's recommended Proposal, the City and SouthPass agree as follows:

1. Upon approval of this contract by the Fayetteville City Council and SouthPass Development Company, LLC and the accomplishment of all contingencies listed below, SouthPass shall tender to the trustee/owners of the Eight Hundred Acre (more or less) Cummings property an unconditional offer to purchase all said property for the sum of Six Million Nine Hundred Thousand Dollars (\$6,900,000.00). The obligation of SouthPass Development Company, LLC shall not become binding or enforceable until all the below contingencies have been fully accomplished:

(A) A Master Plan for the development of the approximately 800 acre site has been prepared and approved by SouthPass Development Company LLC and the City of Fayetteville;

(B) The City Council has annexed or committed itself to annex the entire 800 acre site;

(C) The zoning of the portion of the 800 acre site to be owned by SouthPass has been accomplished or the City Council has committed itself to rezone that portion in conformance with the approved Master Plan;

(D) The Greenland School District and Fayetteville School District have agreed that this entire site shall be within the Fayetteville School District;

(E) The Arkansas Department of Environmental Quality has agreed with the present owners of the Cummings landfill and assured the City of Fayetteville that the costs of the necessary corrective actions for the landfill shall **not** be borne by, recovered from, assessed to, or collected from the City of Fayetteville or SouthPass Development Company, LLC.

2. If this Offer is accepted by the Trustee and the Court, and all others necessary to accept the offer and legally deed the entire tract of 800 acres, more or less, SouthPass Development company, LLC shall pay the agreed price to the trustee/owners and the land shall be conveyed by warranty deed free from all encumbrances to the following parties:

(A) SouthPass Development Company, LLC shall be deeded the entire Eight Hundred (800) acre tract, more or less, except the 33 acre landfill;

(B) The City of Fayetteville shall be deeded (free and clear of any obligation to pay, repay, or otherwise fund the necessary corrective actions for the landfill: partial or full recapping of the landfill and restoration of the stream corridor) the Thirty-Three (33) acre abandoned and closed landfill located within the 800 acre property;

(C) South Pass Development Company LLC shall convey by warranty deed to the City of Fayetteville a Two Hundred (200) acre parcel for the Community Park which location shall be determined by the City;

(D) SouthPass Development Company LLC shall convey by warranty deed the Ten (10) acre City of Fayetteville water tank site to the City of Fayetteville.

3. To facilitate the preparation of the Master Plan, the City shall immediately pay for the perimeter survey of the property and the 200 acre Community Park site.

4. SouthPass shall fund up to \$10,000.00 and retain a mutually acceptable community master planning consultant for recommendations for a Master Plan for this entire 800 acre area (including the 200 acre Community Park area).

5. The City of Fayetteville shall assist in facilitating the planning, zoning and other development approval processes which are in accordance with the mutually acceptable master plan.

6. The City of Fayetteville shall recommend to the Fayetteville School Board and Greenland School Board that this property should be within the Fayetteville School District.

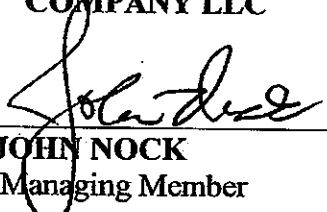
7. The City of Fayetteville and SouthPass shall cost share (50/50) all costs of extending sewer to the Community Park site and neither shall charge for the acquisition of necessary water or sewer easements across their property to serve their land within this 800 acre area.

8. If all the contingencies listed in paragraph 1 have been accomplished and all the actions listed in paragraph 2 have been achieved, SouthPass Development Company LLC shall contribute One Million Dollars (\$1,000,000.00) when the City is ready to award the first construction contract utilizing the 2004 and 2005 budgeted CIP allocation as shown in Exhibits A and B*.

Signed this 31 day of August, 2004.

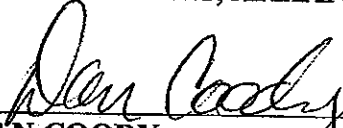
Signed this 7th day of September, 2004.

**SOUTHPASS DEVELOPMENT
COMPANY LLC**

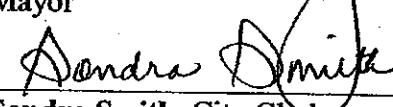
By: 

JOHN NOCK
Managing Member

**CITY OF
FAYETTEVILLE, ARKANSAS**

By: 

DAN COODY
Mayor

Attest: 

Sondra Smith, City Clerk

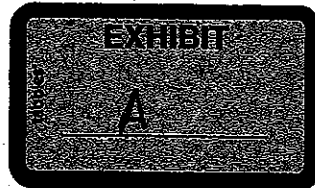


*Attached as Exhibit A are copies of the current Capital Improvement Program adopted last December by the City Council showing 2004-2008 Parks Development Fund allocations for Community Park Development (total about \$2.4 million) and Sales Tax CIP funds allocated to Community Park Development (total about \$1.2 million).

Attached as Exhibit B is the amount of funds that have been allocated by the City Council that will be available on January 1, 2005 for development of the Community Park (about \$1.6 million).

City of Fayetteville, Arkansas
2004 - 2008 Capital Improvements Program
Recommended Ranking by Project Category by Year

Year	Division	Project	Amount	Priority
<u>Parks Development Fund: Parks & Recreation Improvements</u>				
2004	Parks & Recreation	Community Park Development	466,000	1
			466,000	
2005 *	Parks & Recreation	Community Park Development	473,000	1
			473,000	
2006 *	Parks & Recreation	Community Park Development	457,000	1
			457,000	
2007 *	Parks & Recreation	Community Park Development	489,000	1
			489,000	
2008 *	Parks & Recreation	Community Park Development	506,000	1
			506,000	



* Denotes Continuing Project From Previous Year

CITY OF FAYETTEVILLE, ARKANSAS

2004 - 2008 CAPITAL IMPROVEMENTS PROGRAM

PROJECT DETAIL

PROJECT TITLE:	Community Park Development
REQUESTING DIVISION:	Parks & Recreation
FUNDING SOURCE:	Sales Tax Capital Improvements Fund
PROJECT CATEGORY:	Parks & Recreation Improvements
INITIAL YEAR PRIORITY:	2

PROJECT TYPE: REPLACEMENT _____ EXPANSION Y

PROJECT COST	
2004	\$ 165,000
2005	338,000
2006	319,000
2007	186,000
2008	188,000
TOTAL PROJECT COST	\$ 1,196,000

PROJECT DESCRIPTION & JUSTIFICATION:

The Parks and Recreation Master Plan recommends development of a Community Park. Facilities would include baseball, soccer, and softball complexes, as well as trails, tennis courts, sand volleyball courts, a pavilion, picnic tables/grills/benches, disc golf, and multi-purpose fields, to name a few possibilities. Facilities would be developed on a priority basis depending upon public desires. With the Lewis Soccer Complex to be returned to the U of A, there is an urgent need to relocate this facility as well as the Walker Park Baseball Complex due to its poor condition and a need for future growth. This project is included in both Parks Development and Sales Tax Capital Improvements Funds. In addition, there is \$20,000,000 in Sales Tax funding in the unfunded projects list.

PROJECT STATUS (IF IN PROGRESS):

\$206,173 is included in 2003 CIP funds. Staff evaluated 18 sites and six (6) of these have been appraised. A recommendation for a Community Park site will be presented to City Council after the sites have been fully evaluated, including wetlands/flood plains and land special analysis.

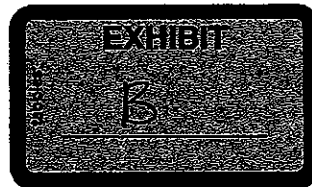
EFFECT OF THE PROJECT ON ANNUAL OPERATIONS

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



City of Fayetteville, Arkansas
Community Park Development Capital Project
- Funding 2004/2005

	<u>Budgeted 2004</u>	<u>Expenses 2004</u>	<u>Remaining 2004</u>	<u>Budgeted 2005</u>	<u>Total Available</u>
<u>Parks Development Fund:</u>					
2250.9255.5200.00	\$ 256	\$ 255	\$ 1	\$	1
2250.9255.5301.00	45	45	-		-
2250.9255.5314.00	51,300	51,300	(0)		(0)
2250.9255.5806.00	531,049	2,000	529,049	473,000	1,002,049
	<u>582,650</u>	<u>53,600</u>	<u>529,050</u>	<u>473,000</u>	<u>1,002,050</u>
<u>Sales Tax Capital Improvements</u>					
4470.9470.5314.00	8,150	-	8,150		8,150
4470.9470.5806.00	275,000	-	275,000	338,000	613,000
	<u>283,150</u>	<u>-</u>	<u>283,150</u>	<u>338,000</u>	<u>621,150</u>
	<u>\$ 865,800</u>	<u>\$ 53,600</u>	<u>\$ 812,200</u>	<u>\$ 811,000</u>	<u>\$ 1,623,200</u>



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

Agenda Item Number

138

Southpass
Development Co.,
Parkland

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
From: Gary Dumas, Director of Operations
Date: August 19, 2004
Subject: **APPROVAL OF RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH SOUTHPASS DEVELOPMENT COMPANY TO ACCEPT 200 ACRES OF PARK LAND, A 10 ACRE WATER TANK SITE, ONE MILLION DOLLARS AND OTHER CONSIDERATION FOR THE CITY'S ACCEPTANCE OF OWNERSHIP OF A 33 ACRE LANDFILL**

RECOMMENDATION

Approval of resolution authorizing the mayor to execute an agreement with SouthPass Development Company to accept 200 acres of park land, a 10 acre water tank site, one million dollars and other consideration for the city's acceptance of ownership of a 33 acre landfill.

BACKGROUND

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

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

The City partially funded with the Arkansas Department of Environmental Quality an initial study to determine any impacts that the landfill would have on the use of the landfill site and surrounding land. That study found that the landfill did not pose a significant environmental concern. Two corrective actions were proposed however: these were; the recapping of all or part of the landfill and the restoration of the stream corridor. The Arkansas Department of Environmental Quality concurred with the study and agreed to fund the corrective actions necessary, at no cost to the City, by utilizing the State Landfill Post Closure Trust Fund. This State cost will range of \$1.5 million to \$3.3 million depending upon options and techniques developed by the State.

There has been significant public debate concerning the need for a community park beginning prior to September 9, 2002 when this issue was discussed before the Parks and Recreation Advisory Board meeting. The public discussion continued through January and February 2004 when the Parks and Recreation Advisory Board discussed options on funding the purchase and development. These options ranged from the use of sales tax to property tax to selling off a part of the property to pay for the land needed for the Community Park through a public-private partnership. Through the late winter and spring the concept of the public-private partnership evolved until May 23rd when a

Agenda Item Number

request for proposals was issued seeking a private partner. The general focus of the request is as follows:

Request for Proposals

RFP 04-13

For Public – Private Partnership to facilitate the Acquisition and Development of a Community Park

The City of Fayetteville is interested in partnering with a private developer or developers to facilitate the acquisition and development of a community park in southwest Fayetteville.

The City of Fayetteville has purchase options to approximately 800 acres (formerly known as the Cummingss Farm) in southwest Fayetteville. This property is for the most part outside of the City Limits of Fayetteville and within the jurisdiction of Washington County. The majority of the land lies within the Greenland School District. A properly closed landfill is located on the site.

Currently water supply is available at an adjacent storage facility and sewer service is available near Cato Springs and I-540. Other utilities, if available, are only available along the southern perimeter. The exact boundary of the community park will be determined through negotiation and in conjunction with a mutually agreed upon development designer. The City of Fayetteville has publicly expressed a desire for a park to serve the community in this area. The City of Fayetteville Parks and Recreation Advisory Board have determined this location as the preferred location to serve this community need.

Each proposer is expected to avail themselves to any and all public information concerning the City's desire for a community park.

Each proposal must include

- method of transferring property from owner/City/proposer,
- methods in which the proposer prefers to address landfill issues
- address how the proposer wishes to address the ability to provide appropriate sewage disposal facilities to the site described above
- amount of acreage to be provided to the City for a Community Park

Agenda Item Number

- address how the proposer prefers to provide appropriate transportation access to the site described above
- any additional payment to the City
- any other items to be required of the City,
- any additional issues that the proposer wishes to include within the proposal

On June 9, 2004 two responses were opened. One was determined non-responsive by the Purchasing Agent and City Attorney. The second was evaluated and selected for negotiation. For the Council's information the non-responsive proposal was evaluated and compared to the responsive proposal. That comparison is attached.

Since June 10th the staff has been in negotiation with SouthPass Development Company, L.L.C. in order to develop a contract which could be considered by the City Council. That contract is now ready for City Council consideration.

DISCUSSION

The following are the action steps contained within the contract which will result in the City obtaining 243 acres for a Community Park and an existing water tank storage site at no cost, \$1,000,000 in cash, impact fees, and an approximate 560 acre development and resulting sales and property taxes.

The Company's participation in this project is contingent upon the City obtaining all necessary permits, approvals, or other assurances demonstrating that the abandoned C & L Landfill area is not an environmental hazard.

The following sets forth the obligations of the Company and the City:

The Company will:

- a. Agree to purchase the entire approximate 800 acre property at a price not to exceed \$8,500 per acre (approximately \$6,900,000) and
- b. contemporaneously with said acquisition in a manner acceptable to current property owner, the City and the Company, will deed to the City, without monetary consideration and free and clear of all liens or encumbrances, approximately 233 acres that the City shall use in connection with the development of a community park inclusive of baseball and soccer fields, related amenities and other park uses and
- c. contribute \$1,000,000 in cash to the City in furtherance of the development of this community park contemporaneously with the City's contractual expenditure of funds within the Parks Development Fund and Parks Capital Improvement Program committed to Community Park Development initiating construction of the community park, and
- d. retain and fund to a maximum of \$10,000, a mutually acceptable community master planning consultant that will identify and outline the usable land amounts and the highest and best uses of the property in harmony with a 233 acre community park.

The City will subject to City Council approval:

Agenda Item Number

- a. assist in facilitating the planning, zoning and other approval processes in accordance with a mutually acceptable master plan and
- b. annex the property into the City's boundaries and
- c. assist to the fullest extent possible with the Greenland School District and the Fayetteville School District to extend the Fayetteville School District boundary to encompass the property and
- d. work with ADEQ to resolve all landfill issues using the State's landfill closure trust fund at no additional cost to the City or the Company and
- e. cost share all costs of extending sewer to the park in accordance with normal City of Fayetteville off-site cost share policies and practices and
- f. provide all other City utilities and services to the park in accordance with the City's normal off-site utility extension policies.

BUDGET IMPACT

The City of Fayetteville financial obligation is to participate in all normal off-site improvements required to service the community park and private development. The participation in the off-site improvement for sewer extension is specifically listed as this service is necessary to serve the community park. This cost share for sewer is 50% for both SouthPass and the City.

Additional financial requirements are:

1. funding the perimeter survey of the property and the survey of the area to become the community park; estimated cost \$50,000.
2. committing to fund the first phase of the park development in order to receive the \$1,000,000 donation toward park improvements.
3. long term operation and maintenance of the community park; the current operation and maintenance budget for Lewis Soccer Complex will be transferred to the Community Park as the Lewis Complex reverts back to University use.

City of Fayetteville, Arkansas
Community Park Development Capital Project
- Funding 2004/2005

	<u>Budgeted 2004</u>	<u>Expenses 2004</u>	<u>Remaining 2004</u>	<u>Budgeted 2005</u>	<u>Total Available</u>
Parks Development Fund:					
2250.9255.5200.00	\$ 256	\$ 255	\$ 1	\$	1
2250.9255.5301.00	45	45	-		-
2250.9255.5314.00	51,300	51,300	(0)		(0)
2250.9255.5806.00	531,049	2,000	529,049	473,000	1,002,049
	<u>582,650</u>	<u>53,600</u>	<u>529,050</u>	<u>473,000</u>	<u>1,002,050</u>
Sales Tax Capital Improvements					
4470.9470.5314.00	8,150	-	8,150		8,150
4470.9470.5806.00	275,000	-	275,000	338,000	613,000
	<u>283,150</u>	<u>-</u>	<u>283,150</u>	<u>338,000</u>	<u>621,150</u>
	<u>\$ 865,800</u>	<u>\$ 53,600</u>	<u>\$ 812,200</u>	<u>\$ 811,000</u>	<u>\$ 1,623,200</u>

Proposed Community Park
RFP 04-13
Comparisons of Developers

"SouthPass" Project

- Developer Purchases 800 Acres, and donates 233 acres to the City of Fayetteville
- Developer invests \$10,000 towards a Master Plan for the 800 acres
- Developers Contribute \$1,000,000 to the City of Fayetteville towards the Development of the Community Park
- The City of Fayetteville must annex the property into the City limits and the Fayetteville School District, zone the property to the specific needs as indicated by the Master Plan
- The City of Fayetteville must resolve the Landfill and Environmental Issues
- The City of Fayetteville and the Developers will cost-share the costs of providing sewer lines to the property.
- The City of Fayetteville must invest in the costs of Engineering, Installation of Infrastructure and utilities, project marketing, and building other necessary improvements.

Tower Enterprise, LTD

- The City of Fayetteville purchases the 800 acres
- The City of Fayetteville retains the old land-fill, which is 33 acres
- The City of Fayetteville would retain 300 acres for a community park, the acres of the city's choice
- Developers provides \$3,500,000 to the City of Fayetteville towards the development
- The City of Fayetteville sells 50-acre parcels at a time to the Developer
- The Development would be all residential houses, no commercial property
- The 50-acre parcels lots bought by the Developer would be pre-sold, and ready for title-transfer once final plat is approved
- The City of Fayetteville receives a proportionate share of the closing costs to each lot sold
- Only 50-acres of land are developed at a time, when land is pre-sold; once all 50 acres is developed, the developer would purchase another 50-acres of land from the City of Fayetteville. If more than 50 acres of the land were pre-sold by the developer, than more than 50-acres could be developed at a time
- Developers responsible for all street improvements within area to be developed
- City of Fayetteville invests in sewer lines to the land site
- City of Fayetteville responsible for streets and roadways to the proposed property
- City of Fayetteville would provide all utilities to site, but waive impact fees on each lot; all supplies to be purchased through the City of Fayetteville with no sales tax
- The City of Fayetteville gains 1,500 owner occupied affordable housing units

Proposed Community Park RFP 04-13[illegible]

RFP 04-13: Comparison

Cost to City	SouthPass Project	Tower Enterprises, LTD
Purchase	\$0	(\$6,900,000)
Land Donation	233 acres	300 acres
Cash for Park Development	\$1,000,000	\$0
Cash from Lot Sales over Several Years	\$0	\$3,500,000
Development Plan	\$10,000	\$0
Utilities	(\$100,000)	(\$100,000) + unknown
Impact Fees	\$1,700,000	\$0
Benefits (Costs) to City	233 acres \$2,610,000	300 acres (\$3,500,000) plus unknown utilities and loss of Sales Tax)

"SOUTHPASS" PROJECT

COMMUNITY PARK & MASTER PLANNED NEIGHBORHOOD



RESPONSE TO REQUEST FOR PROPOSAL RFP-04-13
FOR PUBLIC-PRIVATE PARTNERSHIP TO FACILITATE
THE ACQUISITION AND DEVELOPMENT OF A
COMMUNITY PARK

JUNE 9, 2004

SOUTHPASS DEVELOPMENT, LLC

JOHN NOCK - MANAGING MEMBER



"SOUTHPASS" PROJECT

COMMUNITY PARK & MASTER PLANNED NEIGHBORHOOD

RESPONSE TO REQUEST FOR PROPOSAL

SOUTHPASS DEVELOPMENT COMPANY, LLC (THE "DEVELOPER") COMPRISED OF A TEAM OF LOCAL DEVELOPERS AND PROFESSIONALS PROPOSES TO ENTER INTO A PRIVATE/PUBLIC VENTURE WITH THE CITY OF FAYETTEVILLE TO DESIGN A MASTER PLAN, ACQUIRE NECESSARY ACREAGE, PRESERVE APPROPRIATE NATURAL TERRAIN, PROVIDE CERTAIN FUNDS FOR A COMMUNITY PARK ALL ON APPROXIMATELY 800 ACRES HELD UNDER OPTION BY THE CITY OF FAYETTEVILLE (ON LAND FORMERLY KNOWN AS THE CUMMINGS FARM) IN SOUTHWEST FAYETTEVILLE. THIS RESPONSE TO RFP 04-13 SETS FORTH IN GENERAL TERMS THOSE CONDITIONS FOR THE ACQUISITION AND DEVELOPMENT OF THE PROJECT.

IT IS THE RESPONDENT'S INTENT UNDER THIS PROPOSAL TO CREATE A MASTER-PLANNED DEVELOPMENT WITH A COMMUNITY PARK AS THE CENTRAL FEATURE IN THE LAND PLANNING PROCESS. PRELIMINARY DESIGN IDEAS INCLUDE APPROXIMATELY 233 ACRES SET ASIDE FOR COMMUNITY PARK USE AND APPROXIMATELY 567 ACRES FOR MIXED USE NEIGHBORHOODS. AMENITIES OF THE DEVELOPMENT WILL INCLUDE THE COMMUNITY PARK, NATURE TRAILS, WATER FEATURES, MIXED USE LIVING WITH "LIGHT" RETAIL, AND A HARMONIOUS MIX OF THE BUILT AND NATURAL ENVIRONMENTS.

FROM THE INITIAL DEVELOPMENT STEPS, THE DEVELOPER WILL WORK IN PARTNERSHIP WITH THE CITY IN CREATING A LONG RANGE COMPREHENSIVE LAND USE MASTER PLAN. IT IS INITIALLY CONTEMPLATED THAT DESIGN WORKSHOP OZ ARCHITECTS WGM GROUP, INC. WILL BE RETAINED FOR THE LAND PLANNING AND DESIGN PROFESSIONAL SERVICES. THE COST FOR AN INITIAL LAND USE/CONCEPT MASTER PLAN WILL BE BOURNE BY THE DEVELOPER.

THE FOLLOWING SETS FORTH THE DEVELOPER'S PROPOSED TERMS:

1. DEVELOPER WOULD BE RESPONSIBLE FOR FUNDING \$10,000 TOWARD AN INITIAL CONCEPT MASTER PLAN. THIS PLAN WOULD IDENTIFY AND OUTLINE USABLE LAND AMOUNTS AND THE HIGHEST AND BEST USES OF THE PROPERTY. THE DEVELOPER WOULD WORK DIRECTLY WITH THE PROJECT ARCHITECT AND CITY STAFF TO EFFECTIVELY DEVELOP CONCEPT MASTER PLAN.
2. ASSUMING THAT AN APPROPRIATE MASTER PLAN CAN BE DEVELOPED, THE DEVELOPER WOULD PROPOSE TO ACQUIRE THE LAND AT A PRICE

Principal Contact:

John Nock
Phone: 479-530-6799
One East Center Street
Suite #301
Fayetteville, AR 72701
Fax: 479-444-9775
johnnock@yahoo.com



"SOUTHPASS" PROJECT

COMMUNITY PARK & MASTER PLANNED NEIGHBORHOOD

NOT TO EXCEED \$8,500 PER ACRE FOR ALL 800 ACRES (APPROXIMATELY \$6,900,000).

3. CONTEMPORANEOUSLY WITH SAID ACQUISITION, THE DEVELOPER WOULD DEED TO THE CITY, WITHOUT CONSIDERATION AND FREE AND CLEAR OF ALL LIENS OR ENCUMBERANCES, APPROXIMATELY 213 ACRES THAT THE CITY MAY USE IN CONNECTION WITH THE DEVELOPMENT OF A COMMUNITY PARK WITH RECREATIONAL FIELDS AND RELATED AMENITIES.
4. THE DEVELOPER WOULD PROPOSE TO CONTRIBUTE \$1,000,000 IN ADDITIONAL CASH TO THE CITY IN FURTHERANCE OF THE DEVELOPMENT OF THE COMMUNITY PARK ON THIS SITE.
5. IN EXCHANGE FOR THE FOREGOING, THE CITY WOULD ACTIVELY ASSIST IN FACILITATING THE PLANNING, ZONING AND OTHER APPROVAL PROCESSES IN ACCORDANCE WITH A MUTUALLY ACCEPTABLE MASTER PLAN, ANNEX THE PROPERTY INTO THE CITY'S BOUNDARIES, ASSIST IN THE COORDINATION OF THE EXTENSION OF THE FAYETTEVILLE SCHOOL DISTRICT'S BOUNDARIES TO ENCOMPASS THE PROPERTY, RESOLVE ALL LANDFILL AND ENVIRONMENTAL ISSUES ASSOCIATED WITH THE PROPERTY, COST-SHARE THE EXTENSION OF SEWER LINES TO THE DEVELOPMENT AND PROVIDE ALL OTHER CITY UTILITIES AND SERVICES TO THE DEVELOPMENT.
6. UPON COMPLETION OF THE FOREGOING THE DEVELOPER WOULD PURSUE A COURSE OF ACTION TO ACCOMPLISH THE DEVELOPMENT'S MASTER PLAN. ACTIONS WILL INCLUDE REQUIRED ENGINEERING, INSTALLATION OF INFRASTRUCTURE INCLUDING UTILITIES AND ROADWAYS, PROJECT MARKETING AND THE BUILDING OF OTHER NECESSARY IMPROVEMENTS.

IF THIS PROPOSAL MEETS WITH THE CITY'S INITIAL APPROVAL, THE DEVELOPER WILL IMMEDIATELY ENGAGE THE SERVICES OF THE MASTER LAND PLANNER FOR THE CREATION OF A CONCEPT PLAN AND A LAND USAGE DETERMINATION. ASSUMING ACCEPTABILITY, THE PROPOSAL AS OUTLINED HEREIN COULD BE IMPLEMENTED. DUE TO THE EXTENSIVE COORDINATION REQUIRED FROM UTILIZING A PUBLIC/PRIVATE "PARTNERSHIP" STRUCTURE CERTAIN PROVISIONS OF THIS PROPOSAL ARE CONCEPTUAL IN NATURE ONLY AND SHOULD NOT SERVE TO BIND THE CITY, THE DEVELOPER OR ANY OF ITS PRINCIPALS.

Principal Contact:

John Nock
Phone: 479-530-6799
One East Center Street
Suite #301
Fayetteville, AR 72701
Fax: 479-444-9775
johnnock@yahoo.com



"SOUTHPASS" PROJECT

COMMUNITY PARK & MASTER PLANNED NEIGHBORHOOD

THIS PROPOSAL SUBMITTED ON THE 9TH DAY OF JUNE, 2004
BY

JOHN NOCK, MANAGING MEMBER
SOUTHPASS, LLC

Principal Contact:

John Nock
Phone: 479-530-6799
One East Center Street
Suite #301
Fayetteville, AR 72701
Fax: 479-444-9775
johnnock@yahoo.com



"SOUTHPASS" PROJECT

COMMUNITY PARK & MASTER PLANNED NEIGHBORHOOD

DEVELOPMENT TEAM

THE DEVELOPMENT TEAM INITIALLY SHALL CONSIST OF THE FOLLOWING PERSONS:

JOHN NOCK

RICHARD ALEXANDER

ROB MERRY-SHIP

KEITH ROBERTS

TIM COOPER

MITCHELL MASSEY

MORGAN HOOKER

BRANDON BARBER

HANK BROYLES

HAL FORSYTHE

Principal Contact:

John Nock
Phone: 479-530-6799
One East Center Street
Suite #301
Fayetteville, AR 72701
Fax: 479-444-9775
johnnock@yahoo.com

City Council Minutes
Regional/Community Park Discussion
August 17, 2004
September 07, 2004

**City Council
Meeting Minutes
August 17, 2004**

PRESENTATIONS:

Regional/Community Park:

Gary Dumas, Operations Director gave an overview of the proposed Regional/Community Park.

Peggy Vice, Purchasing discussed the RFP process and the bids that were received on the RFP. She stated two bids were received one from SouthPass Development and one from Tower Enterprises. She reviewed the bids for compliance with the proposal requirement. Tower's bid did not have a signature. She then spoke to the City Attorney Kit Williams about the Tower bid.

City Attorney Kit Williams: The Purchasing Officer, Peggy Vice, brought the bid over to my office and showed me the proposal which I had not seen before. The sixth content proposal requirement says *signature of persons legally authorized to represent the proposal*. There was no signature there, in fact the proposal was by Tower Enterprises, LTD and there was no indication that the individual that sent the proposal had any authority to act for that company. The other problem that was readily apparent in the proposal was the seventh content proposal requirement that says *the successful proposer must post an irrevocable letter of credit or other comparable financial instrument that demonstrates the proposer has the funds on hand or funds available to close the land transaction*. If you looked at the proposal the proposal was that the city buy the property and then he would be in partnership with the city. I think there were two major reasons why this proposal was not responsive to what the city had requested. I agreed with Peggy. She showed me the regulation in procurement, Regulation R719-11-229B4, which stipulates, *only signed sealed bids delivered prior to date and time of bid opening shall be accepted*. I agreed with Peggy at that point in time that this proposal had not been responsive and could not be properly considered by the city.

Alderman Rhoads: Have there been any other similar situations like that and if so how did we handle them?

Peggy Vice: No, we have never accepted a proposal or an RFP without a signature.

Kit Williams: There was a similar one when the Dickson Enhancement Project was being bid we had several bids from various construction companies. One of the construction companies, which would have had the lowest bid, had not signed a particular form required. There were federal funds involved, therefore we were told by our consultant and I agreed with him that we could not consider that bid. It would have been illegal for the city to do it; therefore we did not consider that bid and awarded the contract to the next lower bidder.

Gary Dumas went through the two proposals and the differences in the proposals.

Mayor Coody: This has been very informative. Thank you very much.

Alderman Jordan: I am curious about the million dollar match. Do we have to come up with one million to get the million dollar match, is that correct?

Gary Dumas: That is correct.

Alderman Jordan: Where is that money coming from?

Gary Dumas: Currently in the existing 2004 CIP there is about \$800,000 already identified for community park development. Next year in the amount of \$850,000 or \$865,000 is also proposed for a community park. So in January there will be a little over \$1.6 million already committed to the community park.

Mayor Coody: Actually the match or our portion will be between \$1.5 and \$2 million dollars. We haven't finalized that. They have asked for \$2 million dollars of our money to match their one million. We are in conversations about this right now, if we can cut a deal to where our part of the match is \$1.5 million dollars and then they would put their million in, that means we could match it in January or early next year. If our match is \$2 million it would just take a little bit longer but we would come up with that over time.

Alderman Jordan: You are saying this is coming out of capital improvements?

Gary Dumas: No HMR, there are HMR funds committed currently in the CIP for the community park.

Alderman Marr: When did that match become a condition because the bids that we received in our box, I don't remember a 2 to 1 or a 1 for 1 match in the document.

Gary Dumas: In the development of the letter of intent the developers are interested; I think they want the park developed to assist in the sale of their property.

Alderman Marr: Was that a requirement of their bid?

Gary Dumas: In the development of the letter of intent they have requested that the match be there just so they can be assured that the million dollars that they provide will go to the community park instead of some other city activity.

Alderman Marr: The bid that responded did not have that requirement in it?

Gary Dumas: No.

Peggy Vice: Normally on RFP's when you do a request for proposal you take proposals and then you take the best proposal that meets your requirements and then you negotiate a contract from there. You often do change what has been submitted.

Alderman Jordan: In the other proposal, if I understand it correctly, the city would have to put up the money and basically become the banker.

Gary Dumas: Yes, the city would have to buy the property out right on the front end.

Alderman Jordan: What would happen if the developer could not deliver on what he said he was going to do?

Mayor Coody: I don't know, Kit what do you think would happen?

Kit Williams: I guess we would have a lot of property.

Gary Dumas: Then we would have to seek another private developer I'm sure.

Mayor Coody: Thank you very much.

**City Council
Meeting Minutes
September 7, 2004**

NEW BUSINESS:

SouthPass Development Company Purchase Option Transfer: A resolution authorizing the Mayor to execute an agreement with SouthPass Development Company to accept 200 acres of park land, a 10 acre water tank site, one million dollars for park land development and other consideration for the City's acceptance of ownership of a 33 acre landfill.

Mayor Coody explained that this is only a resolution. There are some contingencies and the contract is not being signed tonight.

Alderman Lucas asked if the City is going to spend money to survey the property before everything has been settled.

Gary Dumas: The City will be responsible for surveying the 200 acre park once the developer has retained their master planning consultant, working with the City to define what the perimeter will be. The City will also be responsible at some point to cover the survey expenses for the 800 acre parcel.

Alderman Lucas: That being the case, if the Greenland School District does not agree to allow the parcel to be transferred to the Fayetteville School District, would the developer not have to give the City the \$1 million for the park and we wouldn't get the 200 acres?

Gary Dumas: The City would want to wait to do the surveying until some of those earlier contingencies are resolved.

Alderman Lucas said so we won't spend any money until those contingencies are resolved is that the game plan? She thinks this is a wonderful idea, Ward 4 needs a park and it would be good for the City, but she is concerned about the school district issue and that that issue may keep us from getting the property for the park.

Gary Dumas: The school district issue is a major issue and the developers are well aware of that. The City won't go forward until that is resolved.

Alderman Rhoads said he thought he was hearing two different things. He asked if the City will survey.

Gary Dumas: The City will be responsible for the survey, which will cost something less than \$50,000.

Alderman Rhoads asked if the City can waive contingencies.

Kit Williams: The City and the developer can mutually do that, but this is basically the developer's requirement not the City's so it would be up to the developer.

Alderman Reynolds asked if the City is going to make any move on the project before we find out if we will be getting the \$1.5 to \$3.5 million cleanup fee from ADEQ.

Gary Dumas: Staff has been in contact with ADEQ today and they indicated that funding is available and there would be no requirement for either the City or the property owner to refund the post closure trust fund. However they have indicated that they will not provide that assurance to us, as a third party, in writing. They explained that their legal counsel is the legal Counsel for ADEQ and not for the property owner or for the City. The City Attorney will be in contact with them and we may have more information later.

Kit Williams said he plans to write to their legal counsel with his interpretation of what the statute means in the matter of whether or not the City or the owner would have to repay the \$1.5 to \$3.5 million. He said that his interpretation is that we would not have to repay the amount but he wants to make sure that ADEQ's legal counsel agrees to that in writing before the City goes forward. He thinks they will respond. If they do not, he recommends that the City ask for an opinion from the Attorney General.

Alderman Cook had several constituents ask him about the landfill. He asked for information about the current situation with the landfill, what the corrective actions will be and whether the City might be liable in the future if something comes up that we don't foresee at this time.

Gary Dumas: ADEQ will be preparing a plan for what the remedial action will be for the landfill. The early indications in the Terracon report were that corrections would be made along the stream that runs through the landfill and a recapping. The magnitude of that recapping is something that ADEQ will have to determine. The remediation to the creek could be some type of channelization or a rerouting of the creek around the landfill. ADEQ's specialists will have to determine how they want to spend the money.

Mayor Coody said that the running water is not so much a creek as it is wet weather drainage.

Kit Williams: One of the things the City is bringing to the table in this agreement is potential future liability for this landfill. I hope the City will never face that though we may face it even without the agreement since it is City of Fayetteville trash in the landfill. At this point it looks like the Post Closure Trust Fund will be able to pay for the entire fix and not have to come back to the City to get money back. I want to make sure of that before I say more. The developers don't want to own the landfill. The proper owner for the landfill would be the government because we can do the best job of making sure it continues to not be a threat to the community. I believe this is one of the major things the City brings to the table with this agreement and it is why we are getting 200 acres for free and \$1 million for the park. The landfill was only open a couple of years and was closed

in 1976, for the last 28 years it has been sitting there and now needs remediation. I can't say that more remediation might not be necessary in another 30 years and I can't say who would be responsible for that remediation at that point.

Alderman Cook: The Terracon report did not say anything negative; it sounded fairly good.

Gary Dumas: The only material in the landfill is normal municipal garbage and they found no indication of anything more there. Since it has been fairly stable this far and if the State does corrective actions at this time, there is a likelihood that there will be no other action required. But there is also the possibility that there could be some methane gas or other issues that would have to be dealt with just as with any landfill.

Alderman Cook has also been asked what will happen to the rest of the parks system if this amount of money is used on this park.

Gary Dumas: This will be a major addition to the parks system and with any major addition of any infrastructure element, whether it's new subdivisions and streets or police and fire there is going to be a cost. The initial revenue that has been identified would be the revenue that is currently spent for maintenance of the Lewis Soccer Complex. That money will be available for transition when the complex is returned to its current owner. There will be other funding issues that will have to be addressed as the park is developed through the various stages over the next 4 to 7 years.

Mayor Coody: Where would the funds come from the Park Development Fund?

Gary Dumas: Park Development funds will probably not be sufficient to develop the park completely in the 4-7 years timeframe. The operational and maintenance funds cannot come from Parks Development.

Mayor Coody: But if we had a ten year time span, it would be easier to absorb over time. The other factor is this would be able to handle regional competition and would generate income.

Alderman Cook asked if the City is still in a match situation if we get \$1 million will we have to match that with \$1 million.

Gary Dumas: The contract as written says we will spend what is available in the Parks Development Fund through 2005. In the currently adopted CIP for 2004-2008 \$1.62 million is in this fund right now. There will be some expenditure from that, probably around \$50,000 for the survey.

Alderman Cook: So we are dedicating \$1.62 million dollars not just a million dollar match we are dedicating \$1.62 million?

Gary Dumas: It is money that is already in the adopted CIP.

Mayor Coody opened the floor for public comment, asking that comments be kept brief so that all would be allowed to speak. He encouraged civility from all parties.

Sharon Davidson stated that she is in favor of a community park and thinks that the Cummings property is a good piece of property for a lot of reasons. However, she asked the Council to not move forward with this particular SouthPass proposal. She does not believe this is the appropriate way to go with this developer. She does not want to use Wilson Springs money for roads and suggested using the money instead to purchase this property. She feels the whole process has been tainted and spoke of her concerns about the bid process and how she feels it has been handled.

Spencer Scarborough a lifelong resident of Fayetteville and asked the Council to do what it takes to get a community park like this. He thinks this proposal is a win-win situation. He feels this will increase property value on the land, which will bring more taxes into the schools. The creation of the park itself will benefit the health of both youth and adults.

Bill Ackerman encouraged the Council to afford this project due diligence but feels they should take advantage of this proposal. He said that the opportunity to get 200 acres in one tract located as well as this tract is located is almost impossible. He served several years on the Parks & Recreation Advisory Board and they never had an opportunity to acquire this kind of tract of land. If 200 acres had become available, the cost would probably have been cost prohibitive. He feels that partnering with someone under these favorable conditions is a win-win situation for the City, State and the community as a whole and it is important to take advantage of the opportunity.

Kathy McGuire-Bouwman a citizen watchdog she feels that most citizens would not know what is going on from the way the resolution is worded. She feels the resolution should say "would we like a park in exchange for a south side school surrounded by 500 acres of new housing development as well as the infrastructure needs that go with that." She also questioned the legality of something she read in the paper that said the parks board had spent several hundred dollars in postage asking families of youth soccer players to attend this meeting tonight. She said there are people who don't think it is an advantage to have a million new cars coming into our quiet town for these mega-sports events. There are two sides to this and though she isn't sure whether she is for the park or not, she feels both sides should be heard.

Linda Ralston asked when it was decided that we needed a huge community park.

Mayor Coody: In 2001 the City completed the Lose & Associates Parks Master Plan for the entire city. One of the top recommendations was a large multi-use park for consolidated sports fields, etc. This master plan came after many public meetings and a lot of public input.

Linda Ralston said she is concerned about this park, particularly because she doesn't believe the public has been told enough about what is going on. She questioned whether a school will be included in the plan. She asked what the term "other consideration" in the resolution really means.

Kit Williams: The term includes all the contingencies in the plan. He didn't want to put all the contingencies in the resolution because it would make the title too long. If the Council passes this resolution tonight, they will be authorizing the Mayor to sign the contract. However, the contract has at least five contingencies before it is really effective and can get under way. The first contingency is approval of a Master Plan for the entire 800 acres. This Master Plan must be approved not only by the developers but also by the City Council, at that point in time the Council and the public will know exactly how this land will be developed.

Mayor Coody said he doesn't believe that the question of moving this property into the Fayetteville school district has the intent of building a school out there. He said he thinks the developers want the property in the Fayetteville school district because it is easier to sell homes in that school district than it is in the Greenland school district. If the school system wants to build out there, that will be between them and the developers.

Donna Williams indicated that she is for any kind of reasonable plan that will continue to grow the parks system in this area.

Jerry Patton said this is a great idea and encouraged the Council to carry on with it. There has been tremendous growth in Fayetteville and the region and that growth will continue. We need a great community park. The planning and vision that have brought the City to this point are good. He encouraged the Council to pass the resolution and make this a reality.

Phillip Watson, president of the local Ultimate Club said he feels good points have been made tonight. He particularly agrees with the point that 200 acres of parkland all together in one area is a huge bonus for the City. He and his organization are in support of this project.

Barbara Moorman: Stated she has nothing to say against the idea of a park but feels it is wrong for the Parks Board to lobby for this particular arrangement. She disagreed with the term "gift" on a brochure sent out to members of the public; she said this is not a gift. The City will be taking on a huge liability and will make the taxpayers pay for it. She said the landfill study uses terms such as "not a significant environmental concern at this time" and "appears to be confined" and "evidence of potential impact is not definitive". When ADEQ talks of remediation, they are talking about recapping and channelizing the creek, not diverting it. She feels they are not doing what might be the best way to remediate and are trying to do it for somewhere between \$1.5 million and \$3.5 million. She says the City is doing the property owner and developer a huge unnecessary favor by relieving them of this liability. She questioned how much property would actually be annexed with this project.

Mayor Coody: The total property is about 800 acres, some of that is already in the city leaving about 500 acres to be annexed. This is just an estimate.

Barbara Moorman said the City is committing themselves to a large subdivision and all the cost of roads, sewer, etc. She feels that if this resolution is approved, the rest of the process will just be de-facto. She questioned if this developer has anything in his past that has been successfully completed. She discussed her perception of what the Council will be agreeing to with this resolution. She urged the Council to table this item until they have something to vote on that gets as much as it gives away.

Mayor Coody clarified that the Post Closure Trust Fund is made up of a portion of the fees collected when cities or individuals take loads of waste to a landfill. This is the money that is earmarked to clean up the landfill.

Fran Alexander asked if the public is going to receive an outline of hearings and discussions that will take place about this park. When can the public ask questions? She questioned whether 200 acres would really be enough land to incorporate all the ball fields and still be a true community park. She wondered if the City will have outgrown the park by the time it is developed. She again asked what the process is for the public.

Mayor Coody: In the Lose and Associates study they stated that the City would need 110 to 150 acres. This is 200 acres so that should provide for some expansion. This will not be just ball fields but a multitude of uses, some passive and some active.

Susan Porter asked how the quadrants are established and what the boundaries are on the southwest quadrant of the parks.

Connie Edmonston, Director of Parks & Recreation said that several years ago the City was divided into four quadrants. Highway 71 basically divides the east from the west and Highway 16 East and 16 West basically divide the north and the south quadrants. This was determined years ago while developing the Master Plan and working on impact fees.

Susan Porter said she likes parks and voted for the HMR tax. She had several concerns including the sprawl being promoted by annexing land outside the City limits and questioned why such a large area is being discussed. She also questioned whether citizens in this quadrant would like to see the City annex 800 acres and build infrastructure for it for a park outside the city limits. She questioned whether the City really needs 200 more acres of parks, according to the Lose & Associates study; Fayetteville ranks high in acreage in the parks system. She reviewed some of the information from the Lose and Associates Master Plan and the needs outlined in that study. She reviewed the definitions used in the Lose & Associates study of the different types of parks as set forth by the National Recreation and Parks Association, which define a "community park" as 20 to 50 acres and a "regional park" as 50 to 250 acres. She stated that we are talking about a regional park here, not a community park. She said she has not seen anything that defines

the operational costs of this proposed park and is concerned about how much that will be. She wondered why the acreage around the new wastewater treatment plant couldn't be used for the community park. She feels more public input and discussion is needed on this and she encouraged the Council to look again at the Master Plan that has already been approved.

Mayor Coody apologized for calling this a community park instead of a regional park.

Phil a resident from Ward 2 said he finds it painful to sit and listen for an extended period of time to public input and suggested the Council set a time limit for each speaker so the comments will be more focused.

Wade Coldwell, Chair of the Parks & Recreation Advisory Board said the Board has worked for the past two years looking at all these issues. He questioned why annexation of an undeveloped area has become an issue. He said the Parks Board was fully aware that there is a landfill on the property and they have been going after the funds to clean it up. The City needs the parks space to meet the growing needs of the community. He also sees this as a business deal, giving the City what it needs and wants. He feels the Mayor has been wise in the way he has handled it.

Tom Howard said he has coached children for 30 years in soccer, baseball, etc. He said he appreciates everybody's comments. He said some children don't get the opportunity to play sports because their parents don't have the time to drive to separate fields for different children. He thinks it is important to have a central area for these sports so people can drive to one area for all sports. He thinks the City needs a community park and feels the opportunity to play sports is invaluable to the children and families.

Melissa Terry: Stated the wet weather drainage going through the Cummins property is Cato Springs Branch, which is at the headwaters of Town Branch watershed, which drains into the west fork of the White River. She works as a conservation organizer for Audubon Arkansas and asked that the City consider working with her group on this issue if the project gets to the place where channelizing or moving the creek is being considered.

Dorothy Neely because of her background as an environmental consultant and because this acreage was previously a City landfill, she asked if an in-depth environmental assessment is included in the contingencies for this property.

Mayor Coody said Terracon did an environmental assessment and the report stated that the landfill was not a real environmental problem. He said a copy of the study is available for anyone who wishes to see it. He asked Ms. Neely, considering her background, if she felt it was better to walk away from a landfill site such as this or to do remedial work.

Dorothy Neely said she thought remediation and stabilization of the surface with vegetation would be best. She said she would prefer vegetation rather than pavement. She said concerns with the watershed need to be addressed.

Connie Edmonston, Director of Parks & Recreation corrected something she said earlier: the division line for the east and west quadrants of the parks system are actually Highway 16 West to Old Wire Road when you cross Highway 71. She stated that her division has been working on many of the projects outlined in the Parks Master Plan including opening playgrounds, establishment of new neighborhood parks, new trails and ADA compliance. The community park is just one of the items her division and the City believe is very important. They have looked at and evaluated 18 different sites for the park and this was chosen as the best site due to location and usable land. They will need 115 acres for current needs for active sports. The remaining acreage would be used for passive recreation. The soccer, baseball & softball programs are exploding with over 5000 participants in baseball/softball and 1300 kids playing soccer. The City believes that obtaining this property would help meet those needs as well as help us to be good environmental stewards of our land. It would reduce the traffic of families traveling from park to park for different games and also the travel of maintenance crews between the different locations.

Alderman Thiel said she thinks there has been some confusion regarding the term used to describe the park. In the Master Plan the term "multi-sports complex" was what people identified with and changing the verbage makes it more difficult to follow the support that was gathered during the creation of the Master Plan. This is not necessarily a community park; it will be a regional park if it is the size being discussed. She asked for clarification from Connie about the actual amount of parkland in the City, minus the lake and water areas.

Connie Edmonston: We have 795 acres of water in the parks system. The total acreage is around 3,300 making about 2800 acres of actual parkland. Much of the land is nature preservation and not usable for active sports.

Alderman Jordan asked how many acres are in Finger Park.

Connie Edmonston: Finger Park is between 19 and 21 acres.

Alderman Jordan: Is that the largest park in Ward 4?

Connie Edmonston: Yes. That is by far the largest.

Alderman Jordan: What else would be in this community/regional park besides soccer and baseball fields? Will there be picnic tables, playground equipment etc. that would allow a family to go and have a barbeque and family outing?

Connie Edmonston: Parks has a map that outlines the active and passive usage of the Cummins property. They are looking at soccer, baseball, softball, ultimate Frisbee,

tennis, disc golf, an amphitheater, trails, a pavilion and maybe some kind of water feature. All of this would be determined following many public meetings to determine the public's demands for the park, 115 acres of the 200 acres will be for active use, the remainder will be for passive use.

Mayor Coody: That doesn't include what the surrounding development will give up as far as trails, bluff areas, preserved areas, etc. outside the 200 acres that will be used by the public.

Connie Edmonston said of the 18 sites her division evaluated during their search, three have already been sold. Large tracts of land are difficult to find within the City and they are going fast. She believes this is the premier spot for the park, the land is very usable; the hillside is being preserved, there are many pluses to this property.

Jim Bemis said he is not proud of the City's parks system west of I-540. Between Highway 112 and the Cummins property there is nothing for the people living in that area. He is not against a park in this area but would rather see four community parks stretched between Highway 112 and this property rather than 200 acres in one park.

Mayor Coody closed the discussion to public comment opened the floor to the Council.

Alderman Thiel said she appreciated the comments being made. When she was on the Parks Board they had looked at this issue and hired Lose and Associates and she went to almost all the public meetings. One of the concerns of the parents during this process was that they wanted to have one place they could take their children of various ages participating in different sports without having to drive them all around town. That was one of the original motivations for the discussion of a multi-sports complex. The baseball fields in Walker Park are worn out; we'll have to do something about the soccer fields. Something will have to be done to accommodate the desires of the parents who have children who want to play in these activities. She likes the location and thinks Parks worked diligently to find a location that met all the criteria. It serves Ward 4, which does not have a large park and it is very accessible. One of the advantages of the athletic or sports complex side of parks is that it helps pay for itself. The passive parks don't pay for themselves and are costly to keep maintained. This location also offers the opportunity for the City to do something about a landfill that really does need to be addressed. She says she supports this with the exception of the resolution of the landfill issue and the school district issue, those are big concerns. She understands that the City won't be expending any funds toward this until those two issues are a little bit more resolved.

Alderman Cook spoke of his concerns that the park may take too much money and he is concerned about the remainder of the parks system. He is concerned about other financial needs of the City. He is nervous about the landfill issue and wants to make sure we know exactly which land we will get in the area. The positive side is that it is a great site with a great view of town and I-540 access. He struggles with comments about the park being on the edge of town. You can't find this much land in town so it would have

to be on the edge of town. Economic development is also a positive; there is no question that we will draw events to a park like this. The City does need the facility. It will provide areas for sports we don't have room for now as well as passive activities. He thinks the positives outweigh the negatives on this but remains a little nervous.

Alderman Jordan said his concern is that he hasn't received any information about what is going to go in to the old Lewis Soccer Complex over by the Asbell neighborhood.

Hugh Earnest said he will be meeting with the U of A regarding this. The only thing he knows at this time is that several years ago a general comment was made that married student housing might go in there. He doesn't think anything has been designed as far as type of housing but he will check into it and get some information.

Alderman Jordan stated he does have concerns about the western part of town not having any sort of park and he thinks this park would provide something desperately needed in that part of town. He doesn't really like the location and will have some strong concerns about the development that goes in there.

Alderman Marr said during the process of campaigning and talking with citizens and questioning them about their concerns he has realized that no matter how much is done to make sure citizens understand what is happening, it is not enough. He spoke of how long this issue has been going on. He thinks many good questions have been asked tonight. He sees huge economic opportunities associated with this and feels it is an avenue to maintenance of livability and quality of life in the City of Fayetteville. His biggest concern is not having enough resources left over for neighborhood parks. He thinks both are needed and feels it is the job of the Council to make sure that both are made available. This discussion is about whether to explore the possibility of a community park not that we are choosing that over neighborhood parks. He feels this is worth the investment, not at the expense of everything else, but it is worth pursuing.

Mayor Coody said he feels this is a historic opportunity. If the City walks away from this opportunity to pick up this amount of acreage now, it could be walking away from it for a long time, a better opportunity may never come up. It may not be perfect but he feels it is good. This is not an "either/or" situation where a community park is being chosen over neighborhood parks. The neighborhood parks will come in. He feels if the City does not take advantage of this opportunity it will be shortchanging itself now and in future generations.

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

Resolution 138-04 as Recorded in the Office of the City Clerk.

Addt'l Documents
Boundary Survey Approval & Contract
Landfill Warranty Deed Information

SCANNED

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

ENG
AGREE
Critical Path
Design Inc./
Southpass

N/A

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

Approval of a contract with Critical Path Design, Inc. for a boundary survey for the Southpass property.

\$19,950.00

Cost of this request

4470.9470.5315

Account Number

02002.10

Project Number

\$

1,622,936.00

Category/Project Budget

\$

Funds Used to Date

\$

1,622,936.00

Remaining Balance

Community Park Development

Program Category / Project Name

Parks & Recreation Improvements

Program / Project Category Name

Sales Tax Capital Improvements

Fund Name

Budgeted Item

x

Budget Adjustment Attached

Previous Ordinance or Resolution #

File w/
138-09

Original Contract Date:

Original Contract Number:

Department Director

Date

10-21-05

City Attorney

10/24/05

Finance and Internal Service Director

Date

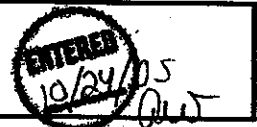
10-24-05

Mayor

Date

10/27/05

Received in City Clerk's Office



Received in Mayor's Office



Comments:

THE CITY OF FAYETTEVILLE, ARKANSAS

To: Mayor Dan Coody

Thru: Gary Dumas, Director of Operations 

From: Ron Petric, City Engineer

Date: October 10, 2005

Subject: Southpass Surveying Contract

RECOMMENDATION

Staff recommends approval of a contract with Critical Path Design, Inc. in the amount of \$19,950.00 to provide a boundary survey for the Southpass Park.

BACKGROUND

On July 7, 2004 the City Council approved a resolution authorizing the Mayor to execute an agreement with Southpass Development Company to accept 200 acres of park land, a 10 acre water tank site, one million dollars and other considerations for the City's acceptance of ownership of a 33 acre landfill.

DISCUSSION

At this time a boundary survey is needed for the site. Critical Path Design, Inc. was selected for this project by an engineering selection committee on September 15, 2005. They have submitted a contract to the City that covers the items necessary for this survey project.

BUDGET IMPACT

Community Park (Project #02002.10) will be charged the \$19,950.00 required for these services.

REQUEST FOR VENDOR FILE MAINTENANCE

(CHECK ALL AVAILABLE RESOURCES, VENDOR LIST, ACCESS
SYSTEM PRIOR TO SUBMISSION OF THIS REQUEST)

DATE OF REQUEST: 10/18/05 REQUESTED BY: Matt Casey, 2119
DEPT./DIVISION: Operations/Engineering EFFECTIVE DATE: ASAP
TELEPHONE EXTENSION: 429

NEW VENDOR: ☒ VENDOR CHANGE: ☐ VENDOR RE-ENTRY: ☐
VENDOR #: _____ VENDOR #: _____

VENDOR NAME: Critical Path Design, Inc.

STREET OR P.O. BOX: 21 W. Mountain

CITY: Fayetteville STATE: AR ZIP CODE: 72701

ATT: Clay Grote PHONE: 527-0055

E-Mail clay@cpcmi.com Fax # 527-2798

REMITTANCE ADDRESS IF DIFFERENT FROM ABOVE:

NAME: _____

ADDRESS: _____

CITY, ST, ZIP: _____

TYPE OF ORGANIZATION

FEDERAL ID 200902542
OR
SOCIAL _____

CORPORATION	(100):	☒
PARTNERSHIP	(200):	☐
INDIVIDUAL	(300):	☐
EMPLOYEE	(400):	☐
PENSION	(500):	☐
NON-PROFIT	(600):	☐

PURCHASING OFFICE USE ONLY

NEW VENDOR: _____	ENTERED BY: _____
VENDOR CHANGES: _____	DATE: _____
VENDOR RE-ENTRY: _____	G. L. FILE: _____
W-9 FORM MAILED: _____	INVENTORY FILE: _____

SHORT FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of September 28, 2005 ("Effective Date") between

City of Fayetteville ("Owner")

and Critical Path Design, Inc. ("Engineer")

Engineer agrees to provide the services described below to Owner for "Southpass" ("Project").

Description of Engineer's Services: Services include a boundary survey for approximately 800 acres located south of
The City of Fayetteville. The subject property is also known as "Southpass".

Owner and Engineer further agree as follows:

1.01 Basic Agreement

A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement, and Owner shall pay Engineer for such Services as set forth in Paragraph 9.01.

2.01 Payment Procedures

A. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

3.01 Additional Services

A. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above.

B. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard

hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

4.01 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. For cause,

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.

b. By Engineer:

1) upon seven days written notice if Engineer believes that Engineer is being requested by Owner to furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.

3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 4.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon the receipt of notice by Engineer.

B. The terminating party under paragraphs 4.01.A.1 or 4.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

5.01 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located.

6.01 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 6.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

7.01 General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the

design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

C. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.

D. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any of construction work; or for any decision made on interpretations or clarifications of the construction contract given by Owner without consultation and advice of Engineer.

E. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition).

F. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

G. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater.

H. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

8.01 Total Agreement

A. This Agreement (consisting of pages 1 to 4 inclusive together with any expressly incorporated appendix), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

9.01 Payment (Lump Sum Basis)

Using the procedures set forth in paragraph 2.01, Owner shall pay Engineer as follows:

1. A Lump Sum amount of \$ 19,950.00

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER: City of Fayetteville

By: *Don Corley*

Title: MAYOR

Date Signed: 10/27/05

Address for giving notices:

113 W. Mountain
Fayetteville, AR 72701

ENGINEER: Critical Path Design, Inc.

By: *A. Chy. Nute*

Title: Principal Engineer

Date Signed: 9/28/05

License or Certificate No. and State 1154 AR

Address for giving notices:

21 West Mountain, Ste 121
Fayetteville, AR 72701

City Of Fayetteville

(Not a Purchase Order)

Requisition No.: _____ Date: 10/18/2005
P.O. Number: _____ Expected Delivery Date: _____

Order # _____ Vendor Name: _____ Critical Path Design, Inc.
Address: _____ Fob Point: _____

City: Fayetteville State: AR Zip Code: 72701 Ship to Code: 90
Requester: _____ Requester's Employee #: 2119 Extension: 429

Division Head Approval: _____ Taxable Yes: _____ No: _____ Quotes Attached Yes: _____ No: _____

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Southpass Development Survey Contract				\$19,950.00				
2									
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
					\$0.00				
					\$0.00				
	Shipping/Handling		Lot		\$0.00				
Special Instructions:									

Subtotal: \$19,950.00
Tax: _____
Total: \$19,950.00

Approvals: _____
Mayor: _____ Department Director: _____
Finance & Internal Services Director: _____ Budget Manager: _____
Dispatch Manager: _____ Utilities Manager: _____
Purchasing Manager: _____
IT Manager: _____
Other: _____

From: Clarice Pearman
To: Petrie, Ron
Date: 10/31/05 4:48PM
Subject: Critical Path Design

Ron,
Attached is a copy of the agreement with Critical Path Design for the boundary survey. I will return to you two of three signed originals via interoffice mail. I will also forward your purchase requisition to the Internal Auditor.
Thanks.
Clarice

CC: Bell, Peggy; Deaton, Vicki

NAME OF FILE: Resolution No. 138-04

CROSS REFERENCE:

[illegible]

STAFF REVIEW FORM - FINANCIAL OBLIGATION

XXX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: September 7, 2004

FROM:

Gary Dumas

Name Division Department

Operations Department

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

COST TO CITY:

\$50,000 est for survey	\$ 1,676,150.00	Community Park
Cost of this request	Category/Project Budget	Program Category / Project Name
2250.9255.2806.00		Parks Development
4470.9470.5806.00	\$ 53,600.00	Sales Tax Capital
Account Number	Funds Used to Date	Program / Project Category Name
02002	\$ 1,622,550.00	Sales Tax Capital/Parks
Project Number	Remaining Balance	Development

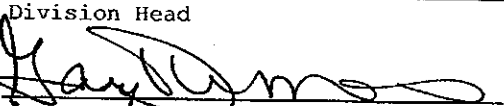
BUDGET REVIEW:

xxxx	Budgeted Item	Budget Adjustment Attached
	8-23-04	
Budget Manager	Date	

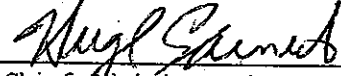
CONTRACT/GRANT/LEASE REVIEW:

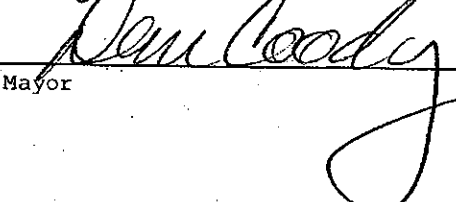
Accounting Manager	8/23/04	Internal Auditor	8/23/04
	Date		Date
City Attorney	8/25/04	Purchasing Manager	
	Date		Date

STAFF RECOMMENDATION: Approve Resolution

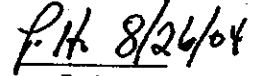
Division Head

Date 8-23-04
Department Director


Date 8-26-04
Finance & Internal Services Dir.


Date 8-25-04
Chief Administrative Officer


Date 8/26/04
Mayor

Received in Mayor's Office


Date 8/26/04

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

City Officials Say Park Could Happen Next Year

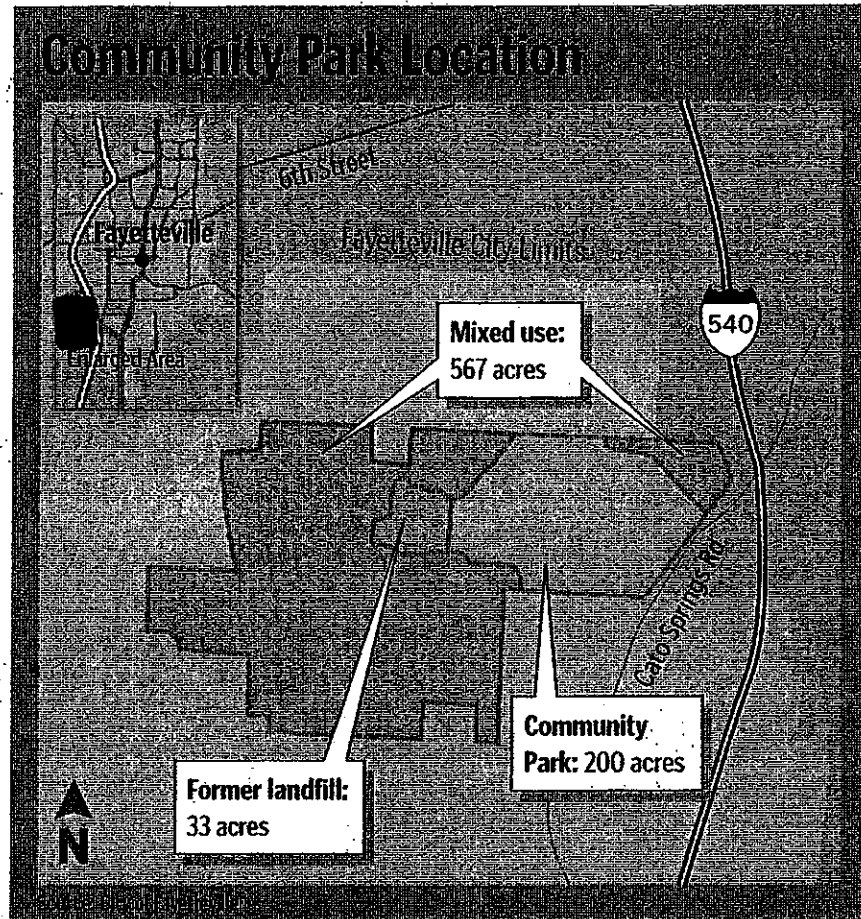
8-18-04

**earmarked funds
could cover
cost of project**

By Dan Craft

THE MORNING NEWS • DCRAFT@NWAONLINE.NET

FAYETTEVILLE — Fayetteville's part of the money needed to establish a new community park may be available as soon as January, city officials said Tuesday. The city's capital improvement plan calls for \$850,000 to be set aside for the project in 2005, matching an equal amount set aside under the plan for this year, said Gary Dumas, the director of operations. If costs come in on the lower side of estimates, the 2004 and 2005 funding would cover the full amount of the city's costs for the project, Dumas said. The city expects its portion of the cost to run between \$1.6 million and \$2 million, said Mayor Dan Coody.



MATT BAKER • THE MORNING NEWS

Pro Land Title
2713 SE I Street, Suite 7
Bentonville, AR 72712
479-271-6003 or Fax 479-271-6075

PLM
10/12/05
DEED
Special Warranty Deed
C & L Land Co.

ARCHIVED

City of Fayetteville
Attn: Mayor Dan Coody
113 W. Mountain
Fayetteville, AR 72703

Please find enclosed the following documents:

Original Special Warranty Deed

Thank you for choosing Professional Land Title Company of Arkansas to Close your Loan.

If you have any questions, please contact our office. Thank you for your business.

Sincerely,

Tiffany Blankenship

Tiffany Blankenship
Final Policy Department

Enc.



Doc ID: 009273010006 Type: REL
Recorded: 10/26/2005 at 01:33:40 PM
Fee Amt: \$23.00 Page 1 of 6
Washington County, AR
Bette Stamps Circuit Clerk

File **2005-00048123**

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

111-044

That C. & L. Land Co., Inc. a corporation organized under and by virtue of the laws of the State of Arkansas, by its President and Secretary, duly authorized by proper resolution of its Board of Directors, in consideration of the sum of TEN DOLLARS (\$10) and other valuable considerations, paid by the City of Fayetteville, Arkansas, the receipt of which is hereby acknowledged, does hereby grant, sell and convey unto the City of Fayetteville, Arkansas, its successors and assigns forever, the following described land situated in the County of Washington, State of Arkansas:

Starting at the SW Corner of Section 30 Township 16N
Range 30W.

Thence:

S87-20-41.0268E 947.368, S4-18-51.4876W 5.027, more
or less, to the point of beginning, said point being further
described in State Plane Coordinates at 658609.008
624159.812,

Thence:

N4-18-51.4876E 99.355,
N29-53-33.6022E 205.311,
N50-54-22.1080W 30.881,
S58-27-31.1659W 353.169,
N3-45-3.3747W 69.105,
N33-10-44.9698E 101.575,
N12-14-10.0074W 147.076,
N59-18-19.1298W 137.058,
N13-29-43.1727E 140.965,
N51-54-24.7299E 126.318,
N30-22-44.8536E 85.532,
N4-29-49.7458W 113.577,
N9-9-33.3492E 124.227,
N36-40-57.8683E 75.51,
N73-4-20.9530E 91.758,
N25-18-22.9532E 252.506,
N7-1-42.2265W 144.432,
N80-47-20.3042W 147.209,

N3-46-38.3683E 43.824,
N69-0-4.6115E 134.909,
N18-26-54.4537E 151.344,
N45-34-43.4121E 137.47,
N78-45-57.4792E 107.89,
S61-48-52.3953E 123.395,
S36-42-18.1263E 135.18,
S66-13-53.0714E 130.631,
S84-30-33.4630E 127.845,
S68-47-26.7859E 91.431,
N85-14-45.1645E 117.452,
S31-9-21.6273E 142.592,
S11-12-21.4110W 104.712,
S66-48-5.0744W 51.659,
S11-18-35.7569W 34.587,
S43-7-14.2372E 134.364,
S4-57-24.0658W 93.546,
S59-37-54.4190W 143.848,
S0-46-50.2966W 58.32,
S78-6-40.8311E 98.808,
S52-54-7.9019E 170.551,
S3-35-24.6717W 384.682,
S74-31-16.9026W 126.287,
N89-22-34.4361W 458.075,
S9-22-34.4779E 386.506,
S88-40-4.0085E 80.536,
S44-57-0.1837E 142.362,
Thence N87-23-13.6480W 802.329 to the P.O. B.

Containing 39.6 Acres More or Less

PROVIDED, however, this conveyance is subject to the following conditions
and exceptions:

1. Matters that would be reflected on an accurate ALTA/ACSM Land Title Survey
of the land, including all additional survey requirements;
2. Matters that are disclosed by the *Site Characterization Report, Former C&L
Landfill, West Washington County Road #200, Fayetteville, Washington County,
Arkansas;*

3. Applicable zoning, building and land use laws, codes and ordinances;
4. Public or private roads, highways, streets and alleys, if any;
5. Easements and restrictions of record; and
6. All oil, gas, coal and other minerals and minerals rights are reserved by the Grantor.

PROVIDED FURTHER the City of Fayetteville accepts title to the land subject to the conditions and exceptions stated herein and agrees that: (i) any park that is established on the land will be named in honor of Judge L. Maupin Cummings; and (ii) the said City will use and maintain the land in accordance with applicable laws and regulations.

TO HAVE AND TO HOLD the same unto the City of Fayetteville, Arkansas, its successors and assigns forever, with all tenements, appurtenances and hereditaments thereunto belonging. And C. & L. Land Co., Inc. hereby covenants with the City of Fayetteville, Arkansas that it will forever warrant and defend the title to said lands against all claims and encumbrances done or suffered by or through it, but against none other.

IN WITNESS WHEREOF, the name of the grantor is hereunto affixed by its President and its seal affixed by its Secretary, this 12th day of October, 2005.

C. & L. Land Co., Inc.

By _____
President

ATTEST:

_____
Secretary

Conveyance of the land is accepted this 12th day of October, 2005.

City of Fayetteville, Arkansas

By

Sam Coody
Mayor

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps has been placed on this instrument.

City of Fayetteville, Arkansas

By:

Sam Coody
Mayor

113. W. Mountain
Grantee's Address

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF SEBASTIAN)

On this 12th day of October, 2005, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named Robert E. Hornberger, being the person or persons authorized by said corporation to execute such instrument, stating his respective capacities in that behalf, to me personally well known, who stated that he was the President and Secretary of C.&L. Land Co., Inc., a corporation, and is duly authorized in his respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 12th day of October, 2005.

Christie Marie Banning
NOTARY PUBLIC

My Commission Expires:

11-8-05



ACKNOWLEDGMENT

STATE OF ARKANSAS)

COUNTY OF Washington)

On this 13th day of October 2005, before me, a Notary Public, duly commissioned, qualified and acting within the State and County aforesaid, appeared in person the within named Dan Coady, to me personally well known, who stated that he is Mayor of the City of Fayetteville, Arkansas, and as such was duly authorized in that capacity to execute the foregoing instrument for and in the name and behalf of said city, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

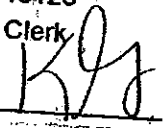
IN TESTIMONY WHEREOF, I have hereunto set my hand and seal on the date first mentioned above.

[Signature]
NOTARY PUBLIC

My Commission Expires: Oct 13, 2007





Washington County, AR
I certify this instrument was filed on
10/26/2005 01:33:40 PM
and recorded in Real Estate
File Number 2005-00048123
Bette Stamps - Circuit Clerk
by 

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

7-Oct-08

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 08-3117: (Southpass MSP Amendments): Submitted by Appian Centre for Design for property located south of Fayetteville at the intersection of Interstate 540 and Cato Springs Road. The property is zoned R-A, Residential Agricultural. The request is amend the current Master Street Plan to reflect the approved PZD for this property, realigning a portion of Shiloh Drive to the south and re-classifying Cato Springs Road from a Collector to a Principal Arterial as indicated in the attached maps.

N/A	N/A	N/A
Cost of this request	Category/Project Budget	Program Category / Project Name
N/A	N/A	N/A
Account Number	Funds Used to Date	Program / Project Category Name
N/A	N/A	N/A
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 9.19.08
Department Director Date

[Signature] 9-19-08
City Attorney Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Paul a. Beebe 9-19-08
Finance and Internal Service Director Date

[Signature] 9/21/08
Mayor Date

Received in City Clerk's Office
9-19-08 10:00
ENTERED

Received in Mayor's Office
9/19/08
ENTERED

Comments:

RESOLUTION NO. _____

A RESOLUTION FOR ADM 08-3117 AMENDING THE MASTER STREET PLAN, REALIGNING SHILOH DRIVE, A COLLECTOR, THROUGH THE SOUTHPASS PZD SITE SOUTH TO CATO SPRINGS ROAD, AND CHANGING THE DESIGNATION OF CATO SPRINGS ROAD FROM A COLLECTOR TO A PRINCIPAL ARTERIAL IN THE SOUTHPASS VICINITY, AS DESCRIBED AND DEPICTED IN THE ATTACHED MAPS.

WHEREAS, the Southpass Community Planned Development is extending Shiloh Drive into and through its site in the alignment that was presented and approved in R-PZD 08-2898 Southpass by the Planning Commission and City Council; and

WHEREAS, the City Council finds that a realignment of Shiloh Drive to the south as indicated in the attached maps maintains the integrity of the north-south Collector connection while routing the road through the Town Center of Southpass; and

WHEREAS, the City Council finds that changing the designation of Cato Springs Road from a Collector to a Principal Arterial in the location indicated is appropriate given that Cato Springs Road is anticipated to carry a high volume of traffic into and out of the Southpass site, will allow for the continuation of a major north-south transportation corridor from 6th Street to the southern border of the Southpass site, and will transition into a two-lane rural highway south of the Southpass site.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends the Master Street Plan as indicated in Exhibit "A," attached hereto and made a part hereof.

PASSED and APPROVED this ____ day of _____, 2008.

APPROVED:

ATTEST:

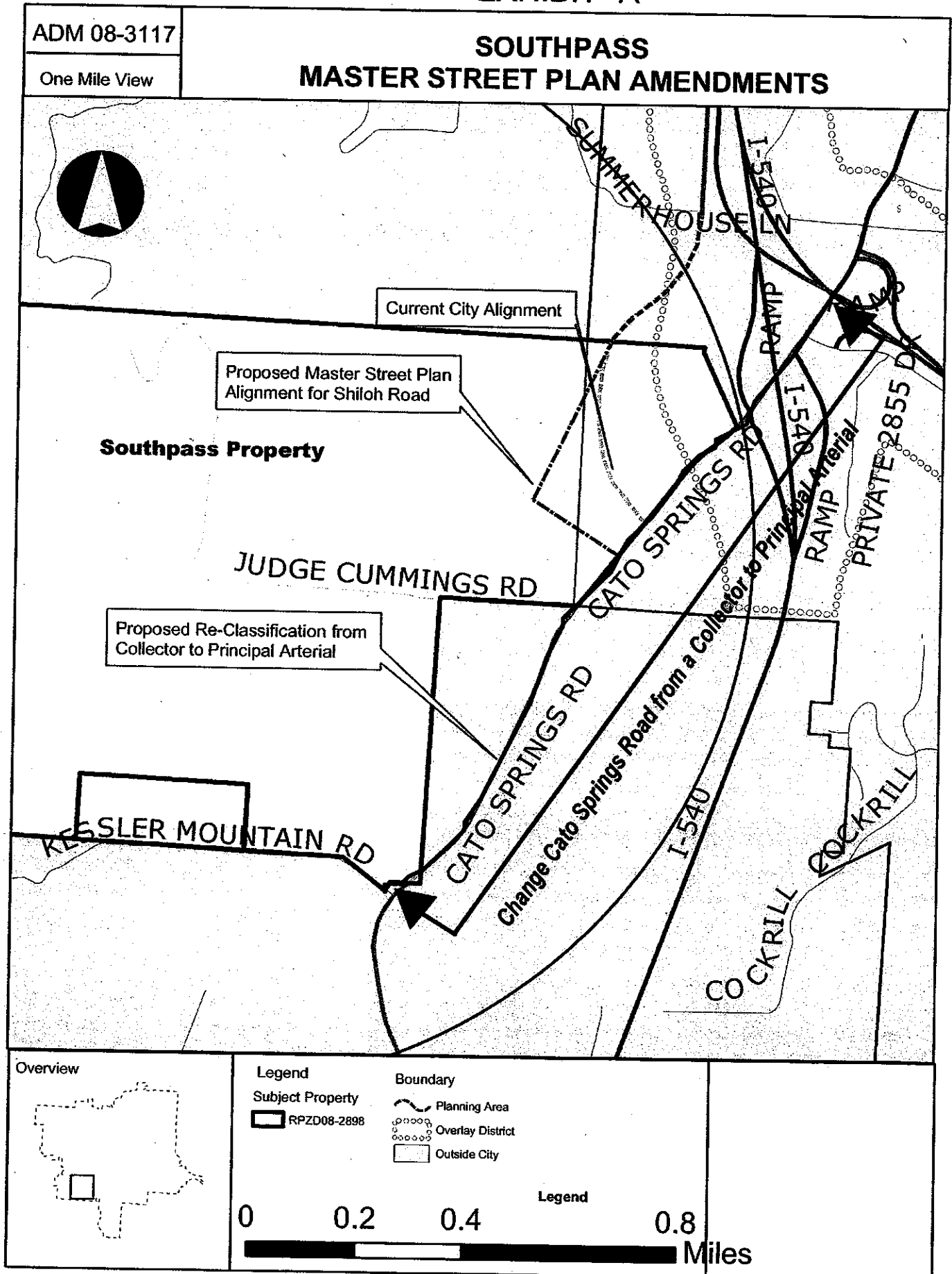
By: _____

By: _____

DAN COODY, Mayor

SONDRA SMITH, City Clerk

EXHIBIT "A"



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

10/7/2008

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

A resolution expressing the willingness of the City of Fayetteville to cost share street and sewer infrastructure costs that would be utilized by both the Southpass Development and the future Community Park.

\$

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

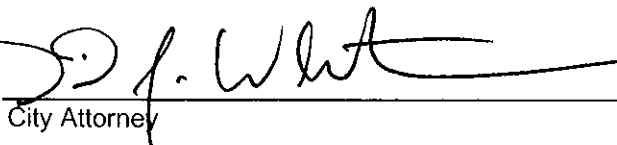

Department Director

9.19.08
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

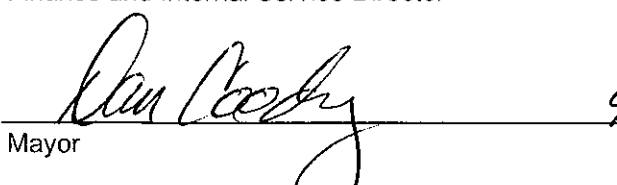
9/19/08
Date


Finance and Internal Service Director

9.22.08
Date

Received in City Clerk's Office

9-19-08 


Mayor

9/23/08
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Date: September 20, 2008

Subject: A resolution expressing the willingness of the City of Fayetteville to cost share street and sewer infrastructure costs that would be utilized by both the SouthPass development and the future Community Park.

RECOMMENDATION:

In accordance with Resolution No. 138-04, city staff recommends approval of this resolution expressing the willingness of the City to cost share street and sewer infrastructure costs that would be utilized by both the Southpass Development and the future Community Park.

BACKGROUND:

In an effort to obtain a 200 acre Community Park for the citizens of Fayetteville, the Parks and Recreation Advisory Board studied available sites and determined that the Cummings's property was the most desirable site for the park. Since this property, located west of Cato Springs Road and adjacent to I-540, is 800 acres in size, it became necessary to solicit proposals from developers for a public/private partnership to make the Community Park feasible. The City Selection Committee selected Southpass Development Company, LLC and a contract was subsequently approved by the City Council on September 7, 2004.

DISCUSSION:

This approved contract states that "*the City of Fayetteville and SouthPass shall cost share (50/50) all costs of extending sewer to the Community Park site and neither shall charge for the acquisition of necessary water or sewer easements across their property to serve their land within this 800 acre area.*" On September 16, 2008 the City Council agreed to upgrade the sewer line contained in the Wastewater System Improvement Project's EL-3 in order to have the capability to serve the SouthPass area in the future. In addition, the developer agreed to fund 50% of this upgrade. At this point, the sewer line from EL-3 to the SouthPass/Community Park property will have to be addressed in order to provide service to both developments. City Staff has studied four (4) different routes for this sewer line (See Exhibit A) with an estimated cost range from \$1.49 million to \$4.02

million as shown on the attached cost estimates (See Exhibit B). The option with the lowest cost is recommended which would install a pump station on the property and route a force main to the north along the future extension of Shiloh Drive. An existing encasement under I-540 located to the north of the Cato Springs interchange would be utilized and the force main would discharge into an existing sewer line located on Custer Avenue. A portion of the Custer Avenue sewer line would need to be upgraded to 12" in size. This total cost has been estimated to be \$1.49 million which when split 50/50 would result in an estimated cost to the city in the amount of \$745,000. All of this sewer work would need to be installed as a part of the first Phase of construction either for the Park or SouthPass.

In the conceptual phase of developing the street layout, the Parks and Recreation staff and Advisory Board worked closely with the project designers to put together a plan that would serve both developments. The Community Park contains a perimeter road that will be utilized for both vehicular access and parallel parking in order to minimize the construction of parking lots for Park users. In an effort to reduce the City costs, portions of this perimeter road are also adjacent to lots that will be developed as a part of SouthPass. These street segments are recommended to be cost shared at a 50/50 ratio split along with the primary access road to Cato Springs Road. The portions of this perimeter road that are surrounded entirely by the Community Park would be 100% the City responsibility and would have to be paid by the Park Development fund. The costs for these street segments that will not be cost-shared and paid 100% by the City are not included in the attached cost estimates (Exhibit C).

The construction of the road through the 10 acre water tank site will provide the City a hard surface reliable access to this important City infrastructure component. It has been estimated that this construction would occur during Phase 11 of construction that has been predicted to be completed in 2023.

Shiloh Drive currently dead ends approximately ¼ mile north of the SouthPass property. During the Transportation Bond Program discussions at the Street Committee level, the construction of this road extension to Cato Springs Road was placed on a list for the future bond issue. This street extension will provide a secondary access to both the SouthPass and Community Park developments. The current proposal is for the City & developer to cost share 50/50 for the portion of this road that is contained through the SouthPass property and for the City to pay 100% for the street segment that is contained offsite of both the City and SouthPass property.

The attached drawing labeled Exhibit G shows a graphical representation of which streets will be cost shared, which streets that will be the full responsibility of the City, and which streets that will the full responsibility of the SouthPass Development Company. The two sheets shown as Exhibit C are cost estimates based on 2008 dollars that show the estimated year in which the funds would be needed to be available to align with the various phases of development of both the Community Park and the SouthPass Development. This time frame will span a period of 25 years.

In order to provide a full picture of the costs for all aspects of the project, the two sheets shown as Exhibit E were developed by the Parks and Recreation Division to provide a breakdown of the various cost components and a timeline of when the funds will need to be available. In addition, Exhibit D was also developed that shows the cost **(using 2008 cost numbers)** of the Community Park assuming that it is a stand alone development at this site and there would be no participation from any development. The primary differences in these costs is that without the partnership, the City would have to purchase the entire property instead of the land being donated, the City would not get \$1 million donated from the developer, and the City would have pay for 100% of all the necessary infrastructure in order to develop the park including streets, parking lots, water, and sewer. These cost estimates are summarized below:

Estimated Cost for Community Park with Southpass Partnership - \$26,168,218*
 Estimated Cost for Community Park w/o Southpass Partnership - \$39,115,229*

***THESE ESTIMATES ARE BASED ON 2008 DOLLARS AND HAVE NOT BEEN INFLATED FOR FUTURE YEAR EXPENSES**

BUDGET IMPACT:

Upon approval of the project, various cost share agreements as outlined on the attached exhibits would be submitted to the City Council for approval over the next 25 years as both the SouthPass development and the Community Park develops. The funds for these cost shares will be encumbered at the various phases of construction by separate approval. The following is a summary of the funds that could be utilized for the future cost share agreements:

ITEM	CITY FUND
Sewer Extension	Sewer Impact Fee Fund
Shiloh Drive	Transportation Bond Issue (Future)
Water Tank Street	Water/Sewer Fund
Remainder of Streets	Park Development Fund

RESOLUTION NO. _____

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO COST SHARE STREET AND SEWER INFRASTRUCTURE COSTS THAT WOULD BE UTILIZED BY BOTH THE SOUTH PASS DEVELOPMENT AND THE FUTURE COMMUNITY PARK

WHEREAS, Southpass Development Company, LLC is constructing an 800 acre (approximate) mixed use development on the west side of I-540 adjacent to Cato Springs Road in eighteen phases over an estimated 25 year time span, and

WHEREAS, *The Agreement to Acquire and Develop the Community Park for Fayetteville* that was approved by the City Council on September 7, 2004 stated that Southpass Development Company, LLC shall convey a Two Hundred (200) parcel for the Community Park upon approval of the Southpass Planned Zoning District, and

WHEREAS, this approved agreement stated that the City of Fayetteville and Southpass shall cost share (50/50) all costs of extending sewer to the Community Park site, and

WHEREAS, entering into a future cost-share agreement with Southpass Development Company, LLC will avoid unnecessary duplication of effort which would arise if each party constructed separate street and sewer systems to serve each development.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby agrees that the City will participate in accordance with its designated responsibilities in this project as shown on the attached exhibits.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby pledges the City's full support and hereby authorizes Southpass Development Company, LLC to initiate action to implement this project.

PASSED and **APPROVED** this the _____ day of _____, 2008.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

* Attached as Exhibit A is a drawing of the recommended sewer route that would serve both the Southpass Development and the Community Park.

Attached as Exhibit B are cost estimates of the alternate sewer routes.

Attached as Exhibit C is a cost estimate based on 2008 dollars and timeline of the expected expenses for the streets that are to be paid partially or fully by the City of Fayetteville. This list excludes the streets fully within the Community Park that will be paid out of the Park Development Fund.

Attached as Exhibit D is a cost estimate of the full City of Fayetteville costs using 2008 dollars without the City utilizing a partnership agreement.

Attached as Exhibit E is a cost estimate of the full City of Fayetteville costs using 2008 dollars with the City utilizing a partnership with Southpass Development, Incorporated.

Attached as Exhibit F is a drawing of the proposed streets that reflects the responsibilities of the City of Fayetteville without the City utilizing a partnership agreement.

Attached as Exhibit G is a drawing of the proposed streets that reflects the responsibilities of both the City of Fayetteville and Southpass Development Company, LLC with the City utilizing a partnership agreement with Southpass Development, Incorporated.

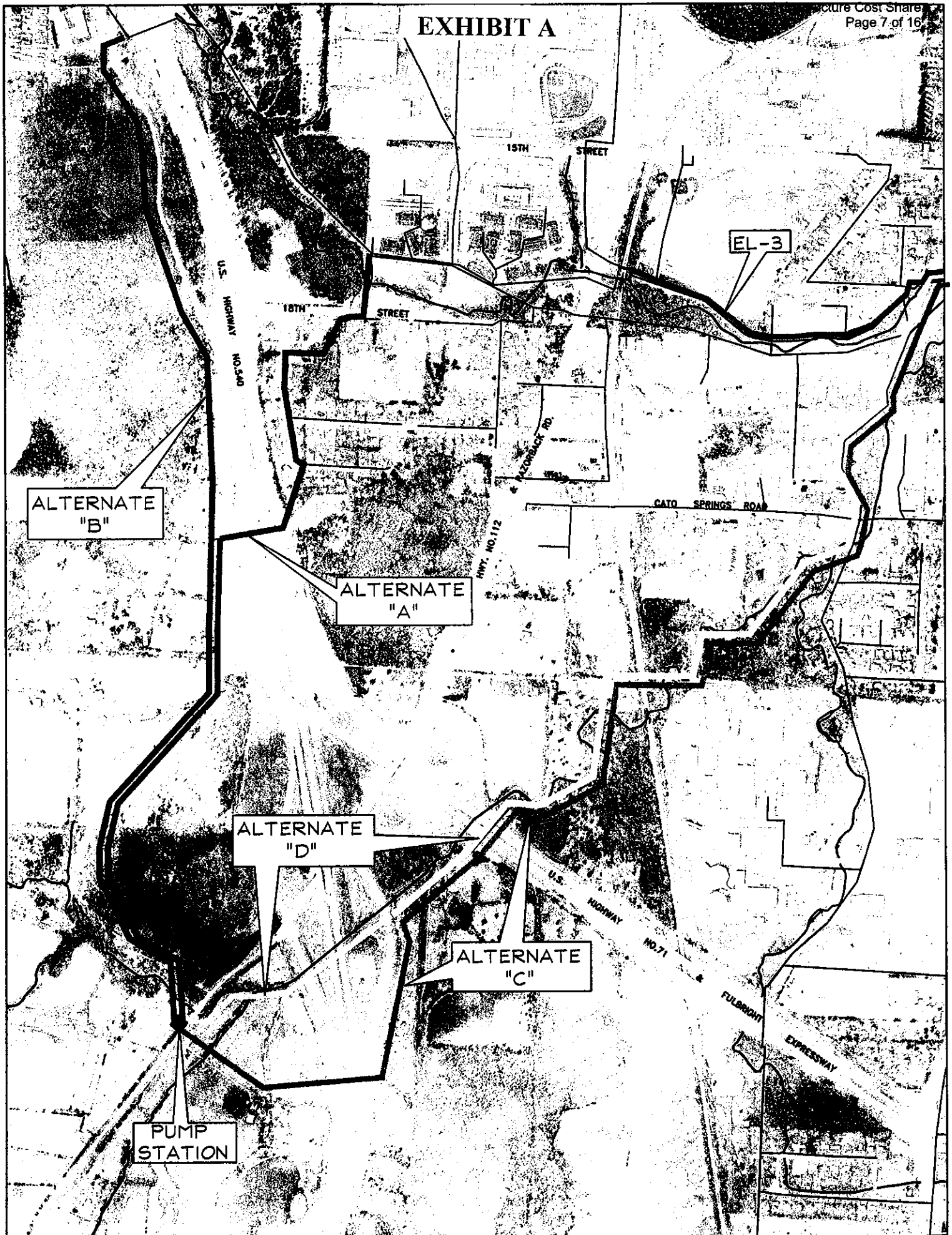


EXHIBIT B

EXHIBIT B

SOUTHPASS COST ESTIMATE FOR OFF SITE SEWER IMPROVEMENTS

Item	Description	19-Oct-07		Alternate C		Alternate B		Park Only		Alternate D		Recommended Alternate A	
		Price	2008	Price	2008	Price	2008	Price	2008	Price	2008	Price	2008
Pump Station													
	750 GPM Pump Station for Southpass Phase 1&2		\$165,000				\$165,000						\$165,000
	Backup Generator		\$49,500				\$49,500						\$49,500
	SCADA Control		\$16,500				\$16,500						\$16,500
	50 GPM for Park Only							\$16,500					
	Backup Generator							\$66,000					
Force Main								\$11,000					
	8" Force Main		\$109,560										\$348,480
	8" Force Main						\$557,040						
	3" Force Main							\$145,200					
Sewer Pipe													
	12" Gravity Sewer Pipe		\$639,540										\$207,900
	Manhole 4' Diameter to 8' Deep		\$96,800										\$52,800
	Manhole 5' Diameter to 8' Deep		\$21,450								\$21,450		
	24" Gravity Sewer Pipe		\$95,288								\$95,288		
	36" Bore and Casing (W Cato Springs)		\$57,750								\$57,750		
	24" Bore and Casing (Rail Road)		\$89,575										
	12" Gravity Sewer Pipe										\$695,475		
	Manhole 4' Diameter to 8' Deep										\$105,600		
	48" Bore and Casing (I-540)										\$1,210,000		
	36" Bore and Casing (Rail Road)										\$94,875		
	36" Bore and Casing (S Cato Springs)										\$57,750		
Misc Items													
	Removal and Disposal		\$11,000				\$11,000	\$5,500			\$11,000		\$11,000
	Maintenance of Traffic		\$1,650				\$5,500	\$1,650			\$1,650		\$5,500
	Restoration of Surfaces		\$22,000				\$22,000	\$5,500			\$22,000		\$22,000
	Fencing & Erosion Control		\$11,000				\$11,000	\$5,500			\$11,000		\$11,000
	Utility Relocation		\$5,500				\$5,500	\$1,100			\$5,500		\$5,500
	Special Conditions (Creek Crossings)		\$22,000				\$22,000	\$5,500			\$22,000		\$22,000
	Odor Control		\$71,500				\$44,000	\$13,200			\$121,000		\$44,000
	Mobilization												
Construction Subtotal			\$1,465,613				\$909,040	\$276,650			\$2,532,338		\$961,180
Engineering													
	Engineering, Survey, & Land Acquisition (15% of 2008 Const.)		\$199,856				\$123,960	\$37,725			\$345,319		\$131,070
Easements													
	30ft Utility Easement		\$1,020,600				\$675,200	\$84,800			\$726,600		\$84,800
	20ft Utility Easement							\$168,800					\$168,800
	10ft Utility Easement						\$67,520	\$8,480			\$48,440		\$8,480
	10ft Construction Easement												
Subtotal			\$2,754,109				\$1,775,720	\$576,455			\$3,652,697		\$1,354,330
Contingencies (10%)			\$275,411				\$177,572	\$57,646			\$365,270		\$135,433
Off Site Improvements													
	Ultimate Buildout												
	Increase capacity by 2MGD (6" increase in diam. Of EL-3)												
TOTAL			\$3,029,520				\$1,953,292	\$634,101			\$4,017,967		\$1,489,763

EXHIBIT C

SouthPass Community and Community Park Street Cost Sharing Calculations Prepared by City of Fayetteville, Engineering Division

SouthPass Phasing	Start of Construction	LF per Phase	Cost/LF Using SouthPass Section	Total Cost Using SouthPass Section	City %	City Cost
Phase 1*	2009	5188	\$536	\$2,846,395	50%	\$423,198
Phase 2	2010	1659	\$610	\$1,011,990	50%	\$505,995
Phase 6	2015	1767	\$468	\$832,800	50%	\$416,400
Phase 7	2016	662	\$460	\$304,520	50%	\$152,260
Phase 13	2024	2323	\$450	\$1,045,350	50%	\$522,675
Phase 16	2027	1606	\$450	\$722,700	50%	\$361,350
Water Tower Ext.-Phase 11	2021	2585	\$350	\$904,750	100%	\$904,750
Shiloh Drive Extension-Phase 15	2027	1360	\$350	\$476,000	100%	\$476,000
Subtotal				\$8,144,505		\$3,762,628
10% Contingency**				\$814,451		\$476,263
15% Engineering/Const. Mgmt.**				\$1,221,676		\$714,394
Totals-In 2008 Dollars				\$10,180,631		\$4,953,284

* "City Cost" for Phase 1 includes developer contribution of \$1,000,000 to be used for Phase I construction.

** Contingency and Engineering are calculated without developer's contribution.

EXHIBIT C

SouthPass Community and Community Park Street Cost Sharing Estimated City Costs-2008 Dollars

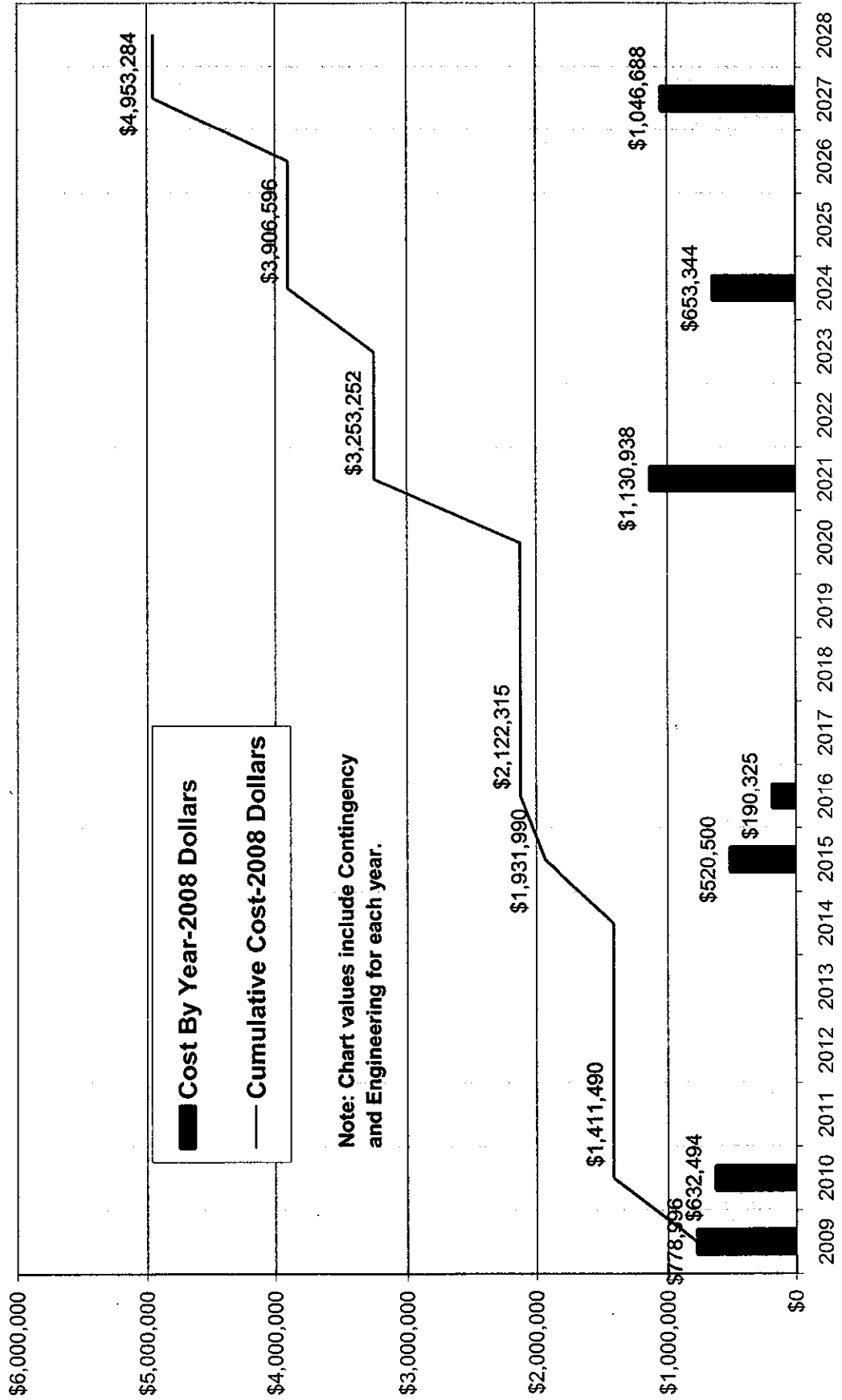


EXHIBIT D

Southpass Development
Infrastructure Cost Share
Page 11 of 16

Regional Park Costs Without Southpass				
Phase	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Phase 1	Soccer (lighted)	4	\$ 200,000.00	\$ 800,000.00
	Soccer (unlighted)	4	\$ 100,000.00	\$ 400,000.00
	concession/restroom	1	\$ 350,000.00	\$ 350,000.00
	large playground	1	\$ 150,000.00	\$ 150,000.00
	splash pad	1	\$ 215,000.00	\$ 215,000.00
	large shelter	1	\$ 150,000.00	\$ 150,000.00
	art landscaping	1	\$ 10,000.00	\$ 10,000.00
	water	1	\$ 100,000.00	\$ 100,000.00
	electric-includes main power to park	1		\$ -
	Amenities	1	\$ 150,000.00	\$ 150,000.00
Total Phase 1				\$ 2,325,000.00
Phase 2	lighted fields	8	\$ 655,000.00	\$ 5,240,000.00
	concession/restroom	2	\$ 350,000.00	\$ 700,000.00
	water	1	\$ 5,000.00	\$ 5,000.00
	sewer	1	\$ 7,000.00	\$ 7,000.00
	electric	1	\$ 5,000.00	\$ 5,000.00
	small playground	1	\$ 50,000.00	\$ 50,000.00
	splash pad	1	\$ 215,000.00	\$ 215,000.00
	trails	1	\$ 150,000.00	\$ 150,000.00
	Infrastructure			
	Amenities			
Total Phase 2				\$ 6,372,000.00
Phase 3	unlighted fields	4	\$ 530,000.00	\$ 2,120,000.00
	concession/restroom	1	\$ 350,000.00	\$ 350,000.00
	Multi-purpose fields	1	\$ 100,000.00	\$ 100,000.00
	large amphitheater	1	\$ 300,000.00	\$ 300,000.00
	trails	1	\$ 150,000.00	\$ 150,000.00
	small pavilion	1	\$ 50,000.00	\$ 50,000.00
	water	1	\$ 5,000.00	\$ 5,000.00
	sewer	1	\$ 7,000.00	\$ 7,000.00
	electric	1	\$ 5,000.00	\$ 5,000.00
	Infrastructure			
Total Phase 3				\$ 3,087,000.00
Phase 4	unlighted fields	4	\$ 175,000.00	\$ 700,000.00
	concession/restroom	4	\$ 175,000.00	\$ 700,000.00
	Multi-purpose fields	4	\$ 175,000.00	\$ 700,000.00
	large amphitheater	4	\$ 175,000.00	\$ 700,000.00
	trails	4	\$ 175,000.00	\$ 700,000.00
	small pavilion	4	\$ 175,000.00	\$ 700,000.00
	water	4	\$ 175,000.00	\$ 700,000.00
	sewer	4	\$ 175,000.00	\$ 700,000.00
	electric	4	\$ 175,000.00	\$ 700,000.00
	Infrastructure			
Total Phase 4				\$ 2,800,000.00
Phase 5	Multi-purpose fields	4	\$ 100,000.00	\$ 400,000.00
	Landscaping	1	\$ 40,000.00	\$ 40,000.00
	trails	1	\$ 150,000.00	\$ 150,000.00
	small amphitheater	1	\$ 50,000.00	\$ 50,000.00
	disc golf	1	\$ 25,000.00	\$ 25,000.00
	Infrastructure			
	Amenities			
	Subtotal Phases			\$ 13,552,000.00
	Design and Engineering of Park - 10%			\$ 1,355,200.00
	Contingency - 10%			\$ 1,355,200.00
Total Park				\$ 16,262,400.00
land purchase		200	\$ 40,000.00	\$ 8,000,000.00
Street and sewer infrastructure	Shiloh Extension from park to existing road to water tanks	3627	\$ 350.00	\$ 1,269,450.00
	sewer	2585	\$ 350.00	\$ 904,750.00
	sewer- EL3	1	\$ 507,200.00	\$ 507,200.00
	park roads	1,425	\$ 89,115.00	\$ 89,115.00
	park roads	4,990	\$ 810.00	\$ 889,250.00
	park roads	1431	\$ 536.00	\$ 2,674,640.00
	park roads	5,620	\$ 468.00	\$ 669,708.00
	park roads	3,142	\$ 450.00	\$ 2,529,000.00
	total linear feet	22,820	\$ 350.00	\$ 1,099,700.00
	Subtotal infrastructure			\$ 11,882,263.00
Design and Engineering of Infrastructure - 15%				\$ 1,782,339.45
Contingency Infrastructure - 10%				\$ 1,188,226.30
Total Infrastructure				\$ 14,852,828.75
Total costs				\$ 39,115,228.75

EXHIBIT E

Regional Park Costs with Southpass				
Phase 1	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Soccer	Soccer (lighted)	4	\$ 200,000.00	\$ 800,000.00
	Soccer (unlighted)	4	\$ 100,000.00	\$ 400,000.00
	concession/restroom	1	\$ 350,000.00	\$ 350,000.00
	large playground	1	\$ 150,000.00	\$ 150,000.00
Great Lawn Area	large splash pad	1	\$ 215,000.00	\$ 215,000.00
	large shelter	1	\$ 150,000.00	\$ 150,000.00
	art, landscaping	1	\$ 10,000.00	\$ 10,000.00
Infrastructure	water	1	\$ 100,000.00	\$ 100,000.00
	electric-includes main power to park	1		\$ -
Amenities	trails	1	\$ 150,000.00	\$ 150,000.00
Total Phase 1				\$ 2,325,000.00
Phase 2	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Youth Baseball	lighted fields	0	\$ 655,000.00	\$ -
	concession/restroom	2	\$ 350,000.00	\$ 700,000.00
Infrastructure	water	1	\$ 5,000.00	\$ 5,000.00
	sewer	1	\$ 7,000.00	\$ 7,000.00
	electric	1	\$ 5,000.00	\$ 5,000.00
	small playground	1	\$ 50,000.00	\$ 50,000.00
Amenities	splash pad	1	\$ 215,000.00	\$ 215,000.00
	trails	1	\$ 150,000.00	\$ 150,000.00
Total Phase 2				\$ 6,372,000.00
Phase 3	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Youth Softball	unlighted fields	4	\$ 530,000.00	\$ 2,120,000.00
	concession/restroom	1	\$ 350,000.00	\$ 350,000.00
Multi-purpose fields	unlighted fields	1	\$ 100,000.00	\$ 100,000.00
	large amphitheater	1	\$ 300,000.00	\$ 300,000.00
Amenities	trails	1	\$ 150,000.00	\$ 150,000.00
	small pavilion	1	\$ 50,000.00	\$ 50,000.00
Infrastructure	water	1	\$ 5,000.00	\$ 5,000.00
	sewer	1	\$ 7,000.00	\$ 7,000.00
	electric	1	\$ 5,000.00	\$ 5,000.00
Total Phase 3				\$ 3,087,000.00
Phase 4	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Tennis	lighted courts	8	\$ 75,000.00	\$ 600,000.00
	unlighted courts	4	\$ 75,000.00	\$ 300,000.00
Volleyball	lighted sand courts	4	\$ 7,000.00	\$ 28,000.00
	unlighted sand courts	1	\$ 25,000.00	\$ 25,000.00
Amenities	trails	1	\$ 150,000.00	\$ 150,000.00
	small pavilion	1	\$ 50,000.00	\$ 50,000.00
Total Phase 4				\$ 1,103,000.00
Phase 5	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Multi-purpose fields	unlighted fields	4	\$ 100,000.00	\$ 400,000.00
	landscaping	1	\$ 40,000.00	\$ 40,000.00
Amenities	trails	1	\$ 150,000.00	\$ 150,000.00
	small amphitheater	1	\$ 50,000.00	\$ 50,000.00
Infrastructure	disc golf	1	\$ 25,000.00	\$ 25,000.00
Total Phase 5				\$ 665,000.00
Subtotal Phases				\$ 13,552,000.00
Design and Engineering of Park - 10%				\$ 1,355,200.00
Contingency - 10%				\$ 1,355,200.00
Total phases				\$ 16,262,400.00
Park street and infrastructure	Shoich extension from Southpass to existing Shoich road to water tanks	1380	\$ 350.00	\$ 478,000.00
	road to water tanks	2500	\$ 350.00	\$ 875,000.00
	sewer	1	\$ 595,904.00	\$ 595,904.00
	park roads	2,721	\$ 536.00	\$ 1,458,456.00
	park roads	337	\$ 468.00	\$ 157,716.00
	park roads	1,445	\$ 450.00	\$ 650,250.00
	park roads	3,142	\$ 350.00	\$ 1,099,700.00
	Total linear feet	24,795		\$ 5,312,776.00
50% Street Cost Share with Southpass	roads	1,659	\$ 619.00	\$ 1,016,921.00
	roads	5,183	\$ 346.65	\$ 1,800,189.15
	roads	1,767	\$ 471.31	\$ 831,400.00
	roads	682	\$ 480.00	\$ 327,360.00
Total cost share				\$ 3,981,870.15
Subtotal Infrastructure				\$ 8,724,654.15
Design and Engineering of Infrastructure - 15%				\$ 1,308,698.11
Contingency of Infrastructure - 10%				\$ 872,465.41
Total Infrastructure				\$ 10,905,817.67
Donation from Southpass				\$ (1,000,000.00)
Total costs				\$ 26,168,217.62

EXHIBIT E

Regional Park Estimated Costs with SouthPass

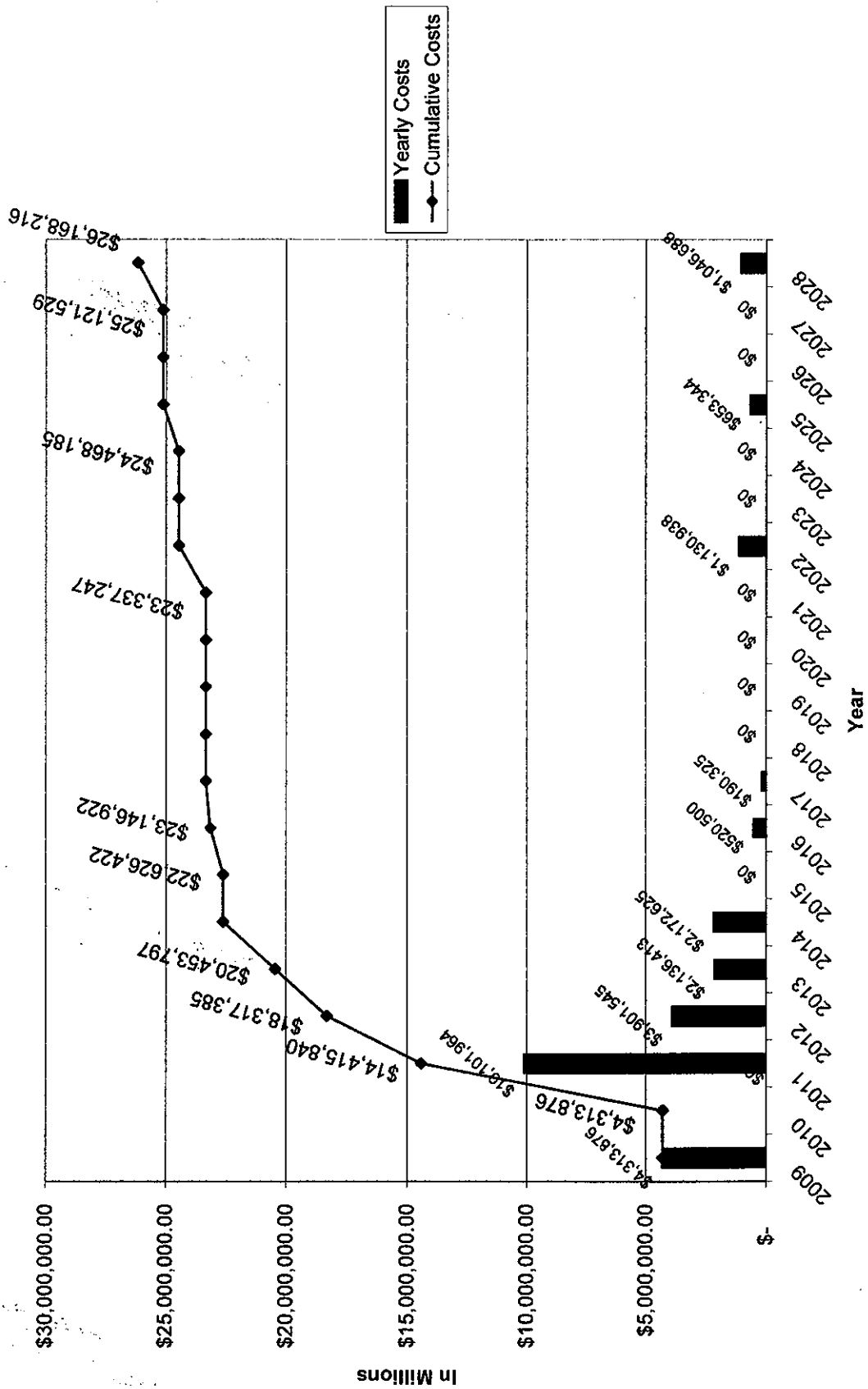
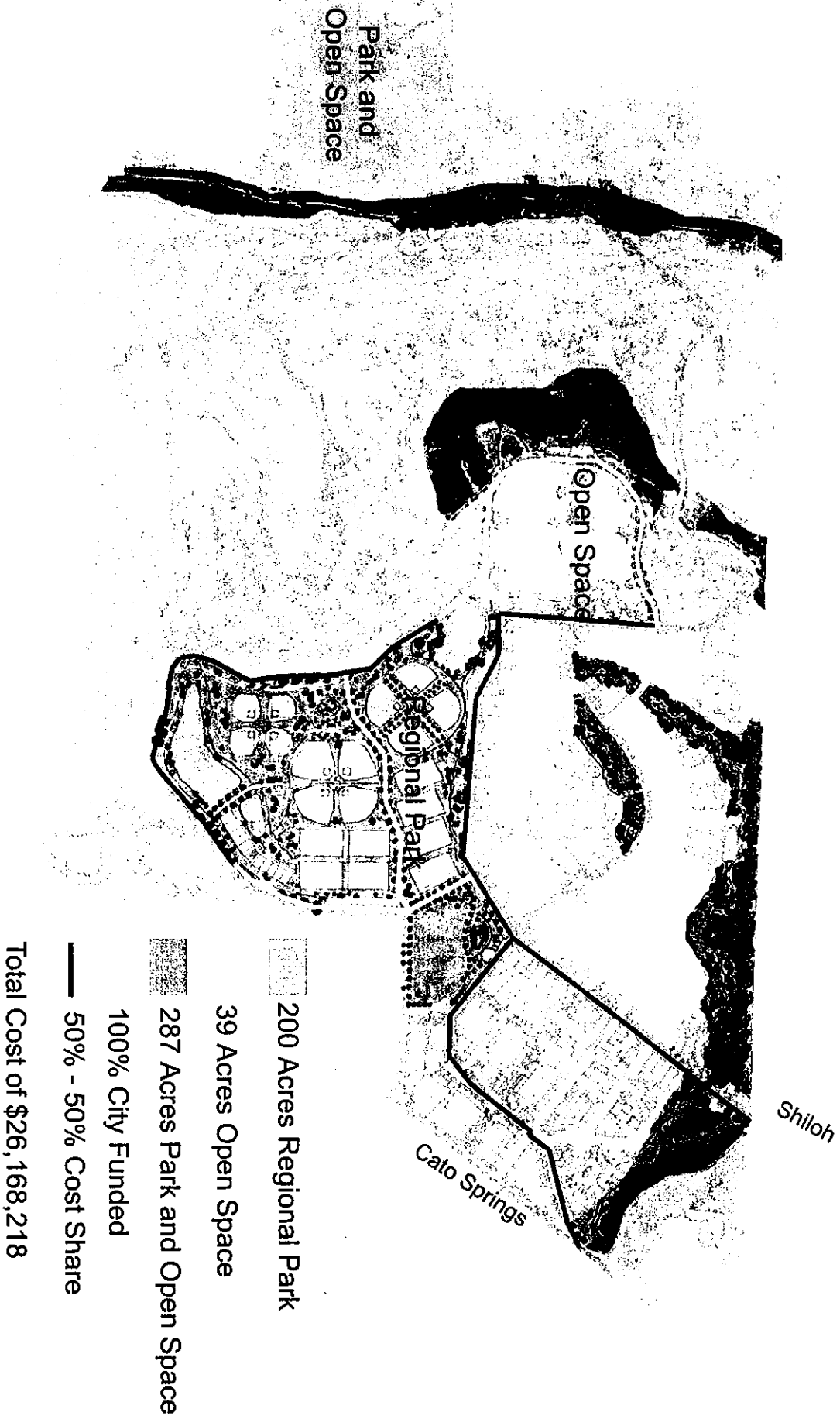
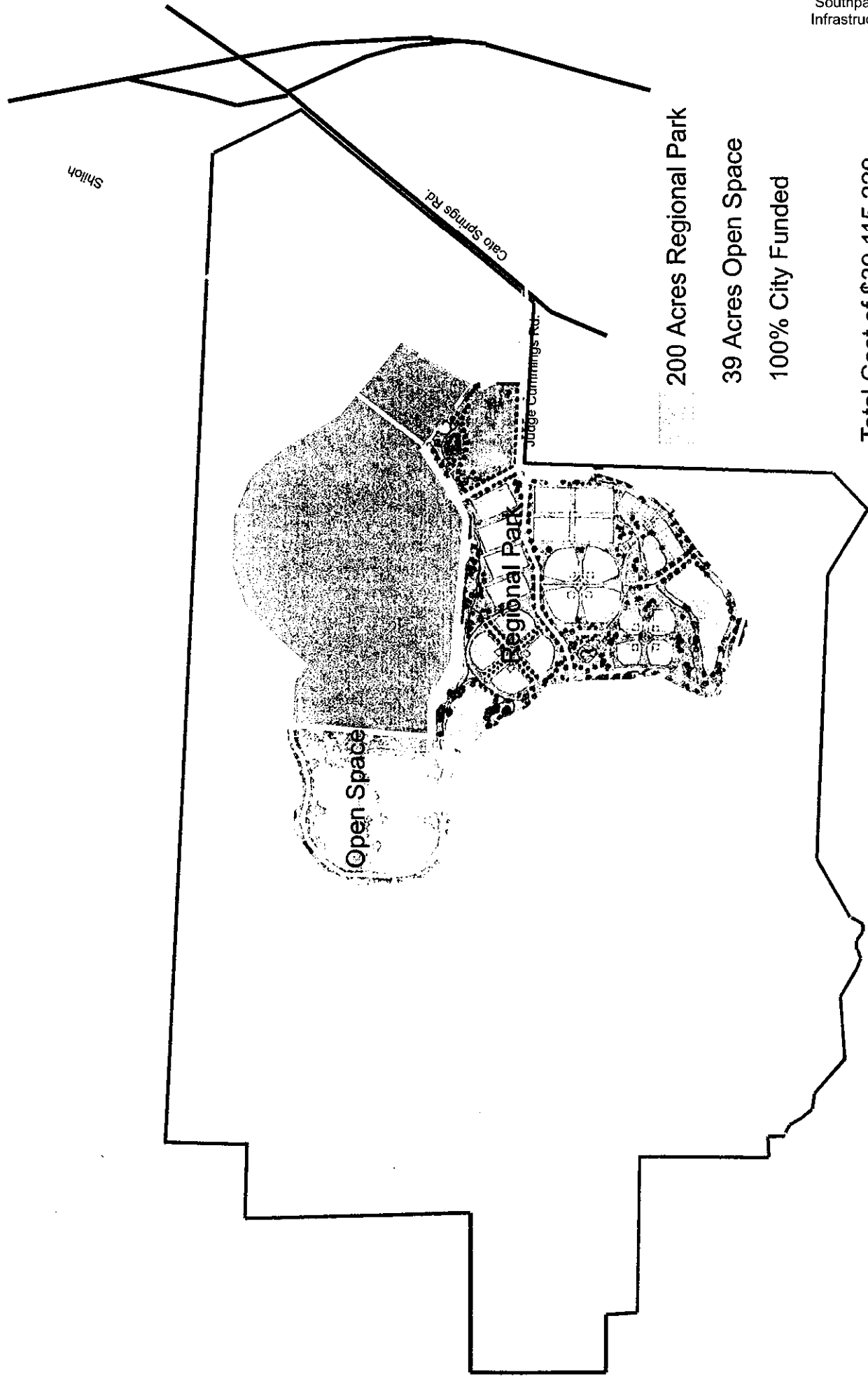


EXHIBIT G



Regional Park with SouthPass

EXHIBIT F



200 Acres Regional Park

39 Acres Open Space

100% City Funded

Total Cost of \$39,115,229

Regional Park without SouthPass

**City Council Agenda Items
and
Contracts, Leases or Agreements**

10/21/2008

**City Council Meeting Date
Agenda Items Only**

Jeremy Pate *X*
Submitted By

**Planning
Division**

**Operations
Department**

Action Required:

RZN 08-3084: (Candlelight Place, 367): Submitted by Pat McGowan for property located at the southeast corner of Gregg Avenue and Ash Street. The property is zoned RSF-4, Residential Single-Family, 4 units per acre, and contains approximately 0.94 acres. The request is to rezone the subject property to RMF-24, Residential Multi-Family, 24 units per acre.

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

Project Number

\$

-

Remaining Balance

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

[Signature]
Department Director

Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

Date

Original Contract Date:

Original Contract Number:

Paul A. Becher
Finance and Internal Service Director

Date

Received in City
Clerk's Office

ENTERED

[Signature]
Mayor

Date

Received in
Mayor's Office

ENTERED

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: September 29, 2008

Subject: Rezoning for Candlelight Place Apartments (RZN 08-3084)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning a portion of the subject property from RSF-4, Residential Single Family, 4 units/acre, to RMF-24, Residential Multi-Family, 24 units/acre located at the corner of Gregg Avenue and Ash Street.

BACKGROUND

The property, containing approximately 0.94 acres, is located at the corner of Gregg Avenue and Ash Street, just north of the Candlelight Place Apartments, and is currently undeveloped. At this location, Gregg Avenue (Minor Arterial) runs parallel with and adjacent to the east of the Frisco Railroad track, an active rail line, as shown on the attached aerial map. Surrounding land uses are mixed on both sides of the Railroad. To the east of Gregg Avenue and the Frisco Railroad track and the north of the site, properties consist of single- and multi-family zoning districts and land uses. To the west, properties consist of multi-family, heavy commercial, and light industrial zoning districts and land uses.

The applicant proposes to rezone the property from RSF-4 to RMF-24 to develop the site as an extension of the existing Candlelight Place Apartment development. Should the rezoning request be approved, the applicant would be required to submit a development request subject to the zoning and development requirements of the Unified Development Code, including Urban Residential Design Standards and Tree Preservation.

DISCUSSION

This item was heard at the regular Planning Commission meeting on September 22, 2008. The Planning Commission voted 7-0-0 to forward this rezoning request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 08-3084, FOR APPROXIMATELY 0.94 ACRES, LOCATED AT THE SOUTHEAST CORNER OF GREGG AVENUE AND ASH STREET FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE, TO RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE

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

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

From RSF-4, Residential Single-Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

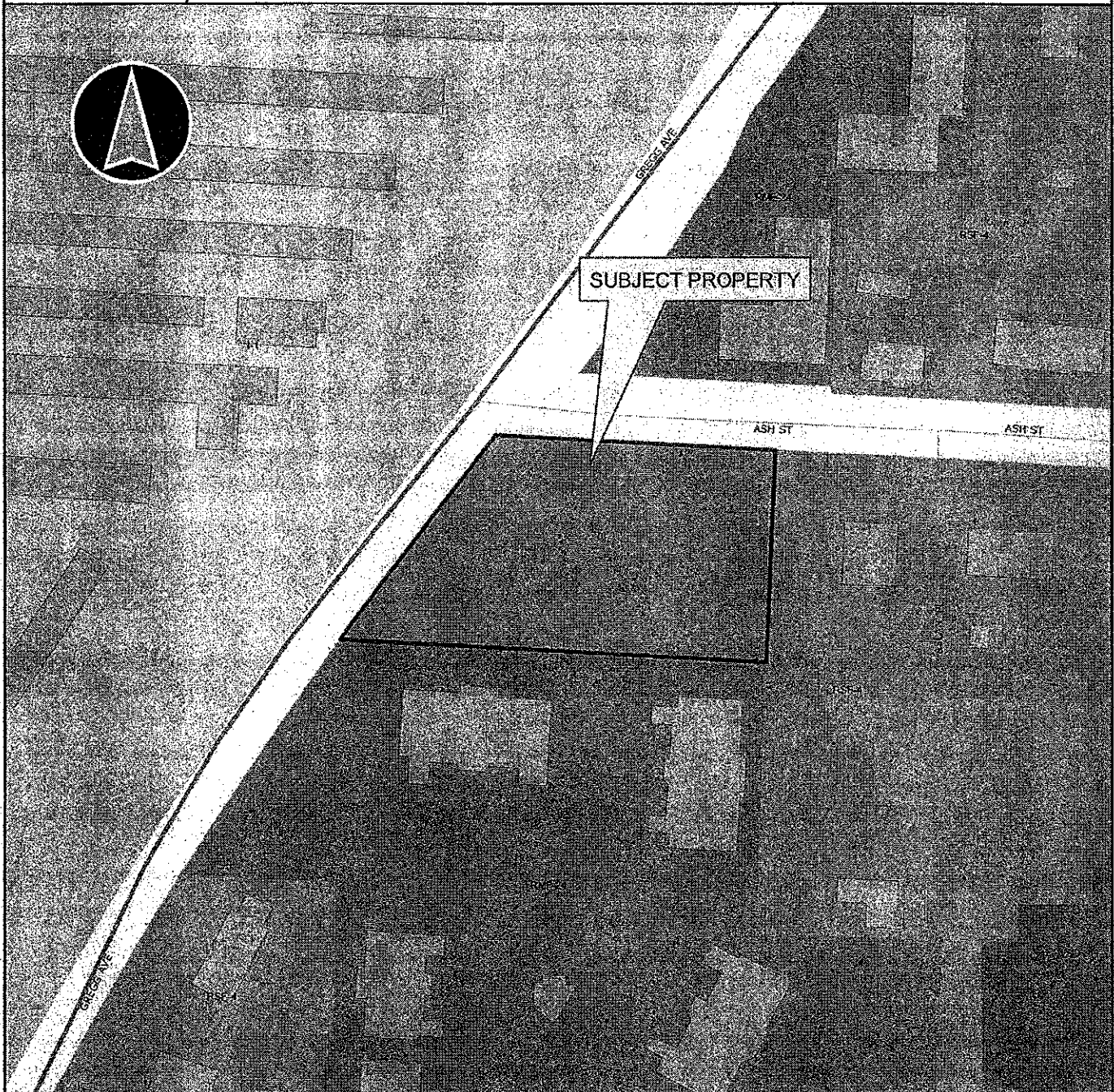
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN08-3084

Close Up View

CANDLELIGHT PLACE



Overview

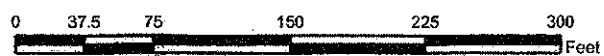
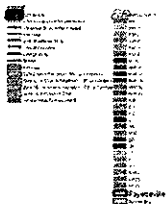


EXHIBIT "B"
RZN 08-3084

LOT FOUR (4) OF BLOCK TWELVE (12) OF VALLEY VIEW ACRES TO THE CITY OF
FAYETTEVILLE, ARKANSAS.



PC Meeting of September 22, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: September 11, 2008 Updated September 23, 2008

RZN 08-3084: (CANDLELIGHT PLACE, 367): Submitted by PAT MCGOWAN for property located at the SE CORNER OF GREGG AVENUE AND ASH STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.94 acres. The request is to rezone the subject property to RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE.
Planner: Dara Sanders

BACKGROUND:

Property Description: The property, containing approximately 0.94 acres, is located at the corner of Gregg Avenue and Ash Street, just north of the Candlelight Place Apartments. The subject property is currently undeveloped.

At this location, Gregg Avenue (Minor Arterial) runs parallel with and adjacent to the east of the Frisco Railroad track, an active rail line, as shown on the attached aerial map. Surrounding land uses are mixed on both sides of the Railroad. To the east of Gregg Avenue and the Frisco Railroad track and the north of the site, properties consist of single- and multi-family zoning districts and land uses. To the west, properties consist of multi-family, heavy commercial, and light industrial zoning districts and land uses.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Heritage Townhouses	RMF-24, Residential Multi-Family, 24 units/acre
South	Candlelight Apartments	RMF-24, Residential Multi-Family, 24 units/acre
East	Single family houses	RSF-4, Residential Single-Family, 4 units/acre
West	Frisco Railroad, Industrial	I-1, Light Industrial

Proposal: The applicant proposes to rezone the property from RSF-4 to RMF-24 to develop the site as an extension of the existing Candlelight Place Apartment development, which was approved by the Planning Commission in 1993 and constructed in 2003. Should the rezoning request be approved, the applicant would be required to submit a development request subject to the zoning and development requirements of the Unified Development Code.

Public Comment: Staff has not received public comment.

K:\Reports\2008\PC Reports\18-September 22\RZN 08-3084 (Candlelight).doc

Discussion: Staff finds in favor of the zoning request, finding that the proposed zoning would be compatible with adjacent zoning, existing and approved development, the future land use plan to provide a range of residential building types, and complies with many of the City's goals adopted by the City Council with City Plan 2025. Staff also finds that this undeveloped property, with frontage on a Minor Arterial street carrying high volume and relatively high speed traffic, is more appropriate to be used for a multi-family use instead of the currently designated single-family use. The properties directly to the north and south of the subject property are zoned RMF-24. Because of the property's location adjacent to Gregg Avenue and the Railroad and its proximity to non-residential services, staff finds it appropriate to extend the RMF-24 zoning district along Gregg Avenue and encouraging higher density development that could support a multi-modal transportation network.

Should the rezoning request be approved, the applicant will be required to submit a development request for the subject property. At the time of development, staff will likely recommend that additional curb cuts be prohibited to Gregg Avenue and that the subject property be accessed by the existing driveway for the Candlelight Place Apartments. Because a majority of the site is covered with tree canopy, staff will require at the time of development a detailed tree preservation plan listing the species, priority, and condition of all trees on the site and those to be preserved. A minimum of 20% is required in the RMF-24 district.

Only one use request for this neighborhood has been reviewed recently by the Planning Commission. In June of 2006, the Commission considered a conditional use permit (CUP 06-2091) for a property located at 227 West Miller Street (designated as a Collector), one block north of the subject property and one block east of Gregg Avenue, to allow for a two-family dwelling unit in the RSF-4 zoning district. The Planning Division received one letter of objection from two citizens, not adjacent property owners. Staff recommended approval of the request, finding that the two-family use established an appropriate transition between the multi-family development and the Minor Arterial (Gregg Avenue) to the west and the single-family neighborhood to the east. The request was approved with conditions by a vote of 5-4-0.

RECOMMENDATION:

Staff recommends forwarding the rezoning request to the City Council with a recommendation of approval based on findings stated herein.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
☐ Approved		☒ Forwarded	☐ Denied
Motion: Anthes	Second: Cabe	Vote: 7-0-0	
CITY COUNCIL ACTION:		Required	<u>YES</u>
☐ Approved		☐ Denied	
Date:			

INFRASTRUCTURE:

- Streets:** The site has access to Gregg Ave. and Ash St. Ash Street is a paved two lane city street of sufficient width. Gregg Ave. is a fully improved four lane city street. Street improvements will be evaluated with the proposed development.
- Water:** Public water is available to the property. There is an 8" main along Gregg Avenue and Ash Street. Water may need to be extended through the property at the time of development to provide domestic service and fire protection.
- Sewer:** Sanitary sewer is available to the site. There is a 6" public main along Ash Street. Sewer may need to be extended through the property at the time of development. The capacity of the existing main will need to be evaluated at the time of development.
- Drainage:** Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.
- Fire:** This property will be covered by Engine 2 located at 708 N. Garland Avenue. It is 1.4 miles from the station with an anticipated response time of 3 minutes. The Fire Department anticipates that there will be 4 (3 EMS-1 Fire/other) calls for service, per year, once this development is completed and maximum build out has occurred. The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.
- Police:** It is the opinion of the Fayetteville Police Department that this RZN will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This RZN will possibly create an appreciable increase in traffic danger and congestion.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as City Neighborhood Area. Staff finds that extending the RMF-24, Residential Multi-Family, 24 units/acre zoning district along Gregg Avenue (Minor Arterial) is appropriate at this location as several properties, including the existing multi-family development to the south, currently exist along the east side of Gregg Avenue. With the incorporation of standard City ordinance requirements for multi-family developments including Urban Residential Design Standards, these uses would be compatible with the adjacent single family residences to the east of the subject property and would serve as a transition between the single-family neighborhood to the east and the Railroad and 4-lane street to the west.*

FINDINGS OF THE STAFF

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

Finding: The property is designated as City Neighborhood Area in the City Plan 2025 Future Land Use Plan, which encourages a denser and primarily residential urban fabric with a range of residential building types, setbacks, and low-intensity nonresidential uses. The proposed RMF-24 zoning is consistent with the City's City Neighborhood Area land use designation to encourage a range of residential building types. Furthermore, the multi-family development would serve as a transition and buffer between the single-family neighborhood to the east and the Railroad, 4-lane street, and the light-industrial uses to the west.

Staff finds the proposal to be consistent with several of the City Plan 2025 Goals adopted by the City Council. With Goal 1, the City of Fayetteville has established infill as our highest priority. Staff finds that the applicant's proposal to develop the subject property as an expansion of the Candlelight Place Apartments is an infill project, as the aerial map included in this staff report indicates that development has occurred around the vacant property.

Staff finds that the proposal complies with Goal 2 to discourage sprawl with compact and medium-density development that fronts onto a major transportation corridor and utilizes existing city infrastructure.

Staff finds that the proposal to increase the residential density along Gregg Avenue is consistent with Goal 4 to develop a multi-modal transportation network. Efficient transit depends upon nodes or concentrations of population and employment that can be served efficiently. Staff finds that the increase in residential density that is adjacent to an active Railroad and a Minor Arterial and has access to nearby non-residential services and employment opportunities is consistent with transit-oriented development.

Staff also finds that the proposal is consistent with Goal 6 to create attainable housing. Should the City Council approve the request to rezone the property, the applicant will be required to submit a development request for approval, at which time staff will review the proposal for compliance with the City's zoning and development regulations, specifically the City's Urban Residential Design Standards for multi-family developments.

Finally, staff finds that the proposal is consistent with land use and zoning plans. The properties directly to the north and south of the subject property are zoned RMF-24. Because of the property's location adjacent to Gregg Avenue and the Railroad and its proximity to non-residential services, staff finds it appropriate to extend the RMF-24 zoning district along Gregg Avenue and encouraging higher density development that could support a multi-modal transportation network.

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

rezoning is proposed.

Finding: Staff finds the proposed zoning is justified and needed. As stated in Finding No. 1, the proposed use would serve as a buffer between the single-family neighborhood to the east and the Railroad, 4-lane street, and the light-industrial uses to the west. Staff also finds that this undeveloped property, with frontage on a Minor Arterial street carrying high volume and relatively high speed traffic, is more appropriate to be used for a multi-family use instead of the currently designated single-family use.

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

Finding: It is expected that a rezoning from RSF-4 to RMF-24 would create an increase in traffic compared with that allowed under the existing zoning. However, the property is in direct proximity to a Minor Arterial (Gregg Avenue), which is designed to accommodate a significant amount of traffic. Staff finds that the proposed zoning would not create or appreciably increase traffic danger and congestion. However, staff will review access to the property with the development of the site. Staff may not support an additional curb cut for the expansion of the Candlelight Place Apartments and will likely recommend that the development utilize the driveway from the existing complex onto Gregg Avenue.

5. 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 the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property.

Increased load on public services were taken into consideration and recommendations from the Engineering, Fire, and Police Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

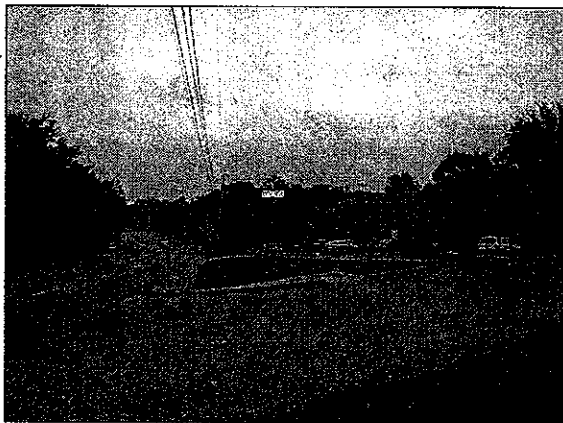
Finding: **Not applicable. Staff recommends in favor of the requested zoning.**

- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **Not applicable. Staff recommends in favor of the requested zoning.**



View from the north of the subject property



Multi-family development north of the subject property



Candlelight Place Apartments south of the subject property

Candlelight Place, LLC
4901 St. Andrews Way, C-51
Fort Smith, AR 72903

August 5, 2008

City of Fayetteville, Arkansas
Planning Division
125 W. Mountain
Fayetteville, AR 72701

RE: Rezoning Application

Dear City of Fayetteville, Arkansas, Planning Division:

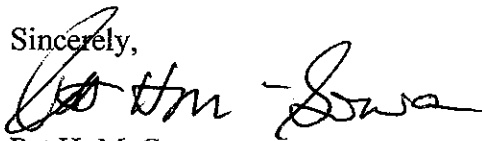
Enclosed please find our Rezoning Application. The following is a reply to your application checklist.

1. A check for \$325.00 is enclosed.
2. The legal description of the land is *Lot four (4) of block twelve (12) of Valley View Acres to the City of Fayetteville, Arkansas*. See Real Estate Parcel Information. A legal description will also be emailed to you.
3. Two sets of typed, mailing labels is enclosed.
4. A copy of the plat on record in the county assessor's office is enclosed.
5. The following is a written description of requests.
 - a. The current owners of the property are George H. and Suzanne E. Niblock, who have executed an offer and acceptance with Candlelight Place, LLC.
 - b. The reason for a zoning change is a proposal to add 24 units to expand our current project.
 - c. The existing project is a 56 unit apartment project situated on 3.75 acres with a current zoning of MF24. The subject property, which we are seeking a zoning change, is .94 acres, which would be added to the existing project making it a total of 4.69 acres. The density of combining the 56 existing units with the 24 proposed units will result in 17 units per acre, which is significantly lower than 24. This site is bordered to the North by an existing apartment project on the north side of Ash. Duplexes on the east, Candlelight Apartments on the South and industrial railroad tracks to the West across Gregg Avenue. With reference to traffic, there will be no additional ingress or regress needed to serve the property. The grand exit will be served by the existing wide lanes serving Candlelight Place Apartments. The appearance will be garden style similar to Candlelight Place. No additional signage will be required.
 - d. The existing water, which is a 6-inch line with fire hydrant on interior of Candlelight Place, will be extended to serve the new buildings. No new water taps will be required. Sewer and drainage will be connected to existing lines, which were installed by Candlelight Place, LLC.

6. The following is a written statement for specific findings for Planning Commission.
- a. The land use is compatible due to the fact that there are existing apartments to the North and South with industrial across Gregg. The direction back to the West has a series of duplexes, which due to orderly planning there is a good transition made to residential areas.
 - b. The proposed zoning will permit a small addition of 24 units that are one bedroom, which of course would not require much more parking for 24 additional apartments.
 - c. The proposed zoning would require additional parking for 24 apartments, but it is not seen as a problem for adequate flow of traffic or towards additional congestion.
 - d. No adverse affects are anticipated for public service, such as schools and the existing water and sewer facilities, which were installed by Candlelight Place, LLC and are already on site. These are considered to be adequate to service the proposed addition.
 - e. A change in land use on Gregg Avenue over the years lends itself for development other than single-family houses.

Please let us know if you need any other information and your consideration in this matter is appreciated.

Sincerely,



Pat H. McGowan
Candlelight Place, LLC, Managing Member

Enclosures

RZN 08-3084 (Candlelight Place)





View from the north of the subject property



Multi-family development north of the subject property



Candlelight Place Apartments south of the subject property

Engineering Division Comments

RZN 08-3084: (CANDLELIGHT PLACE, 367): Submitted by PAT MCGOWAN for property located at the SE CORNER OF GREGG AVENUE AND ASH STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.94 acres. The request is to rezone the subject property to RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE. Planner: Dara Sanders

Public water is available to the property. There is an 8" main along Gregg Avenue and Ash Street. Water may need to be extended through the property at the time of development to provide domestic service and fire protection.

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

The site has access to Gregg Ave. and Ash St. Ash Street is an paved two lane city street of sufficient width. Gregg Ave. is a fully improved four lane city street. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.



Department
303 W. Center St. Fayetteville AR. 72701

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
From: Captain Mark Stevens
Date: September 5, 2008
Subject: September 5, 2008 Zoning Review

R-PZD 08-3071: Planned Zoning District (BRIDGEDALE PLAZA, 569): Submitted by JORGENSEN & ASSOC for property located at THE SE CORNER OF HUNTSVILLE ROAD AND RIVERMEADOWS DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE AND R-A, RESIDENTIAL AGRICULTURAL and contains approximately 15.95 acres. The request is to review a zoning and land use only application for 113 residential units and 17,500 sq. ft. of non-residential space.

This property is covered by Ladder 3 located at 1050 S. Happy Hollow Rd.

It is 2.2 miles from the station with an anticipated response time of 5 minutes.

This development will have a call for service impact of 26 calls (13 EMS/ 7 other) per year once maximum build out has occurred. Construction typically takes 12-18 months on this type of development before maximum build out occurs.

Measured hydrant flow is 1560 gallons per minute in this area.

RZN 08-3084: (CANDLELIGHT PLACE, 367): Submitted by PAT MCGOWAN for property located at the SE CORNER OF GREGG AVENUE AND ASH STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.94 acres. The request is to rezone the subject property to RMF-24, RESIDENTIAL MULTI-FAMILY 24 UNITS PER ACRE.

This property is covered by Engine 2 located at 708 N. Garland Ave.

It is 1.4 miles from the station with an anticipated response time of 3 minutes

This development will have a call for service impact of 4 calls (3 EMS/ 1 other) once the project is completed

There is no measured hydrant flow in this area

Date 8/28/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed RZN 08-3084: (Candlelight Place, 367): Submitted by Pat McGowan for property located at the SE corner of Gregg Avenue and Ash Street would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 0.94 acres.

It is the opinion of the Fayetteville Police Department that this RZN will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This RZN will possibly create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

RZN08-3084

Close Up View

CANDLELIGHT PLACE

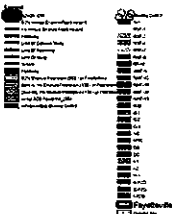


SUBJECT PROPERTY

ASH ST

ASH ST

Overview



0 37.5 75 150 225 300 Feet

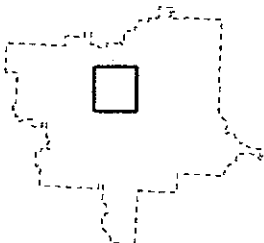
RZN08-3084

CANDLELIGHT PLACE

One Mile View



Overview



Legend

Subject Property

RZN08-3084

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

RZN08-3084

Future Land Use

CANDLELIGHT PLACE

SUBJECT PROPERTY

ASH ST

ASH ST

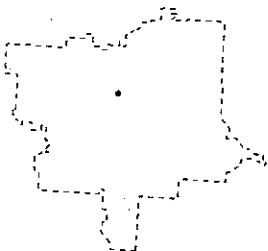
ASIAN PL

Existing (2004)
Future Land Use 2025

ASS

- Industrial
- Non-Municipal Government
- Complete Neighborhood
- Natural Area
- Rural Area
- Residential
- General Use
- Urban
- Office

Overview



Legend

Subject Property

RZN08-3084

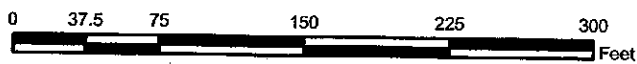
Boundary

- Planning Area
- Overlay District
- Outside City

Streets

- Existing
- Planned

Legend



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

21-Oct-08
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 08-3071: Planned Zoning District (Bridgedale Plaza, 569): Submitted by Dave Jorgensen for property located at the southeast corner of Highway 16 East and River Meadows Drive and contains approximately 15.95 acres. The request is for approval of a Residential Planned Zoning District with 129 residential units and 40,500 sq. ft. of non-residential space.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director
9-30-08
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature]
City Attorney
10-1-08
Date

Original Contract Number: n/a

Paul A. Becher
Finance and Internal Service Director
10-1-08
Date

Received in City Clerk's Office
10-1-08 ENTERED

Dan Coady
Mayor
10/6/08
Date

Received in Mayor's Office
ENTERED
10/1/08
PT

Comments:

City Council Meeting of October 21, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: September 29, 2008

Subject: Residential Planned Zoning District for Bridgedale Plaza (R-PZD 08-3071)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Bridgedale Plaza, based on the development standards, plans and statement of commitments submitted.

BACKGROUND

The subject property contains approximately 15.95 acres located at the southeast corner of Highway 16 East and River Meadows Drive and is zoned R-A, Residential Agricultural and RSF-4, Residential Single Family, 4 units per acre. Surrounding properties are single family residential within the R-A, RSF-4, RSF-8, and RMF-24 zoning districts.

In March of 2008, the Planning Commission denied the applicant's proposal for a Commercial Planned Zoning District (C-PZD 08-2904) containing four planning areas that included single-family dwellings, a storage facility, and residential office/commercial uses on the subject property. The denial was appealed to the City Council and was also denied at the City Council level. The applicant has submitted a revised Zoning and Land Use only PZD proposal for the subject property with a maximum of 129 dwelling units and 40,000 SF of nonresidential uses in four planning areas, with an overall density of 8 dwelling units/acre. If approved, the development would be reviewed at a later date. The applicant proposes to rezone the property into four distinct planning areas:

Planning Area 1 is designated as single family residential and contains 46 single-family detached lots on 9.24 acres, a density of approximately 5 dwelling units/acre. The applicant has designated Lot 46 as open green space, approximately 0.44 acre in size. While Planning Area 1 contains a variety of lot sizes, the average lot size is 5,500 square feet. Planning Area 1 serves as a residential buffer and transition between the adjacent single-family neighborhood to the west, Stonebridge Meadows Subdivision, and the proposed multi-family development to the east. The applicant proposes to construct 3 public streets (Streets 1, 2, 3, and 5) through Planning Area 1 to provide connectivity within the proposed neighborhood and to existing streets within the existing neighborhood. The 45 buildable residential lots (Lot 46 is not a buildable lot as it is designated as open green space) will have a combination of shared drives, rear access alleys, and individual drives, as shown on the Site Concept.

City Council Meeting of October 21, 2008
Agenda Item Number

Planning Area 2 is designated as multi-family and contains 6 multi-family structures and a density of approximately 21.5 dwelling units/acre, which is based on 60 dwelling units within 2.79 acres. The development model utilizes reduced setbacks to create an urban, pedestrian-oriented neighborhood in accordance with the City Plan 2025 and the adopted Urban Residential Design Standards. The applicant proposes to construct Street 6, a north/south street to connect Streets 4 and 5, with the urban street cross-section for on-street parking.

Planning Area 3 is designated as residential office, contains 1.98 acres, and serves as a buffer between Highway 16 and the proposed residential uses. The applicant proposes reduced setbacks along the proposed street, building orientation, and parking located behind the proposed office buildings in order to create a pedestrian and cyclist friendly streetscape. Approximately 20,000 SF of non-residential space and a maximum of 24 loft-style dwelling units are proposed within this planning area.

Planning Area 4, located at the corner of Highway 16 and River Meadows Drive, is designated as neighborhood commercial and contains 2.01 acres. The applicant proposes approximately 20,000 SF of neighborhood commercial uses (dry cleaner, restaurant, bank, etc.), with more pedestrian orientation to the interior street (Street 4). Reduced building setbacks of 15 feet along the proposed Street #4 are proposed to create the same streetscape intent for Planning Area 3. Typical neighborhood commercial uses that will support surrounding residents are planned for this area.

DISCUSSION

This item was heard at the regular Planning Commission meeting on September 22, 2008. The Planning Commission voted 5-2-0 (Commissioners Bryant and Anthes voting "no") to forward this R-PZD request to the City Council with a recommendation of approval.

Staff finds in favor of the zoning request, finding that the proposed zoning would be compatible with adjacent zoning, existing and approved development, and the future land use plan to provide a range of residential building types. It also complies with many of the City's goals adopted by the City Council with City Plan 2025. Staff finds in favor of the development pattern that is proposed for all planning areas, finding that the proposal promotes complete, compact, and connected neighborhood form with a mixture of uses and residential types that contribute to the fabric of a traditional neighborhood in close proximity, providing places to live, work, and interact on a daily basis.

The development pattern of the single-family block and the multi-family development is more in keeping with the goals and policies adopted by the City; the arrangement of buildings for the neighborhood commercial and office/loft living space provides an internal neighborhood streetscape that is more pedestrian friendly and appropriate for a neighborhood than the major thoroughfare of Hwy 16. Along Hwy 16, the proposal is to provide an attractive building elevation facing the street, and to provide landscape buffers that will enhance this particular major corridor for through travelers. Internally, pedestrian sidewalks, crosswalks, and narrow streets provide a safer neighborhood environment, and landscape buffers and a half-acre park will provide greenspace and recreational opportunities.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 08-3071 BRIDGEDALE PLAZA, LOCATED AT THE SOUTHEAST CORNER OF HIGHWAY 16 EAST AND RIVER MEADOWS DRIVE, CONTAINING APPROXIMATELY 15.95 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From RSF-4, Residential Single Family, 4 units per acre and R-A, Residential Agricultural to R-PZD 08-3071 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

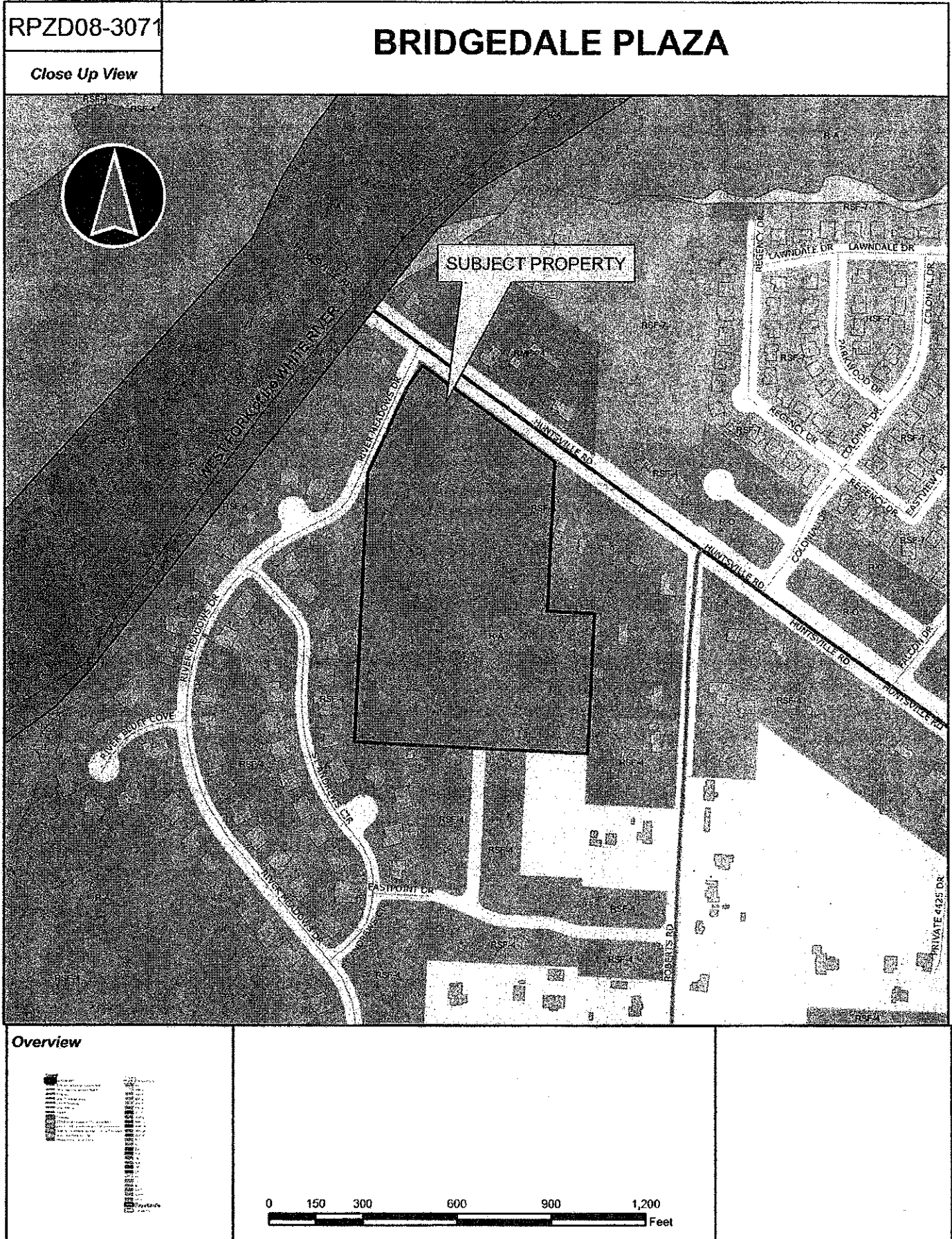


EXHIBIT "B"
R-PZD 08-3071

A PART OF THE W ½ OF THE NW ¼ OF SECTION 19, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SECTION 19 THENCE N02°46'52"E 3400.63 FEET TO THE P.O.B., THENCE N02°51'17"E 857.50 FEET, THENCE N24°33'07"E 381.72 FEET, THENCE S54°18'58"E 95.42 FEET, THENCE S53°59'33"E 444.17 FEET, THENCE S02°54'07"W 469.87 FEET, THENCE S86°54'34"E 150.65 FEET, THENCE S02°46'49"W 446.94 FEET, THENCE N87°12'11"W 513.27 FEET, THENCE N87°02'40"W 230.74 FEET TO THE P.O.B.; CONTAINING 15.95 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 08-3071

Page 1 of 3

Conditions of Approval for R-PZD 08-3071 (Bridgedale Plaza)

1. Planning Commission determination of compliance with adopted land use policies and goals including City Plan 2025 and the PZD ordinance. *As discussed in the finding in this report and with conditions herein, staff finds that Bridgedale Plaza is in compliance with the adopted land use policies and City Plan 2025.*

09/22/08 PLANNING COMMISSION FOUND IN FAVOR

2. *Street improvements.* The Planning Commission will make final determinations of street improvements at the time of development. *All proposed streets shall be constructed according to City standards, including pavement, curb, gutter, storm drains, and a 5' sidewalk on both sides, where applicable. Offsite improvements will likely consist of:*

- *River Meadows Drive to include a right-turn lane and a left-turn lane at Highway 16.*
- *Highway 16 to include all standard improvements in accordance with the Master Street Plan, with the potential for a left turn lane.*
- *Potential for construction of or contribution of payment for a traffic signal at River Meadows and Highway 16.*

09/22/08 PLANNING COMMISSION FOUND IN FAVOR

3. Planning Commission determination of adequate connectivity. *Staff recommends in favor of the proposed connectivity finding that the proposed alignment will be beneficial to the neighborhood. A street stub-out and cross-access to the east in two points will provide needed east-west connections with future development.*

09/22/08 PLANNING COMMISSION FOUND IN FAVOR

4. *Signage.* Staff recommends signage typical for single-family residential districts for Planning Area 1; typical multi-family district signage in Planning Areas 2; typical Residential-Office district signage in Planning Area 3; and typical commercial district signage in Planning Area 4. No pole or pylon signs shall be permitted on the property.

5. *Phasing.* Staff is recommending the applicant be required to obtain subdivision approval within three years from City Council approval of the PZD. After final plat approval, the applicant shall obtain large scale development approval of PA-2 and PA-3 within four years from the date of City Council approval of the R-PZD and of PA-4 within 5 years from the date of City Council approval of the R-PZD, with all building permits for each respective planning area (subdivisions excluded) required to be issued within one year of development approval. Extensions shall be available for each time limit pursuant to Chapter 166.20 of the Unified Development Code. For each development approval, the standard maximum of three years for construction shall be permitted, in accordance with the Unified Development Code.

6. Right-of-way in the amount of 48.5' from centerline by warranty deed for Huntsville Road/Highway 16 shall be dedicated with approval of the preliminary plat or large scale development, whichever comes first.

7. Planning Area 1 shall receive preliminary plat and final plat approval prior to construction.

CONDITIONS OF APPROVAL:

R-PZD 08-3071

Page 2 of 3

Planning Areas 2, 3, and 4 shall receive large scale development review and approval prior to construction.

8. Prior to development submittal, the applicant shall submit the development plans to the Parks & Recreation Advisory Board for review and recommendations regarding parkland dedication.
9. Lot 46 of Planning Area 1 shall be designated as an unbuildable lot for open green space.
10. No portion of any structure (i.e. porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
11. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of preliminary plat, final plat, large scale development and building permit to ensure compliance with bulk, area, greenspace, and commercial design requirements.
12. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
13. The following revisions shall be completed to the booklets/plats prior to re-submittal for City Council consideration:
 - Site Concept -
 - a. Pg. 2 of the Site Concept. Show the driveway dimensions on at least on shared and one individual driveway as a “typical” scenario.
 - Booklet -
 - b. Pg 7. Revise the multi-family development discussion to describe 60 units with a density of 22 units/acre
 - c. Pg. 18-19. Include a statement that City Plan 2025 designates this area as a Residential Neighborhood Area in the future land use plan. Cite specific goals that are being met with this proposal. Goals 2, 3, 4, and 6 specifically.

Standard conditions of approval:

14. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
15. 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.
16. Trash enclosures shall be screened with access not visible from the street. **The trash**

CONDITIONS OF APPROVAL:

R-PZD 08-3071

Page 3 of 3

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.

17. 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.**
18. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation.
19. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.

Added condition of approval:

20. **A proper drainage system shall be extended to the low area located to the west of Roberts Road to adequately drain this area for a storm frequency equal to a 100-year rainfall event. This drainage system shall be designed and reviewed at the time of Preliminary Plat submittal and be found to meet all City Drainage Criteria by the Engineering Division.**

AMENDED PLANNING COMMISSION CONDITION OF APPROVAL



PC Meeting September 22, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: September 15, 2008 Updated September 23, 2008

R-PZD 08-3071: (BRIDGEDALE PLAZA, 569): Submitted by JORGENSEN & ASSOC for property located at THE SE CORNER OF HUNTSVILLE ROAD AND RIVERMEADOWS DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE AND R-A, RESIDENTIAL AGRICULTURAL and contains approximately 15.95 acres. The request is to review a zoning and land use only application for 129 residential units and 40,500 sq. ft. of non-residential space.
Planner: Dara Sanders

Findings:

Request: The request is rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District divided into 4 Planning Areas. If the PZD is approved as proposed the project would be required to go through preliminary/final plat and large scale development approval prior to development.

Property Description: The subject property currently contains older single family residences and accessory structures and is located at the southeast corner of Highway 16 East and River Meadows Drive, east of the White River. Surrounding land use and zoning are listed in *Table 1*.

Table 1: Surrounding Land Use/Zoning

Direction	Land Use	Zoning
North	Single family	RSF-7, Single Family Res. 7 DU/Acre RMF-24, Multiple Family 24 DU/Acre
South	Single family	RSF-4, Single Family Res. 4 DU/Acre
East	Single family	RSF-4, Single Family Res. 4 DU/Acre R-A, Residential Agricultural
West	Single family	RSF-4, Single Family Res. 4 DU/Acre

Proposal: In March of 2008, the Planning Commission denied the applicant's proposal for a Commercial Planned Zoning District (C-PZD 08-2904) containing four planning areas that included single-family dwellings, a storage facility, and residential office/commercial uses on the subject property. The denial was appealed to the City Council and was also denied at the City Council level.

The applicant has submitted a revised Zoning and Land Use only PZD proposal for the subject property with a maximum of 129 dwelling units and 40,000 SF of nonresidential uses in four planning areas, with an overall density of 8 dwelling units/acre. If approved, the development would be reviewed at a later date. The applicant proposes to rezone the property into four distinct planning areas:

Planning Area 1 is designated as single family residential and contains 46 single-family detached lots on 9.24 acres, a density of approximately 5 dwelling units/acre. The applicant has designated Lot 46 as open green space, approximately 0.44 acre in size. Planning Area 1 serves as a residential buffer and transition between the adjacent single-family neighborhood to the west, Stonebridge Meadows Subdivision, and the proposed multi-family development to the east. The applicant proposes to construct 3 public streets (Streets 1, 2, 3, and 5) through Planning Area 1 to provide connectivity within the proposed neighborhood and to existing streets within the existing neighborhood. The 45 buildable residential lots (Lot 46 is not a buildable lot as it is designated as open green space) will have a combination of shared drives, rear access alleys, and individual drives, as shown on the Site Concept.

While Planning Area 1 contains a variety of lot sizes, the average lot size is 5,500 square feet, compared to 8000 square feet permitted within RSF-4. Curb-cuts for Planning Area 1 shall be limited to a maximum width of 16' at the right-of-way and shall be at least 5' from the property line. Shared driveways may be located on the property line. All residential and commercial driveways shall otherwise meet the standards established in Chapter 172 Parking and Loading.

Planning Area 2 is designated as multi-family and contains 6 multi-family structures and a density of approximately 21.5 dwelling units/acre, which is based on 60 dwelling units within 2.79 acres. The development model utilizes reduced setbacks to create an urban, pedestrian-oriented neighborhood. The applicant proposes to construct Street 6, a north/south street to connect Streets 4 and 5, with the urban residential street cross-section for on-street parking.

Planning Area 3 is designated as residential office, contains 1.98 acres, and serves as a buffer between Highway 16 and the proposed residential uses. The applicant proposes reduced setbacks along the proposed street, building orientation, and parking located behind the proposed office buildings in order to create a pedestrian and cyclist friendly streetscape. Approximately 20,000 SF of non-residential space and a maximum of 24 dwelling units are proposed within this planning area.

Planning Area 4, located at the corner of Highway 16 and River Meadows Drive, is designated as neighborhood commercial and contains 2.01 acres. The applicant proposes approximately 20,000 SF of neighborhood commercial uses (dry cleaner, restaurant, bank, etc.), with more pedestrian orientation to the interior street (Street 4). Reduced building setbacks of 15 feet along the proposed Street #4 are proposed to create the same streetscape intent for Planning Area 3. Typical neighborhood commercial uses that will support surrounding residents are planned for this area.

Adjacent Master Street Plan Streets: Huntsville Road/Highway 16 (Principal Arterial)

Right-of-way to be dedicated: Right-of-way in the amount of 48.5' from centerline for Huntsville Road/Highway 16 shall be dedicated with approval of the preliminary plat or large scale development. Additional right-of-way may need to be dedicated along River Meadows Drive, depending upon the street improvements that are necessary.

Connectivity: The applicant proposes to construct six new public streets within the development to promote complete, compact, and connected neighborhood form, connecting to stub-outs where they exist and stubbing out to property lines for future development.

Currently, Pinnacle Drive ends in a temporary cul-de-sac south of the subject property, and is stubbed out for future street connection. The applicant proposes to connect Street 1 in Planning Area 1 to the south with Pinnacle Drive and extend north to connect with Street 2.

Street 2, an east-west street, is proposed to connect with Street 3 to the west, to connect with Street 5 to the east, and to stub out at the east property line for future connectivity to Roberts Road. This future connection to Roberts Road will help to provide needed east-west connections in this area.

Street 3 is the main north-south street within Planning Area 1 and is proposed to connect Street 2 at the south portion of the property with Street 4 at the north portion of the property. Two traffic circles are proposed for Street 3 to reduce the travel speed of local and through traffic and promote pedestrian and cyclist safety along the main north-south street proposed for this development.

Street 4 is the northern most street that divides Planning Areas 3 and 4. This street provides all planning areas in Bridgedale Plaza with access to River Meadows Drive and Huntsville Road/Highway 16.

Street 5 is located within Planning Area and provides connectivity to Streets 2 and 3, as well as to Street 6 into Planning Area 2.

Street 6 is the only street located within Planning Area 2 and provides a north-south street connection from Street 4 to Street 2.

Street Improvements: The applicant proposes to construct the six new public streets with 21 feet of pavement, curb, and gutter for Streets 1, 2, 3, and 5. Street 6 and the south side of Street 4 are designed with the Local Urban Street cross section to include 36 feet of pavement, curb, and gutter with 8-foot sidewalks and grated tree wells.

In addition to the proposed streets, the applicant proposes to construct a 5' sidewalk along Highway 16 at the Master Street Plan right-of-way, and to improve River Meadows at Highway 16 to include a right-turn lane and a left-turn lane. All street improvements will be reviewed at the time of development and shall comply with City code and design standards.

Further review at the time of development may require installation of or contribution toward a

traffic signal at Highway 16 and River Meadows Drive, and/or the installation of a turning lane along Highway 16. The applicant will need to coordinate with AHTD to determine the improvements that will be permitted along this state highway.

Phasing and Timeframe: The applicant is proposing to develop the property to full build-out by 2012. The applicant proposes to first request preliminary plat and development approval for Planning Areas 1 and 2 within two years of City Council approval, followed by final plat approval for Planning Area 1, development approvals for Planning Area 3 and 4. As currently proposed, the development timeframe is as follows:

Proposed Timeline:

2009 – Preliminary Plat approval for Planning Area 1

2010 – Installation of infrastructure for Planning Area 1
Large scale development approval for Planning Area 2

2011 – Final Plat approval for Planning Area
Construction of Planning Area 2
Large scale development and construction approval for Planning Area 3

2012 – Large scale development and construction approval for Planning Area 4

Staff is recommending the applicant be required to obtain subdivision approval within three years from City Council approval of the PZD. After final plat approval, the applicant shall obtain large scale development approval of PA-2 and PA-3 within four years from the date of City Council approval of the R-PZD and of PA-4 within 5 years from the date of City Council approval of the R-PZD, with all building permits for each respective planning area required to be issued within one year of development approval. A one year extension shall be available for each time limit pursuant to Chapter 166.20 of the Unified Development Code.

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

Tree Preservation: This development will be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development with a 25% preservation requirement. The applicant's proposal is arranged in a manner that will save some of the significant trees on site, retaining a natural buffer from adjacent residents.

Infrastructure:

Streets: The site has access to Huntsville Road and River Meadows Drive. Huntsville Road is currently an improved two lane paved state highway. Street improvements will be evaluated with the proposed development.

Water: Public water is located adjacent to the site. There is an 8" water main along River Meadows Drive.

- Sewer:** Sanitary sewer is available to the site. There is a 6" sewer main along Huntsville Road. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development
- Drainage:** Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.
- Fire:** This property will be covered by Ladder 3 located at 1050 S Happy Hollow Rd. It is 2 miles from the station with an anticipated response time of 4 minutes. The Fire Department anticipates 20 (13 EMS-7 Fire/other) calls per year for service once the development is completed and maximum build out has occurred. We do not figure calls for service on Commercial developments, although this type of development typically does not affect our calls for service. Measured hydrant flow is 1560 gallon per minute in this area.
- Police:** It is the opinion of the Fayetteville Police Department that this R-PZD will substantially alter the population density, and may possibly create an appreciable or undesirable increase in the load on police services. This R-PZD will create an appreciable increase in traffic danger on the heavily congested two lane highway (Huntsville Road). These findings are based on an assumption of no improvements to Huntsville Road.

Public Comment: Staff has received phone calls from residents in the area with questions regarding the scope of the project; however, staff has not received objection to or support for the revised proposal for the subject property.

Discussion:

Staff finds in favor of the zoning request, finding that the proposed zoning would be compatible with adjacent zoning, existing and approved development, the future land use plan to provide a range of residential building types, and complies with many of the City's goals adopted by the City Council with City Plan 2025. Staff finds in favor of the development pattern that is proposed for all planning areas, finding that the proposal promotes complete, compact, and connected neighborhood form with a mixture of uses and residential types that contribute to the fabric of a traditional neighborhood in close proximity, providing places to live, work, and interact on a daily basis.

The development pattern of the single-family block and the multi-family development is more in keeping with the goals and policies adopted by the City; the arrangement of buildings for the neighborhood commercial and office/loft living space provides an internal neighborhood streetscape that is more pedestrian friendly and appropriate for a neighborhood than the major

thoroughfare of Hwy 16. Along Hwy 16, the proposal is to provide an attractive building elevation facing the street, and to provide landscape buffers that will enhance this particular major corridor for through travelers. Internally, pedestrian sidewalks, crosswalks, and narrow streets provide a safer neighborhood environment, and landscape buffers and a half-acre park will provide greenspace and recreational opportunities.

Recommendation:

Staff recommends that the request be forwarded to the City Council with a recommendation of approval and the following conditions:

1. Planning Commission determination of compliance with adopted land use policies and goals including City Plan 2025 and the PZD ordinance. *As discussed in the finding in this report and with conditions herein, staff finds that Bridgedale Plaza is in compliance with the adopted land use policies and City Plan 2025.*
2. *Street improvements.* The Planning Commission will make final determinations of street improvements at the time of development. *All proposed streets shall be constructed according to City standards, including pavement, curb, gutter, storm drains, and a 5' sidewalk on both sides, where applicable. Offsite improvements will likely consist of:*
 - *River Meadows Drive to include a right-turn lane and a left-turn lane at Highway 16.*
 - *Highway 16 to include all standard improvements in accordance with the Master Street Plan, with the potential for a left turn lane.*
 - *Potential for construction of or contribution of payment for a traffic signal at River Meadows and Highway 16.*
3. Planning Commission determination of adequate connectivity. *Staff recommends in favor of the proposed connectivity finding that the proposed alignment will be beneficial to the neighborhood. A street stub-out and cross-access to the east in two points will provide needed east-west connections with future development.*
4. *Signage.* Staff recommends signage typical for single-family residential districts for Planning Area 1; typical multi-family district signage in Planning Areas 2; typical Residential-Office district signage in Planning Area 3; and typical commercial district signage in Planning Area 4. No pole or pylon signs shall be permitted on the property.
5. *Phasing.* Staff is recommending the applicant be required to obtain subdivision approval within three years from City Council approval of the PZD. After final plat approval, the applicant shall obtain large scale development approval of PA-2 and PA-3 within four years from the date of City Council approval of the R-PZD and of PA-4 within 5 years from the date of City Council approval of the R-PZD, with all building permits for each respective planning area (subdivisions excluded) required to be issued within one year of development approval. Extensions shall be available for each time limit pursuant to Chapter 166.20 of the Unified Development Code. For each development approval, the standard maximum of three years for construction shall be permitted, in accordance with

the Unified Development Code.

6. Right-of-way in the amount of 48.5' from centerline by warranty deed for Huntsville Road/Highway 16 shall be dedicated with approval of the preliminary plat or large scale development, whichever comes first.
7. Planning Area 1 shall receive preliminary plat and final plat approval prior to construction. Planning Areas 2, 3, and 4 shall receive large scale development review and approval prior to construction.
8. Prior to development submittal, the applicant shall submit the development plans to the Parks & Recreation Advisory Board for review and recommendations regarding parkland dedication.
9. Lot 46 of Planning Area 1 shall be designated as an unbuildable lot for open green space.
10. No portion of any structure (i.e. porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
11. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of preliminary plat, final plat, large scale development and building permit to ensure compliance with bulk, area, greenspace, and commercial design requirements.
12. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
13. The following revisions shall be completed to the booklets/plats prior to re-submittal for City Council consideration:
 - Site Concept -
 - a. Pg. 2 of the Site Concept. Show the driveway dimensions on at least on shared and one individual driveway as a “typical” scenario.
 - Booklet -
 - b. Pg 7. Revise the multi-family development discussion to describe 60 units with a density of 22 units/acre
 - c. Pg. 18-19. Include a statement that City Plan 2025 designates this area as a Residential Neighborhood Area in the future land use plan. Cite specific goals that are being met with this proposal. Goals 2, 3, 4, and 6 specifically.

Standard conditions of approval:

14. Impact fees for fire, police, water, and sewer shall be paid in accordance with City

ordinance.

15. 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.
16. Trash enclosures shall be screened with access not visible from the street. **The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building. A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit.** Any additional dumpsters located on site shall be screened from the right-of-way.
17. 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.**
18. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation.
19. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.

Added condition of approval:

20. **A proper drainage system shall be extended to the low area located to the west of Roberts Road to adequately drain this area for a storm frequency equal to a 100-year rainfall event. This drainage system shall be designed and reviewed at the time of Preliminary Plat submittal and be found to meet all City Drainage Criteria by the Engineering Division.**

**PLANNING COMMISSION CONDITION OF APPROVAL AS AMENDED BY
THE CITY COUNCIL 05-06-08**

Planning Commission Action: ☐ Tabled ☒ Forwarded to C.C. ☐ Denied

Motion: Myres

Second: Cabe

Vote: 5-2-0

Meeting Date: September 22, 2008

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

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

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

FINDING: Staff finds the application to be in compliance with many of the goals of City Plan 2025, in particular the mixed-use nature of the commercial, office and different residential uses to create a viable neighborhood. Goal 2 states that we will discourage suburban sprawl by discouraging the separation of uses that have encouraged sprawling development patterns. This PZD proposal promotes the mixed-use strategy that provides neighborhood services in an area where services are limited. These services will serve the surrounding primarily residential uses for daily commercial goods and services, and provide an area in which residents can live, work and recreate. Staff finds that providing nodes of neighborhood commercial support uses discourages sprawl, decreases a neighborhood's reliance on regional commercial developments, and can potentially reduce the number of vehicle trips in the area.

Goal 3 states that we will make traditional town form the standard, which promotes a variety of uses within a neighborhood for the ability to live, work, shop and have daily needs and services within walking distance. It requires compact, complete, and connected development. Staff finds that the proposed development will provide connectivity, a development scale that is compatible and proportionate between residential and nonresidential land uses, and a mixture of uses that will support and serve the surrounding area. In particular, the creation of a pedestrian streetscape with mixed-use buildings and residences close to the street, screening parking areas, and providing sidewalks creates a more traditional town form.

Goal 6 states that we will create attainable housing for residents of Fayetteville that make more than the income limit established for federal subsidies but struggle in the current housing market. By preserving and creating mixed-income neighborhoods, the City of Fayetteville can offer a variety of housing types. For Planning Area 1, the applicant proposes typical single-family dwellings on lots that contain approximately 5,500 square feet, slightly smaller than the 8,000 square foot minimum of the RSF-4 zoning district. Planning Area 2 provides 6 multi-family structures for a total of 60 additional dwelling units. The applicant proposes to provide loft-style dwellings above the residential offices in

Planning Area 3. The development pattern of this PZD proposal will add to the variety of housing types that currently exist in the surrounding area, and typically enhances property values in the area.

This site is designated as a Residential Neighborhood Area, which encourages traditional neighborhood development that incorporates low-intensity non-residential uses. Staff finds that the mixture of residential, office, and neighborhood commercial uses proposed in this development meets the goals of City Plan 2025 and the designated land use.

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

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

(3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. As indicated in the submittal and the staff report, certain measures have been taken in the proposed phasing of development by the developer to ensure adequate infrastructure improvements are made to ensure the level of service will not decline due to the proposed development. Additional improvements will be determined at the time of development by the Planning Commission.

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

FINDING: Staff finds that the proposed mixed use development is compatible with the surrounding land uses. The applicant has proposed residential uses adjacent to existing residential uses, with exception of the low-intensity non-residential uses proposed for Planning Areas 3 and 4 located adjacent to Huntsville Road/Highway 16 (Principal Arterial). These areas are adequately screened and separated from those existing residential uses to reduce any potential impact on those residences.

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

FINDING: The intended use is suitable for the subject property and the surrounding development. The majority of the site will be developed, though the houses, apartments, and commercial buildings would be arranged and built in a manner that will preserve the significant tree canopy along the property lines. Drainage has been cited as a primary concern in this area, and will need to be addressed at the time of development. Post-development drainage is typically required not to exceed pre-development flow at peak hours.

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

FINDING: Any additional development in the area will certainly increase the amount of neighborhood traffic on surrounding streets. The Fayetteville Police Department has submitted a statement that the proposal will substantially alter the population density, may create an appreciable increase in the load on police services, and will create an appreciable increase in traffic danger on Huntsville Road. The applicant has also conducted a traffic study, of which key recommendations have been included on the site plan. As suggested in the traffic study, the applicant proposes to improve River Meadows Drive to include one inbound lane and two outbound lanes to accommodate an increase in traffic due to Planning Areas 3 and 4. Staff will also evaluate the potential for the construction of a turn-lane on Hwy 16 and contribution for a future traffic signal. Staff finds that combining residential and non-residential uses in a traditional town form that are appropriate and compatible will help reduce the traffic increase, providing better pedestrian opportunities and the ability for persons within close proximity to travel smaller distances for daily goods and services.

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

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

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

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

(B) Development standards, conditions and review guidelines

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

FINDING: Staff finds that the subject development should be compatible with

surrounding development. The proposed single-family residences of a slightly higher density will serve as a good transition to the adjacent single family neighborhood and the multi-family, residential office, and commercial services. The proposed neighborhood commercial and residential office developments are designed to lessen potential impact on the surrounding residential neighborhoods with landscaping, screening, and a vehicular circulation pattern designed to contain pass-by traffic at the northwest corner of the subject property adjacent to Huntsville Road (Principal Arterial). Staff finds that, with the proposed location, access points, screening, and buffering included herein, the proposed development meets the intent and purpose of the PZD.

- (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: Although the proposed single family residences in PA-1 are the same use and do not require screening from adjacent residential properties, the applicant proposes to utilize existing tree canopy along the west property line to preserve existing natural features along the property line of the adjacent residential neighborhood to the west. The applicant also proposes to utilize the existing tree canopy along the eastern portion of the subject property to screen the proposed multi-family from the adjacent properties to the east. Landscaping along all public streets will be installed to meet City codes. The applicant shall comply with the screening and buffering requirements of Chapter 166.14(D).

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:
 - (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
 - (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
 - (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
 - (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The applicant has applied to the site plan key recommendations from a traffic study of the development in order to address the projected traffic volumes generated from the proposed uses. Access to all Planning Areas is designed to discourage through traffic within the subject property by containing the pass-by traffic at the northern portion of the property and redirecting it to Huntsville Road/Highway 16 while simultaneously increasing connectivity throughout the development and the existing neighborhood with six new public streets. Additionally, two traffic circles are proposed for Street 3 to discourage through traffic, speeding travel speed, and promote pedestrian and cyclist safety along the main north-south street proposed for this development.

The internal street circulation is designed and intended for local residential traffic for access to the single- and multi-family developments and for the surrounding residential neighborhoods to access the neighborhood commercial node.

All properties within Planning Area 1 will front onto Streets 2, 3, and 5. Lots 1-10 are designed to utilize shared driveways, while Lots 27-41 are to be accessed by a private alley. All other single-family lots utilize a private driveway. Shared driveways may be located on the property line.

The multi-family development in Planning Area 2 is designed to utilize on-street and off-street parking spaces. The applicant proposes 3 access drives on Street 6 for residents to access the internal parking lots. A fourth access point is proposed at the northeast corner of Planning Area 2 by the east parking lot proposed for Planning Area 3. At the time of development for Planning Area 2, the applicant shall dedicate a 30-foot access easement for this area as shown on the Site Concept. All residential and commercial driveways shall otherwise meet the standards established in Chapter 172 Parking and Loading.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking is to be provided on-site for each residential lot. On-street parking will be permitted in accordance with city codes for the streets constructed. The multi-family use in Planning Area 2 and each commercial use within Planning Area 3 and 4 will be required to provide adequate parking as required by Chapter 172 of the UDC. Pursuant to Chapter 166.23(C)(3)(a)(iii), on-street parallel parking may be provided on at least one side of the street in front of all multi-family buildings where feasible. Each on-street parking space provided along the project frontage shall count toward the total required spaces for the development.

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

FINDING: The applicant's proposal has met the open space requirements, designating Lot 46 within Planning Area 1 as common open space.

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

FINDING: A 5' sidewalk is to be constructed at the right-of-way line along Highway 16 and on both sides of all proposed streets at the time of development request.

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

FINDING: Street lights are to be provided at all intersections and with a maximum separation of 300 feet.

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

FINDING: Public water will be provided to the project site, pursuant to city code. Improvements to water services may be required and shall be reviewed at the time of preliminary plat and large scale development submittal.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code. Improvements to sewer services may be required and shall be reviewed at the time of preliminary plat or large scale development submittal.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwellin g Units	One- Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private streets/drives shall conform to city standards, as indicated in the submitted statement of commitments. Public and private streets shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development for each planning area. Canopy calculations shall be based upon a minimum 25% canopy preservation required.

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

FINDING: The applicant has proposed design standards for single- and multi-family residential structures and concept drawings for the commercial/office buildings. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of preliminary plat, final plat, large scale development and building permit to ensure compliance with bulk, area, greenspace, and commercial design requirements.

- (14) *View protection.* The Planning Commission shall have the right to establish

special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) Revocation.

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

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

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

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

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

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

Sec. 161.29 Planned Zoning District

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

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

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

FINDING: Staff finds that this proposal meets the intent of the parameters of City Plan 2025, as well as the above criteria, including flexibility in density, compatibility with the surrounding land uses and integration of a variety of uses and intensities. The proposal best fits the flexibility and variety goals of the intent of the Planned Zoning District, offering single- and multi-family housing types and recreational green space, and providing opportunity for local goods and services for area residents, as well as places to live, work and recreate. It promotes the mixed-use strategy that provides neighborhood services in an area where services are limited, connectivity, a development scale that is compatible and proportionate between residential and nonresidential land uses, and a mixture of uses that will support and serve the surrounding area.

The following guiding policies within Residential Neighborhood Areas are applicable to this development and help to achieve some of the primary goals of the City Plan 2025:

Residential Neighborhood Areas

- a) *Where possible, encourage a block-and-street layout that promotes walkable, cyclist-friendly road designs with slow design speeds.*
- b) *Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.*
- c) *Discourage design elements that prohibit complete, compact, connected neighborhoods such as cul-de-sacs, gated communities, etc.*
- d) *Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness.*
- e) *Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.*

Staff finds that the residential, commercial and office components meet these goals.

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

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

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

- (1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:
 - (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.
 - (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
 - (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
 - (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

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

FINDING: Staff 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, and 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 75 percent of the gross floor area within the development.

(F) *Bulk and area regulations*

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

FINDING: The surrounding residential developments with large lot residential properties and platted subdivisions that are zoned RSF-4 are compatible with the proposed residential development, indicative of the RSF-7 zoning district, for Planning Area 1. A density of 5 units/acre is appropriate for the transition from the larger residential lots to the west of Planning Area 1 and the proposed multi-family with a density of approximately

22 dwelling units/acre and non-residential uses to the north and east of Planning Area 1. Such a transition is not as apparent on the east side of the project, though the applicant has indicated these property owners, in general, are supportive of the project plans.

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

FINDING: Residential lot area minimum is 5,000 square feet with structures oriented to the street. The applicant proposes a reduced (10') front setback in Planning Area 1 to increase the distance between the existing neighborhood to the west and the proposed single-family dwellings, as well as provide distance between Planning Areas 1 and 2 for more usable greenspace. Staff finds that the proposed setbacks are consistent throughout the proposed development and meet the intent of a planned zoning district.

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

FINDING: Staff finds that the proposed building heights for all Planning Areas in Bridgedale Plaza are consistent and compatible with maximum height regulations for the surrounding developments and neighborhood. The maximum building height proposed for Planning Area 1 is typical of single-family in the surrounding area, and shall not exceed 35'. The maximum building height of 45 feet proposed for Planning Area 2 is more restrictive than that of the typical multi-family zoning district.

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

FINDING: The residential lot coverage for building area on this project is very similar to the RSF-4 zoning district, with a maximum of 50% buildable area permitted. The commercial and residential lot coverages for building area are similar to the C-1 and R-O zoning districts. Staff finds that the proposed building area for this development is appropriate and compatible with the surrounding neighborhood.

***Required Findings for Rezoning Request.**

FINDINGS OF THE STAFF

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

FINDING: Staff finds the proposal is generally consistent with the land use planning objectives, principles, and policies, as evidenced by the number of guiding policies for Residential Neighborhood Areas this proposal meets. The proposal for this R-PZD zoning district will accommodate the future land use plan for a strategically arranged mixture of low-intensity nonresidential and residential uses in this area.

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

FINDING: Staff finds that a rezoning of the property is justified, in that development in its current zoning of R-A and RSF-4 is not desirable in close proximity to a Principal Arterial and surrounded by existing neighborhoods. The proposal for commercial, office and residential uses is appropriate for the subject property and will allow for a development pattern that will provide a low-intensity node of neighborhood commercial support for the surrounding residential neighborhoods and that is unique in comparison to the residential development pattern in the surrounding neighborhood, while also maintaining a level of compatibility and sensitivity to surrounding properties.

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

FINDING: Based on planned street improvements and connectivity associated with the development, staff finds this proposal will not create a dangerous traffic situation. The proposed neighborhood commercial and residential office uses, located at the northwest corner of the subject property, will not generate an appreciable amount of traffic to create congestion or traffic danger, with appropriate street improvements in the area. With the connection to Pinnacle Drive to the south and the future connection to Roberts Road, the residents of the proposed single- and multi-family developments will have more than one way in and out of the neighborhood, as shown on the attached aerial map.

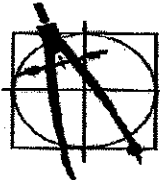
4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

FINDING: Staff finds that this proposal will not create an undesirable increase in load on public services based on an increase in population density.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

FINDING: Not applicable. Staff is in favor of the proposal.



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807
DAVID L. JORGENSEN, P.E., P.L.S.

September 17, 2008

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

Attn: Planning Department
Re: Bridgedale Plaza PZD

The above mentioned project is located at the southeast corner of Highway 16 East (Huntsville Street) and River Meadows Drive, which leads into Stonebridge Meadows Subdivision. This is a Planned Mixed Use Development, consisting of 9.24 acres of Single Family Residential, 2.79 acres of Multi-Family, 1.98 acres of Residential Office, and 2.01 acres of Neighborhood Commercial.

The 9.24 acres of Single Family referred to as Planning Area #1 is just east of Stonebridge Meadows Subdivision, Phase 1, and just north of Bridgedale Subdivision Phase 1. We plan to install a combination of shared drives, rear access alleys, and individual drives. The style and exterior appearance will be similar to those shown in the project booklet submitted.

Planning Area #2 is the multi-family area and consists of 2.79 acres and will be located just north and east of Planning Area #1. The existing mature canopy on the eastern boundary line of the multi-family area will be preserved. A privacy fence will be installed around a portion of the multi-family area with green space consisting of trees, shrubs, and grass.

Planning Area #3 is the residential office area consisting of 1.98 acres. This area will be set aside for service related business, such as insurance, child care, dry cleaners, etc.

Planning Area #4 is referred to as a neighborhood commercial and consists of 2.01 acres. This area is reserved for service related business, such as a bank, Pizza shop, Subway shop, or other related retail businesses.

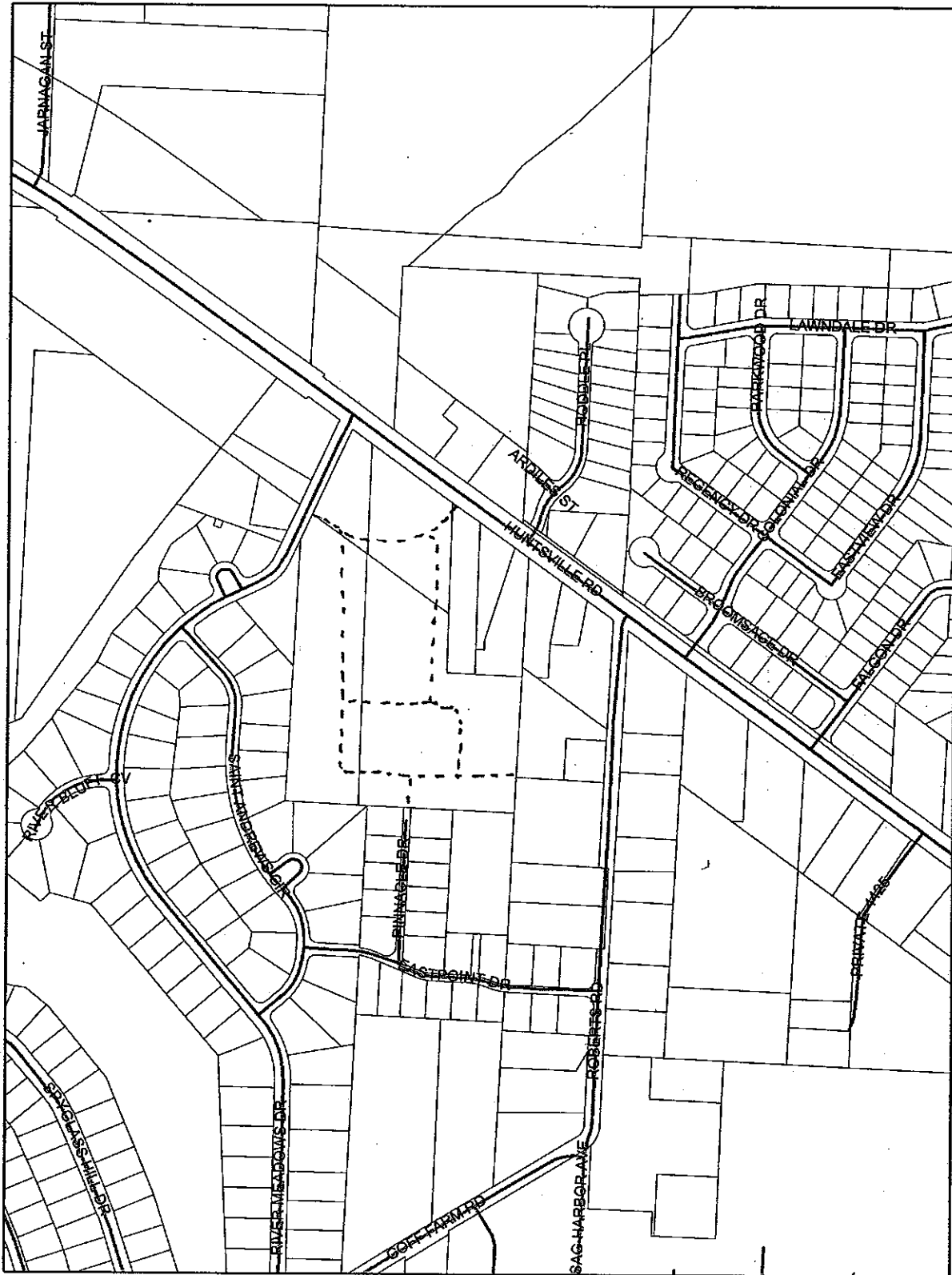
In summary, we believe that the single family Planning Area #1 will be compatible with the existing single family to the west and south and also provide a transition to the multi-family area. The residential office will provide a transition to the neighborhood commercial to the north. With this Mixed Use node, we hope to provide services for the existing neighborhoods as well as the new ones.

Sincerely,

Jared S. Inman, E.I.

R-PZD 08-3071 (Bridgedale Plaza)

CONNECTIVITY



Engineering Division Comments

R-PZD 08-3071: Planned Zoning District (BRIDGEDALE PLAZA, 569): Submitted by DAVE JORGENSEN for property located at THE SE CORNER OF HWY 16E AND RIVER MEADOWS DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 15.95 acres. The request is for 6.8 acres of self storage, 5.23 acres of single family residential, 1.96 acres of Residential Office, and 1.96 acres of C-1. Planner: Dara Sanders

Public water is located adjacent to the site. There is an 8" water main along River Meadows Drive.

Sanitary sewer is available to the site. There is a 6" sewer main along Huntsville Road. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Huntsville Road. Huntsville Road is currently an improved two lane paved state highway. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

Date 8/28/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed R-PZD 08-3071: (Bridgedale Plaza, 569): Submitted by Jorgensen & Associates for property located at the SE corner of Huntsville Road and Rivermeadows Drive would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 15.95 acres.

It is the opinion of the Fayetteville Police Department that this R-PZD will substantially alter the population density, and may possibly create an appreciable or undesirable increase in the load on police services. This R-PZD will create an appreciable increase in traffic danger on the heavily congested two lane highway (Huntsville Road).

Sincerely,

Captain William Brown
Fayetteville Police Department



Department
303 W. Center St. Fayetteville AR. 72701

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher

From: Captain Mark Stevens

Date: September 5, 2008

Subject: September 5, 2008 Zoning Review

R-PZD 08-3071: Planned Zoning District (BRIDGEDALE PLAZA, 569): Submitted by JORGENSEN & ASSOC for property located at THE SE CORNER OF HUNTSVILLE ROAD AND RIVERMEADOWS DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE AND R-A, RESIDENTIAL AGRICULTURAL and contains approximately 15.95 acres. The request is to review a zoning and land use only application for 113 residential units and 17,500 sq. ft. of non-residential space.

This property is covered by Ladder 3 located at 1050 S. Happy Hollow Rd.

It is 2.2 miles from the station with an anticipated response time of 5 minutes.

This development will have a call for service impact of 20 calls (13 EMS/ 7 other) per year once maximum build out has occurred. Construction typically takes 12-18 months on this type of development before maximum build out occurs.

Measured hydrant flow is 1560 gallons per minute in this area.

RZN 08-3084: (CANDLELIGHT PLACE, 367): Submitted by PAT MCGOWAN for property located at the SE CORNER OF GREGG AVENUE AND ASH STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.94 acres. The request is to rezone the subject property to RMF-24, RESIDENTIAL MULTI-FAMILY 24 UNITS PER ACRE.

This property is covered by Engine 2 located at 708 N. Garland Ave.

It is 1.4 miles from the station with an anticipated response time of 3 minutes.

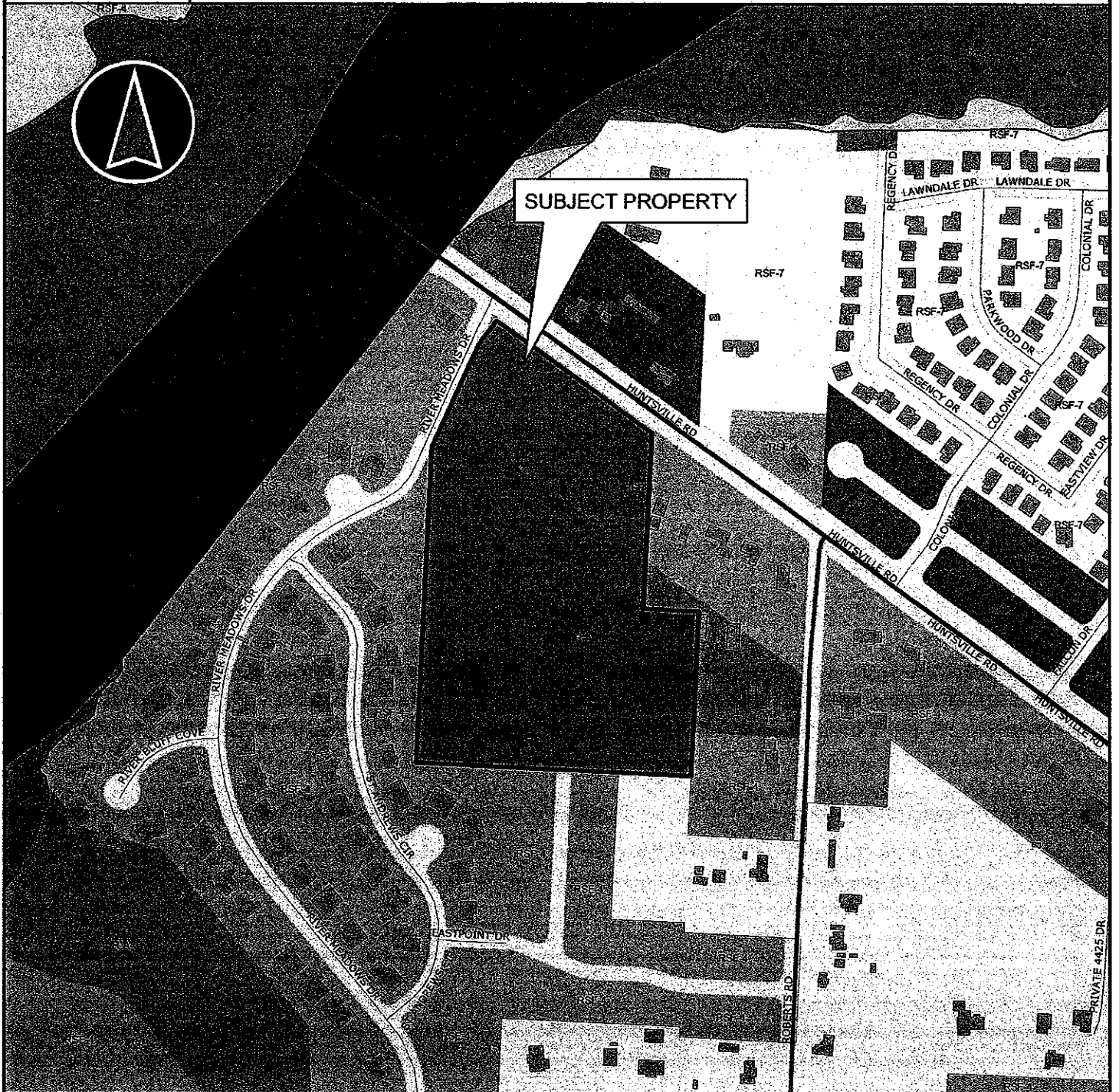
This development will have a call for service impact of 4 calls (3 EMS/ 1 other) once the project is completed.

There is no measured hydrant flow in this area.

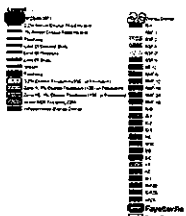
RPZD08-3071

BRIDGEDALE PLAZA

Close Up View

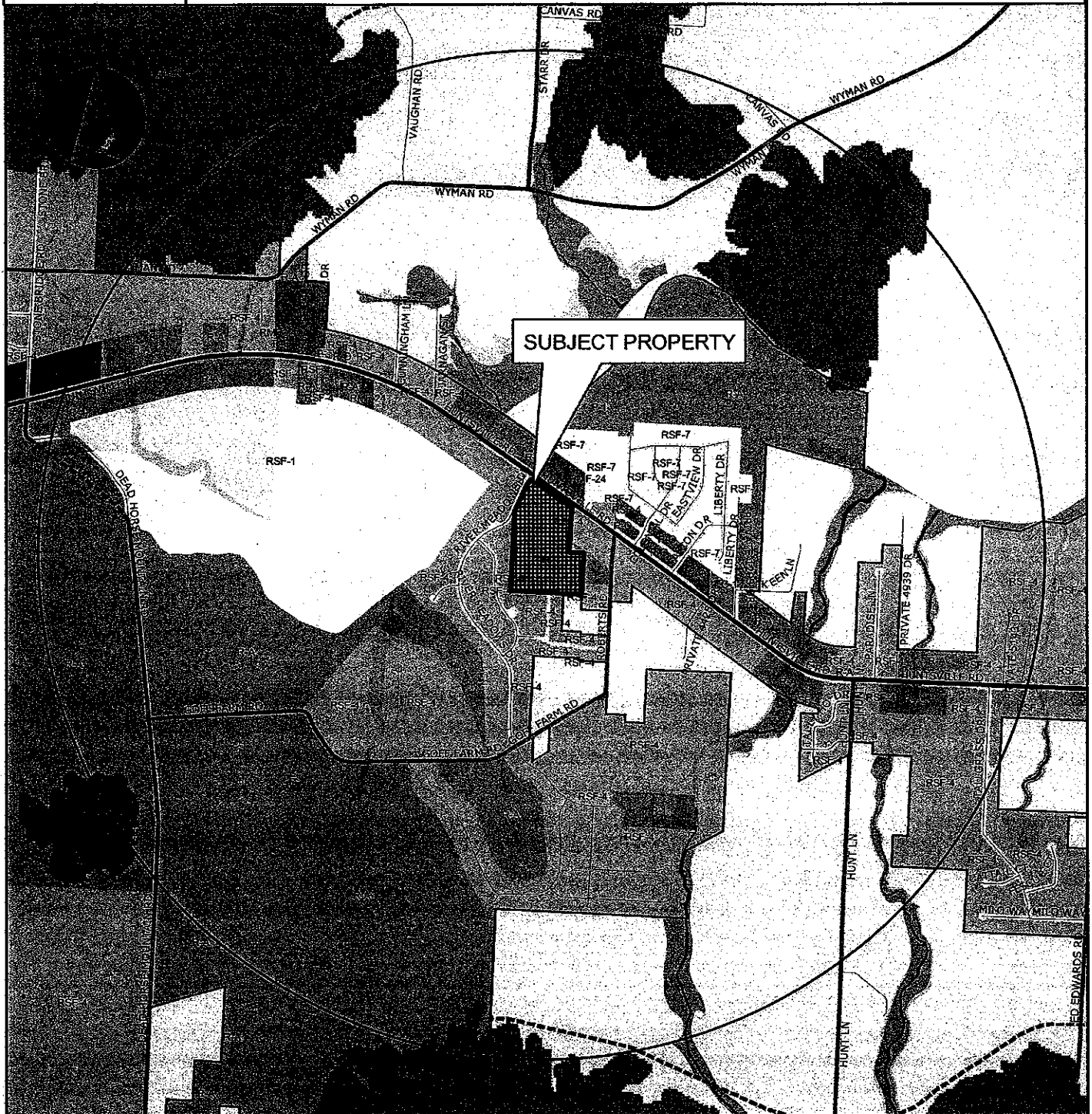


Overview

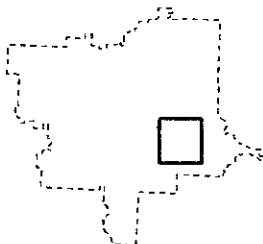


One Mile View

BRIDGEDALE PLAZA



Overview



Legend

Subject Property



Boundary

 Planning Area

 Outside City

Legend

■ Hillside-Hilltop Overlay District



0 0.25 0.5 1 Miles

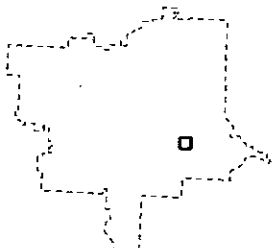
RPZD08-3071

BRIDGEDALE PLAZA

Future Land Use



Overview



Legend

Subject Property

RPZD08-3071

Boundary

Planning Area

Overlay District

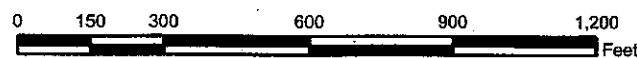
Outside City

Streets

Existing

Planned

Legend



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: October 02, 2008

Subject: Appeal for Victory Commons I (LSD 08-3037)

RECOMMENDATION

The Planning Commission approved a large scale development for an approximately 9,319 sq. ft. commercial building located on Razorback Road, south of 6th Street. The applicant has appealed the conditions of approval numbers 1, 4, 12, 13, 16 and 18 as approved by the Planning Commission.

BACKGROUND

The subject property is located west of Razorback Road, south of 6th Street and is bordered by railroad right-of-way to the south. The property being developed with a commercial building and parking contains approximately 1.29 acres; the property being developed with detention ponds and proposed access to Razorback contains approximately 3.8 acres. Both properties are zoned I-1, Heavy Commercial/Light Industrial. The applicant has obtained approval from the Planning Commission for a 9,319 SF commercial and residential building, with associated parking. The main points of discussion at the Planning Commission meeting were access from Razorback Road, a requested greenspace variance along the street right-of-way, the need for a wetland determination on the site and tree preservation/detention recommendations. The applicant has appealed seven (7) of the conditions of approval required by the Planning Commission, as described herein and in the applicant's letter of appeal.

15-foot Greenspace Variance Request

- 1. Planning Commission determination of a variance from Chapter 177.04(D)(2)(a) to allow less than 15' of greenspace between the parking lot and the Razorback Road right-of-way.**

The applicant requested a variance to allow less than the required 15-feet of greenspace adjacent to the right-of-way along Razorback Road. Fifteen feet of greenspace adjacent to the right-of-way is required for all commercial and residential projects, in which street trees and shrubs are planted to screen parking lots. In general, staff has supported greenspace variances where unique circumstances exist that result in an unusual hardship on the development of the property, and where the variance will be in harmony with the general purpose and intent of the landscape regulation. In this case, AHTD acquired substantially more right-of-way than required by the City's Master Street Plan (City

requires 48.5' from centerline and AHTD has acquired approximately 65' from centerline) to construct the recent Razorback Road improvements, resulting in an undue hardship to the developer. While the parking lot is proposed to be located on the right-of-way line, the resulting greenspace between the existing 10' sidewalk and the property line varies from 13' to 18' in width. Accordingly, staff recommends in favor of a greenspace variance with the condition that at least 2' of greenspace be provided between the parking lot and state right-of-way line. This will ensure that there is approximately 15' of greenspace between the existing sidewalk and proposed parking lot, which meets the general intent of the landscape regulations. Additionally, providing a small amount of greenspace outside of the right-of-way will ensure that all required landscaping and irrigation can be installed on private property, under City ordinance requirements. AHTD does not typically allow irrigation systems to be installed within state right-of-way, and tree/shrub species are usually limited. This requirement would result in the applicant reducing the parking stall depth of approximately 11 parking spaces at the north end of the site to compact size. If the Planning Commission approves the variance request as proposed, requiring the applicant to plant landscaping within the state right-of-way, the applicant shall obtain an approval letter from the state allowing such plantings. Said letter shall be provided to the City prior to building permit approval.

Curb Cut Location

4. Planning Commission determination of curb-cut locations.

Access to the site is via Razorback Road. The AHTD recently improved Razorback Road, in collaboration with the City and University. A central component to the widening of the road to four- and five-lane section is a landscaped median that serves as a restricted access to properties along Razorback. The applicant originally proposed a full access curb cut onto Razorback Road that would have required removal of a substantial section of the recently installed landscaped median on Razorback Road. City staff did not support this initial proposal. After meeting with the applicant, city staff agreed to support a compromise, which would include (1) *a full access driveway on the north side of the property that would require the removal of a concrete section of the median with little disturbance to the landscaped median*, (2) *removal of the far north full-access curb cut that would be in close proximity to the new full access curb cut*, and (3) *a right-in/right-out curb cut to the south of the property, nearer to the railroad*. Staff is able to support the additional full access curb cut, even though the AHTD removed this option with installation of the median, with the condition that the far northern curb cut also owned by the same applicant is closed, in order to not have vehicle turning and stacking conflicts in close proximity. However, prior to the large scale development being reviewed by the Subdivision Committee, the AHTD denied the applicant's proposal to remove the concrete section of the median, citing concerns with stacking distance and removal of the median (see attached letter). Due to the ongoing discussions between the applicant, University and AHTD, staff recommended to the Subdivision Committee and Planning Commission two options for access to the site, which would allow the applicant to proceed forward from Planning Commission, without having to return for additional City review.

The developer shall construct one of the following:

- a. *Option 1: Construct a right-in/right-out driveway at the south end of the property, connect the project to the existing driveway in the middle of the property as a full access curb-cut, resulting in removal of the concrete portion of the existing median, and remove the northern most driveway. The northern driveway shall be removed prior to approving a temporary certificate of occupancy permit for Victory Commons I (see attached diagrams for curb-cut locations).*
- b. *Option 2: Construct a right-in/right-out driveway at the south end of the property, connect the project to the existing northern most driveway as a full access curb-cut, and relocate the middle driveway as a right-in/right-out, approximately 50' to the south, to align with the east-west drive aisle. The middle driveway shall be relocated prior to approving a temporary certificate of occupancy.*

Tree Preservation

- 12. The off-site detention pond proposed for the northwest corner of the adjacent property shall be relocated such that the existing trees are not removed by construction activities. Any changes to detention design shall be reviewed and approved by the Engineering Department prior to construction approval.**
- 13. All trees on the adjacent parcel are to remain until such time that the parcel is reviewed for development.**
- 16. No utility service lines or any improvements with the exception of hand tree plantings will be allowed within the Tree Preservation Area.**
- 18. The Tree Preservation Area should be identified on the easement plat and include the Tree Preservation Area signature block required for the Urban Forester. This will accomplish a restrictive easement on the area to ensure that the canopy is maintained and preserved.**

The 1.29 acre site contains approximately 66% tree canopy. The I-1 zoning district requires the applicant to preserve 15% of the existing tree canopy; as part of the development, the applicant is proposing to preserve 8%, which staff is supporting, with on-site mitigation (13 2-inch caliper trees). The applicant has also designed two detention ponds that are located on the adjacent parcel (Tract 2). At the time of the Planning Commission meeting, the calculations necessary to determine the amount of canopy being removed from Tract 2 and subsequent mitigation had not been provided, thus staff could not make an informed recommendation regarding the removal of all of the trees in the northwest corner of the site. Since that time, the landscape architect for the applicant has submitted the required information for review. The construction of the larger off-site detention pond in the northwest corner of the adjacent property will require the removal of additional tree canopy, from 6.8% down to 4.5%, requiring another 10 2-inch mitigation trees for mitigation. Staff is unable to support the full proposed tree removal on the adjacent parcel. However, staff is willing to support removal of a portion of this canopy. A meeting between the applicant, his engineer and the Urban Forester resulted in a compromise that involves the reworking of the proposed detention pond to save the trees listed as 1166-1172, currently shown on the plans for removal. Trees 1173-1176 and 1195 are shown as preserved, and will remain so at this

time. This will increase the percentage of tree canopy retained on the site, and will reduce the mitigation required. With these changes, staff can support the removal of all of the above conditions, with the following replacement wording:

12. The detention pond on Tract 2 shall be redesigned to save trees #1166, 1167, 1168, 1169, 1170, 1171, 1172 and all other tree canopy currently shown as preserved, included trees 1173-1176 and 1195. Mitigation will be calculated based on these trees being preserved, and shall be planted back on-site in accordance with the Tree Preservation ordinance.
13. Add this Note to the Plans: No utility service lines, drainage improvements or any other improvements/disturbance with the exception of hand tree plantings shall be allowed within the identified Tree Preservation Areas on either the Victory Commons parcel or in the "Tract 2." No filling, excavating, or other land disturbance shall take place in tree preservation areas. Storage of construction vehicles, materials, debris, spoils or equipment is prohibited within tree preservation areas.

Wetland Determination

22. The applicant shall present a wetland determination by the appropriate federal agencies and meet the performance criteria of section 170.07(4) of the UDC prior to the issuance of a grading permit.

Chapter 170.07(B)(4) of the UDC states that "Areas defined as 'wetlands' by the appropriate federal agencies shall be protected from adverse changes in runoff quantity and quality from associated land development. Staff has repeatedly requested for a wetland determination for this site, dating back to the initial submittal and carried forward at each iteration of review. If there are indeed no wetlands identified on the site, the proposed drainage may function as it is currently designed without change. If, however, wetlands are identified, modifications to the drainage may be warranted or required. A variance of the provisions of the Stormwater Drainage and Erosion Control ordinance may be granted, if there are special circumstances applicable to the property or its intended use, and the granting of the variance will not result in an increase in the rate or volume of surface water runoff, an adverse impact on adjacent properties, wetlands, etc., degradation of water quality, or otherwise impair the attainment of the objectives of this chapter. To this point, information has not been presented by the applicant as to why a wetland determination should be submitted, other than it will take additional time to obtain such a determination, and that based on the development company's experience, it will handle this matter sensitively. Staff is not supportive of this variance, and does not agree that any unnecessary, undue hardship has been created, as the ordinance requirement is a published document, and the requirement has been made known to the applicant since July 16, 2008.

DISCUSSION

On September 22, 2008, the Planning Commission voted 6-0-1 on a motion to approve the large scale development, finding in favor of staff's recommendations, with Commissioner Anthes recusing. The applicant has appealed Planning Commission's determinations as noted above.

BUDGET IMPACT

None.

Paradigm Development Enterprises, Inc
Tracy K. Hoskins - President

City of Fayetteville
Jeremy Pate - Planning Division

RE: Request for appeal to the City Council of certain "conditions of approval" by the Fayetteville Planning Commission for Victory Commons Phase One

Jeremy,

As anticipated, I wish to appeal certain conditions of approval imposed by the Planning Commission on Victory Commons Phase One, on September 22nd, 2008. Listed below are the specific conditions we wish to appeal and our reasons for which each should be granted.

15 feet of greenspace required;

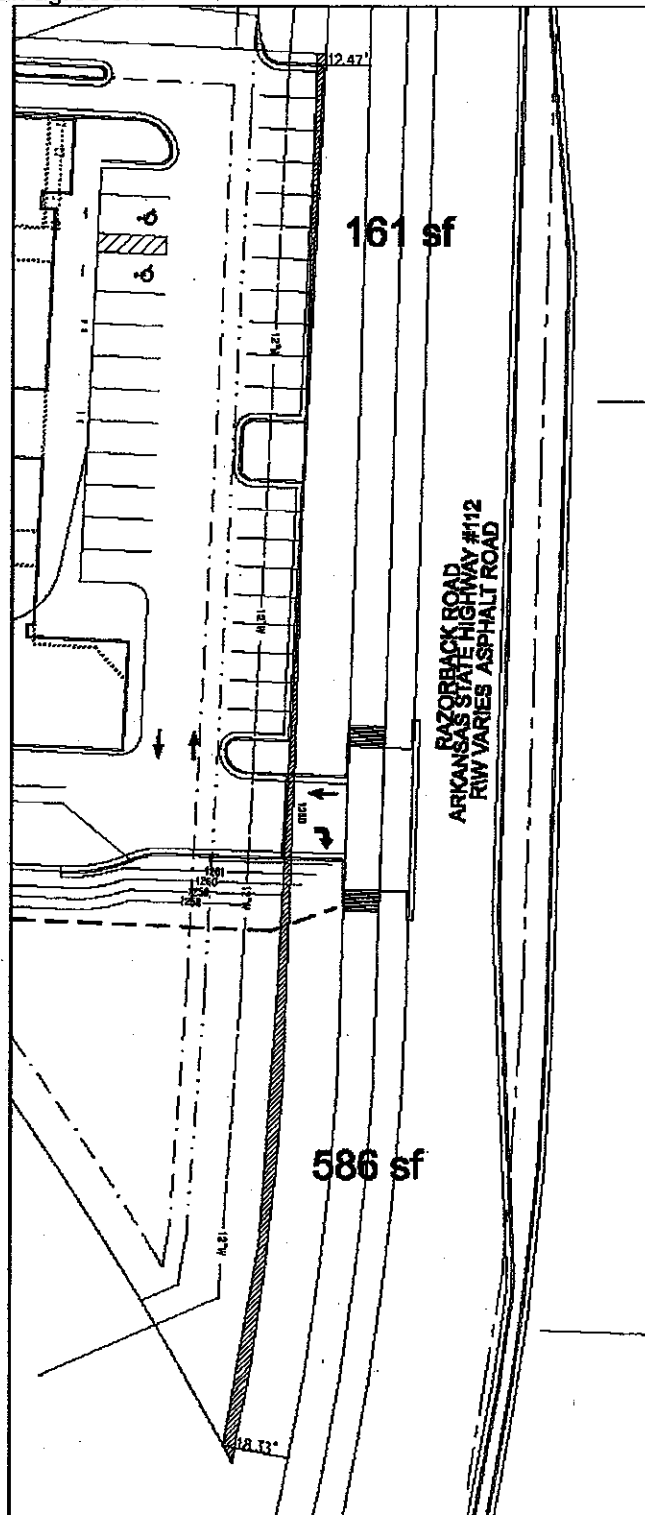
1. Planning Commission determination of a variance from Chapter 177.04(D)(2)(a) to allow less than 15' of greenspace between the parking lot and the Razorback Road right-of-way. *In general, staff has supported greenspace waivers where unique circumstances exist and the variance will be in harmony with the general purpose and intent of the landscape regulations. In this case, AHTD acquired substantially more right-of-way than required by the City's Master Street Plan (City requires 48.5' from centerline and AHTD has acquired approximately 65' from centerline) to construct the Razorback Road improvements, resulting in an undue hardship to the developer. The resulting greenspace between the 10' sidewalk and the property line varies from 13' to 18' in width. Accordingly, staff recommends in favor of a greenspace variance with the condition that at least 2' of greenspace be provided between the parking lot and state right-of-way line. This will ensure that there is approximately 15' of greenspace between the existing sidewalk and proposed parking lot, which meets the general intent of the landscape regulations. Additionally, providing a small amount of greenspace outside of the right-of-way will ensure that all required landscaping can be installed on private property, under City ordinance requirements, and that an area will be provided for an irrigation system if desired by the applicant. AHTD does not typically allow irrigation systems to be installed within state right-of-way. If the Planning Commission approves the variance request as proposed, requiring the applicant to plant landscaping within the state right-of-way, the applicant shall obtain an approval letter from the state allowing such plantings. Said letter shall be provided to the City prior to building permit approval.*

9/22/08: THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF'S RECOMMENDATION FOR ADDITIONAL GREENSPACE.

While we appreciate staff recognizing the value in allowing the project to be located closer to the right of way in keeping with the intent of our CityPlan 2025, requiring a full two feet between the parking lot and right of way presents challenges. Either parking spaces must be shortened to 17 feet, or the building must be shifted west by two feet if Staff's expectations are to be met. We have already incorporated multiple compact parking spaces upon Staff's recommendation, therefore we feel it's not a good idea to shorten any more parking spaces. We can not (and should not) narrow front drive isles thereby creating potential difficulties for fire department access through a busy parking lot; and moving the building west two feet will narrow the rear drive/fire lane which provides 360 degree access to fire and solid waste trucks. The building has

10/3/2008

been shuffled around the site many times and is currently placed in the location that all departments can agree on.



\\jmi\Desktop\base 9-3-08.dgn 9/11/2008 2:23:32 PM

The above graphic illustrates that the "green" area (shaded areas) between the sidewalk and lot at the north end departs from the intent of the ordinance by approximately 2.5 feet or 12.5 feet, slightly less than the 15 feet required. However, the majority of the frontage either meets the intent of the ordinance or exceeds the intent, approximately 3.5 feet MORE than the 15 feet required. If we were to consider the "square footage" of green, we are short by 161 square feet at the north end, while the southern area provides 586 excess square feet. Therefore, we are actually providing a net 425 square feet of extra greenspace. If staff truly believes there must be space outside of the ROW for irrigation, we do not agree it takes two full feet to install a less than one inch plastic irrigation supply line. Six inches of clearance is ample space to install irrigation.

As for Staff's concern if planting within the ROW is permitted, the inserted email from Jacky Baldwin below clearly demonstrates the AHTD is agreeable.

From: Baldwin, Jacky [Jacky.Baldwin@arkansashighways.com] Sent: Wed 7/30/2008 8:20 AM
To: tkhoskins@paradigmrrwa.com
Cc:
Subject: RE: [BULK] Question...

The parking lot can not encroach right of way but it can be built right up to the line. The landscaping on the right of way is allowed (only for certain types of trees and shrubs). A letter requesting your placement of landscaping within the right of way along with details of the types of trees and/or shrubs to include the full growth height and full growth circumference of the trees will be required before an issuance of a permit. There will be a bond amount on this type of permit.

Jacky "Jeb" Baldwin
District Four Permit Officer
P.O. Box 1424
Fort Smith, AR 72902
(479)646-5501 Office
(479)646-8286 Fax

-----Original Message-----

From: Tracy K Hoskins [mailto:tkhoskins@paradigmrrwa.com]
Sent: Tuesday, July 29, 2008 11:21 AM
To: Baldwin, Jacky
Subject: [BULK] Question...
Importance: Low

Jeb,

I have a question for you. Along Razorback, the State took a inordinate amount of ROW along my frontage. There's lots of green space between my proposed parking lot and the back of the sidewalk, where the ROW normally ends. So that I can move my parking lot up some, thereby avoiding killing some trees, would you allow me to plant some landscaping to the outer edge of the ROW?

Please let me know.

BTW, I have worked out a plan with the city where I don't have to completely fill your ROW as they once wanted me to do. Yee haw.

Tracy K. Hoskins



3155 N. College Ave., Suite 201, Fayetteville, Arkansas 72703
(479) 621-7007 office (479) 236-6833 cell

Further, my own project at 3155 N. College demonstrates the AHTD has supported the practice for some time, as we relayed to Staff very early on and on several occasions throughout this process. Therefore, we respectfully request the City Council to reverse the Commission's requirement to move the parking lot two feet east to provide "*an area will be provided for an irrigation system if desired by the applicant*" or modify the requirement to 6 inches as to not significantly disrupt drive lanes or project design.

Curb Cut-Median Cut and existing driveways;

4. Planning Commission determination of curb-cut locations. (The subject development was submitted prior to the adoption of the City's new access management ordinance.) *Since the development will have to obtain AHTD approval for curb-cut and median-cuts along Razorback Road, staff has recommended two options, so that the development may proceed forward after Planning Commission and AHTD review, without having to return for additional City review. The developer shall construct one of the following:*
 - a. *Option 1: Construct a right-in/right-out driveway at the south end of the property, connect the project to the existing driveway in the middle of the property as a full access curb-cut, resulting in removal of the concrete portion of the existing median, and removal of the northern most driveway. The northern driveway shall be removed prior to approving a temporary certificate of occupancy permit for Victory Commons I (see attached diagrams for curb-cut locations).*
 - b. *Option 2: Construct a right-in/right-out driveway at the south end of the property, connect the project to the existing northern most driveway as a full access curb-cut, and relocate the middle driveway as a right-in/right-out, approximately 50' to the south, to align with the east-west drive aisle. The middle driveway shall be relocated prior to approving a temporary certificate of occupancy.*

9/22/08: THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF'S RECOMMENDATION.

There has been much discussion about the removal of a portion median to incorporate at least one full-access drive along the near 700 linear feet of highway the fully developed project will eventually front.

Our originally submitted design was of course opposed by Staff. In the spirit of cooperation, we resubmitted a revised design (that Staff themselves wanted), to the AHTD. The AHTD stated that any design should be one that is supported by the UA and the City; and unfortunately, the AHTD did not support Staff's design. Therefore, alternative designs are being explored.

On 9/30/08, we met with Chamber and UA officials to discuss the project and appropriate access. As it turned out, all supported a design very similar to that we originally proposed in June of this year; the same design that Staff did not support. Therefore, we are continuing to work with the UA and AHTD on this issue.

Our objection to Staff's inclusion of either of the above "options" is as follows.

Option 1 - *"...The northern driveway shall be removed prior to approving a temporary certificate of occupancy permit for Victory Commons I".*

Staff was fully advised well in advance that first, the property is currently leased. If I were to remove any access to the tenant's business, I would surely be sued, nor do I have the

authority to remove any access of a building that is two parcels away and under separate ownership. Further, Staff has obviously not thought through their requirement very well. Staff has imposed a condition that provides for the full construction of VC-1, but may not be able to obtain Certificate of Occupancy once complete. I know of no business person, let alone any lender, that would take such a risk; invest over \$3m on a structure that could set empty was completed?

Option 2 – Option two is no option at all. To locate a full access driveway that close to Highway 62 is nothing more than a disaster waiting to happen. The north drive would not serve as a full access driveway because no one would be able to turn left due to the stacking of traffic waiting to turn left on highway 62. This notion was discussed with UA and Chamber officials during our site visit. There was one issue that all could agreed on, that the idea of a full-access drive in this location is a really, really bad idea; that congestion and accidents would be inevitable.

The fact is, the AHTD is the authority having jurisdiction over these matters. Ultimately, they will dictate what is to be constructed. It is very likely the AHTD will choose neither option outlined by Staff, thereby making Staff's requirements impossible to adhere to. Further, it could be some time before the AHTD makes a decision of any kind. It's possible that a court of law may have to determine if cutting off full access to an existing commercial property is appropriate. Regardless of what decision is made or when a decision will be made, it is inappropriate for Staff to interject a condition of approval of this LSD, on a matter in which the city has only very limited authority. If Item #4 above is to remain a condition of approval, Victory Commons can not be built for reasons made obvious. Therefore, we respectfully request that Council overturn condition #4 in its entirety.

Tree Preservation Conditions:

12. *The off-site detention pond proposed for the northwest corner of the adjacent property shall be relocated such that the existing trees are not removed by construction activities. Any changes to detention design shall be reviewed and approved by the Engineering Department prior to construction approval.*

9/22/08: THE PLANNING COMMISSION RECOMMENDED THAT THE DETENTION POND DESIGN AND LOCATION BE WORKED OUT WITH STAFF PRIOR TO DEVELOPMENT.

13. All trees on the adjacent parcel are to remain until such time that the parcel is reviewed for development.

The design we have submitted includes master-planned storm water control for the entire Victory Commons project, fully developed. The current placement of the offsite pond is to catch storm water entering the property from upstream, and detain it as to not exacerbate an existing drainage problem south the of existing railroad tracks. Our design is a proactive approach that incorporates plans for the future; an attempt to stave off messes such as the current drainage issues north of Wedington Drive where the hotels are currently being built. The drainage facilities have been adjust, moved, changed, etc. on several occasions over the last couple of years. Now, it's difficult to tell if the design will even function properly.

There have been several statements by Staff as to how many trees we are proposing to remove. One claim was "approximately 20-30 trees in the southwest corner..." of which we corrected Staff. Then, I believe the Urban Forester claimed we were proposing to remove 33(?) trees, and that pictures I presented to the Commission illustrating the obvious "underbrush-like" nature of the trees was not an accurate representation of what actually exists. I have conveyed to the Urban Forester that I am not intelligent enough to take pictures of somebody else's scrub trees on another site and pass them along to the commission. We further explained at Commission the intent of the design, and that of the TWELVE trees present, we were proposing the removal of 10; five of which were in poor health (one with three trunks another with thirteen trunks), and none were of high value, mature, or specimen species.

16. No utility service lines or any improvements with the exception of hand tree plantings will be allowed within the Tree Preservation Area.

18. The Tree Preservation Area should be identified on the easement plat and include the Tree Preservation Area signature block required for the Urban Forester. This will accomplish a restrictive easement on the area to ensure that the canopy is maintained and preserved.

I have learned I should pay much closer attention to the conditions that are created throughout the process and should become more demanding for copies of Staff's reports. Unfortunately, I was apparently asleep at the wheel on these two conditions. I was so busy arguing various "special" conditions of approval, I failed to recognize the "fine print". I have yet to find any appropriate location for any tree "preservation" area. The very few (all of unhealthy, diseased, low quality/priority), Hackberries, Maples, and Elms that will remain after construction are not desirable trees, or ones that should be "preserved". They indeed should be "protected" and not removed if they are slated to be retained. However, "a preservation easement" is a far, far different thing than "protecting" trees, as is required by ordinance and we have committed to doing.

The area in question has been inundated with water since the reconstruction of Razorback Road. We did not cause the demise of the many declining trees; of which several will be removed and mitigated with this project. We do not feel it is appropriate that we are made to mitigate for trees that were effectively destroyed by the construction of Razorback Road. But that's another argument. The remaining few inundated trees will surely face the same demise as the others. Therefore, a "tree preservation easement" is unwarranted and is clearly an unjust taking of valuable property only to insure the property owner gives up his rights to landscape, maintain, or further develop his property in the future. A preservation easement effectively removes any rights a landowner has of his own property. Further, the same area is a detention facility with constructed drainage. Detention and drainage facilities must be maintained, sometimes repaired. Drainage easements and tree preservation easements can not occupy the same space, as the UDC provides. We feel this condition could be construed as a method for the city to acquire additional greenspace that is not mandated by Code; in a manner in which the City would not have to purchase the property. For all the reasons described, we respectfully request that along with item 13, the City Council remove these unjustified, burdensome conditions of approval, items 16 and 18, in their entirety.

Engineering Division Conditions:

- 3. The applicant shall present a wetland determination by the appropriate federal agencies and meet the performance criteria of section 170.07(4) of the UDC prior to the issuance of a grading permit.*

10/3/2008

Engineering has potentially made an unreasonable request. The inclusion of this condition is the result of one or two "enlightened" citizen's call to arms because cattails are present at the far south point of the property. This is the same area of the development that Engineering first wanted me to fill by several feet.

Having extensive experience in jurisdictional wetlands, I have conveyed to Engineering, on several occasions, that it is my opinion that no jurisdictional wetlands exist on site, and I was willing to contact the USACOE for delineation. And, I have since sent all necessary information to the USACOE.

The problem we have with this condition is that it could take several months for the USACOE (or someone certified by the same), to assess the site, and several more before making a report. This condition requires I have a delineation in hand prior to grading. We can not afford to wait, potentially 8 to 10 months, to start the project. The submitted plan obviously reflects that the area in question is not subject to development, and is to remain undisturbed. Therefore, Engineering has included a condition of approval that creates unnecessary, undue hardship on the viability of the project. We are a responsible, knowledgeable development company, who has much more experience in conditions such as these and how to appropriately handle such matters with sensitivity. We ask that the City Council overturn this condition to allow Victory Commons to move forward.

With the above, I respectfully request my appeal be heard by the Fayetteville City Council at the earliest meeting available. Please let me know when my request may be heard.

Thank You,

Tracy K. Hoskins - president



3156 N. College Ave., Suite 201, Fayetteville, Arkansas 72703
(479) 521-7007 office (479) 236-6636 cell



ARKANSAS STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT
DISTRICT FOUR

4019 TOWSON AVE. • P.O. BOX 1424 • FORT SMITH, AR 72902-1424 • TELEPHONE (479) 646-5501 • FAX (479) 646-8286
WASHINGTON — CRAWFORD — FRANKLIN — SEBASTIAN — LOGAN — SCOTT — POLK

September 3, 2008

RECEIVED

SEP 05 2008

ENGINEERING DIV.

Mr. Tracy Hoskins
Paradigm Companies
3155 N. College Ave., Suite 201
Fayetteville, AR 72703

Re: Access
Highway 112, Section 0
Washington County
Fayetteville

Dear Mr. Hoskins:

The review of your request for potential access improvements to your property on the west side of Highway 112 in Fayetteville is now complete. The proposed improvements would result in the removal of the concrete portion of the median island to allow left turns in and out of the southern of two existing accesses and construction of a third access near the south end of your property.

Removal of the concrete portion of the median island would result in the grassed island beginning immediately south of the access to your property. The proposed modification would not provide adequate storage in the center turn lane for traffic turning into your property at this access. Storage could only be provided by removal of a portion of the grassed island, therefore, improvements as proposed in the area of this drive are not acceptable. Furthermore, removal of this grassed island and landscaping will not be allowed.

During the review, it was noted that the proposed southern access is within an area of the right of way that has been landscaped with trees. Any access should be located in the areas between trees so as not to disrupt the tree spacing.

If we may be of further assistance, please contact this office.

Sincerely,

Joe Shipman
District Engineer

C: Assistant Chief Engineer-Operations
State Maintenance Engineer
Roadway Design
University of Arkansas, Mr. Mike Johnson
City of Fayetteville, Mr. Ron Petrie ✓

**Victory Commons
Planning Commission Staff Report
September 22, 2008**



PC Meeting of September 22, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission Committee
FROM: Jesse Fulcher, Current Planner
Glenn Newman, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: September 18, 2008 Updated October 01, 2008

LSD 08-3037: (VICTORY COMMONS, 560): Submitted by BATES & ASSOCIATES for property located at RAZORBACK ROAD, 500-FEET SOUTH OF THE INTERSECTION WITH 6TH STREET. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL and contains approximately 1.29 acres. The request is for a commercial development with 18 attached dwelling units and 9,319 s.f. of commercial space with associated parking. Planner: Jesse Fulcher

Findings:

Property Description: The subject property is located on Razorback Road, south of 6th Street and is bordered by railroad right-of-way to the south. The property contains approximately 1.29 acres and is zoned I-1, Heavy Commercial/Light Industrial.

Proposal: The applicant proposes to construct a three-story building with 18 residential units and approximately 9,319 s.f. of commercial and restaurant space. Surrounding land uses are shown in Table 1.

Table 1: Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Frost Oil Company	I-1, Heavy Commercial/Light Industrial
South	Rail Road ROW	I-1, Heavy Commercial/Light Industrial
East	Undeveloped	RMF-24, Residential Multi-Family and R-O, Residential Office
West	Frost Oil Company/RR ROW	I-1, Heavy Commercial/Light Industrial

Adjacent Master Street Plan Streets: Razorback Road (Principal Arterial).

Right-of-way: Sufficient right-of-way has been obtained by the Arkansas Highway Transportation Department to meet the minimum requirements of the City's Master Street Plan.

Water/Sewer: Water and sewer service is available to the site.

Street Improvements: Razorback Road has been fully improved at this location with the widening of Razorback Road to a boulevard.

Parks: The Parks Recreation and Advisory Board recommended accepting money in-lieu of park

land dedication on July 7, 2008. Fees in the amount of \$12,240.00 are due prior to building permit approval.

Landscape/Greenspace: The applicant requests a variance of the requirements of Chapter 177.04(D)(2)(a) to allow less than the required 15' of greenspace adjacent to the right-of-way. In this case, AHTD acquired substantially more right-of-way than required by the City's Master Street Plan (City requires 48.5' from centerline and AHTD has acquired approximately 65' from centerline) to construct the Razorback Road improvements, resulting in an undue hardship to the developer. Due to the excess right-of-way purchased by AHTD to construct Razorback Road improvements, and the approximately 15' of greenspace between the proposed parking lot and the existing sidewalk, staff is supportive of the request, with a few minor adjustments to ensure screening and irrigation can be installed.

Access/Connectivity: The applicant is currently proposing to utilize one of two curb-cuts on an adjacent parcel to the north, also owned by the applicant, that were installed by AHTD during the widening of Razorback Road (see attached site plan). This curb-cut is proposed to serve as full access to the site, but will require the removal of the concrete median and potentially require modification of the tree-lined portion of the median. The other point of access is proposed to be a right-in/right-out driveway near the south end of the property with no changes to the median. Staff is supportive of the proposal with the condition that the northern driveway, adjacent to the existing building, be removed with development of this project. The existing driveway will provide adequate access to Razorback Road for the proposed development and for future development on the adjacent tract. Staff is not supportive of the median being removed and a full access curb-cut being installed if the adjacent curb-cut to the north remains, finding that stacking is not adequate for both and turning movements could create a dangerous traffic condition.

However, the AHTD has to approve all proposals for median cuts and driveway installation within state right-of-way. Therefore, denial of the proposal to modify the existing median would require the applicant to utilize the northern driveway that is adjacent to the existing building, if full access to the site is to be provided. Staff is also supportive of a proposal to use the northern driveway along with the limited access driveway at the south end of the site. With the condition that the middle driveway is relocated approximately 50' to the south as another right-in/right-out, aligned with the east-west drive aisle.

Tree Preservation:	Existing Canopy:	65.97%
	Required Canopy:	15.00%
	Preserved Canopy:	8.00%
	Mitigation:	13 two-inch caliper trees

Recommendation: Staff recommends approval of LSD 08-3037 with the following conditions:

Conditions of Approval:

1. Planning Commission determination of a variance from Chapter 177.04(D)(2)(a) to allow less than 15' of greenspace between the parking lot and the Razorback Road right-of-way. *In general, staff has supported greenspace waivers where unique circumstances exist and the variance will be in harmony with the general purpose and intent of the landscape regulations. In this case, AHTD acquired substantially more right-of-way than required by the City's Master Street Plan (City requires 48.5' from centerline and AHTD has acquired*

approximately 65' from centerline) to construct the Razorback Road improvements, resulting in an undue hardship to the developer. The resulting greenspace between the 10' sidewalk and the property line varies from 13' to 18' in width. Accordingly, staff recommends in favor of a greenspace variance with the condition that at least 2' of greenspace be provided between the parking lot and state right-of-way line. This will ensure that there is approximately 15' of greenspace between the existing sidewalk and proposed parking lot, which meets the general intent of the landscape regulations. Additionally, providing a small amount of greenspace outside of the right-of-way will ensure that all required landscaping can be installed on private property, under City ordinance requirements, and that an area will be provided for an irrigation system if desired by the applicant. AHTD does not typically allow irrigation systems to be installed within state right-of-way. If the Planning Commission approves the variance request as proposed, requiring the applicant to plant landscaping within the state right-of-way, the applicant shall obtain an approval letter from the state allowing such plantings. Said letter shall be provided to the City prior to building permit approval.

9/11/08: THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF STAFF'S RECOMMENDATION FOR ADDITIONAL GREENSPACE.

9/22/08: THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF'S RECOMMENDATION FOR ADDITIONAL GREENSPACE.

2. Planning Commission determination of a variance from Chapter 177.04(D)(3)(a) to allow less than one tree per 30 linear feet along the Razorback Road right-of-way. *The applicant proposes to install 9 of the 13 required street trees, since street trees were already planted with the improvements to Razorback Road. Staff finds that the proposed spacing is appropriate and meets the intent of the landscape ordinance, given the location of the existing trees.*

9/11/08: THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE REQUESTED VARIANCE.

9/22/08: THE PLANNING COMMISSION FOUND IN FAVOR OF THE REQUESTED VARIANCE.

3. Planning Commission determination of compliance with Commercial Design Standards. *Staff recommends approval of the proposed elevations, finding that the elevations submitted meet the criteria set forth for commercial design standards.*

9/11/08: THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF COMMERCIAL DESIGN STANDARDS.

9/22/08: THE PLANNING COMMISSION FOUND IN FAVOR OF COMMERCIAL DESIGN STANDARDS.

4. Planning Commission determination of curb-cut locations. (The subject development was submitted prior to the adoption of the City's new access management ordinance.) *Since the development will have to obtain AHTD approval for curb-cut and median-cuts along Razorback Road, staff has recommended two options, so that the development may proceed*

forward after Planning Commission and AHTD review, without having to return for additional City review. The developer shall construct one of the following:

- a. Option 1: Construct a right-in/right-out driveway at the south end of the property, connect the project to the existing driveway in the middle of the property as a full access curb-cut, resulting in removal of the concrete portion of the existing median, and removal of the northern most driveway. The northern driveway shall be removed prior to approving a temporary certificate of occupancy permit for Victory Commons I (see attached diagrams for curb-cut locations).*
- b. Option 2: Construct a right-in/right-out driveway at the south end of the property, connect the project to the existing northern most driveway as a full access curb-cut, and relocate the middle driveway as a right-in/right-out, approximately 50' to the south, to align with the east-west drive aisle. The middle driveway shall be relocated prior to approving a temporary certificate of occupancy.*

9/11/08: THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF STAFF'S RECOMMENDATION.

9/22/08: THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF'S RECOMMENDATION.

5. Should the associated conditional use (CUP 08-3097) for additional residential square footage above that allowed by Chapter 164.03 be denied, the applicant shall be required to submit a revised set of large scale development plans for further review by the Planning Commission.
6. Parks fees in the amount of \$12,240.00 are due prior to building permit approval.
7. The driveway(s) that will be utilized on the adjacent property shall be located within an access easement, providing cross-access between each lot and from the west property line to Razorback Road.
8. The existing median may not be removed or altered in any way until the City of Fayetteville Engineering Department receives a letter of approval for removal/modification from AHTD. Any tree removal or relocation for curb-cuts shall be coordinated with the Urban Forester.
9. Trash enclosures are required to be screened from the right-of-way with materials that are complimentary to and compatible with the proposed building (brick, EFIS, etc).
10. The following revisions shall be made prior to building permit approval:
 - a. Contact the Solid Waste Department regarding expanding the dumpster enclosure to allow for cardboard recycling.
 - b. Update the square footage for each floor and residential area.
 - c. Revise tree preservation calculations.

Tree Preservation Conditions:

11. Provide new tree canopy calculations for the tree damaged by Tropical Storm Ike. Percent canopy shall not drop below 7% for continued approval.

12. *The off-site detention pond proposed for the northwest corner of the adjacent property shall be relocated such that the existing trees are not removed by construction activities. Any changes to detention design shall be reviewed and approved by the Engineering Department prior to construction approval.*

9/22/08: THE PLANNING COMMISSION RECOMMENDED THAT THE DETENTION POND DESIGN AND LOCATION BE WORKED OUT WITH STAFF PRIOR TO DEVELOPMENT.

13. All trees on the adjacent parcel are to remain until such time that the parcel is reviewed for development.
14. Replace the tree preservation retaining wall on Sheet C2.1 with the same one depicted on Sheet L101.
15. On Sheet L101 remove the grading lines from the tree side of the retaining wall.
16. No utility service lines or any improvements with the exception of hand tree plantings will be allowed within the Tree Preservation Area.
17. Revisions to Tree & Natural Area Standard Notes
 - a. Note 10: correct the word trunk
 - b. Note 13: change name from the National Arborist Association to Tree Care Industry Association
18. The Tree Preservation Area should be identified on the easement plat and include the Tree Preservation Area signature block required for the Urban Forester. This will accomplish a restrictive easement on the area to ensure that the canopy is maintained and preserved.
19. Mitigation is required on the site in the amount of 13 (2) inch caliper large species trees. The applicant has requested and been approved to plant these trees on-site. If all trees can not be planted on the site, the remaining amount will be paid into the Tree Escrow Account for future planting.
20. All mitigation trees must be planted prior to the issuance of a final certificate of occupancy. These trees can not be located within any utility easement. A 3-year bond, letter of credit, or check of shall be deposited with the City of Fayetteville before issuance of a certificate of occupancy

Engineering Division Conditions:

21. All comments on the attached Engineering comment sheet are to be addressed prior to construction permit approval.
22. *The applicant shall present a wetland determination by the appropriate federal agencies and meet the performance criteria of section 170.07(4) of the UDC prior to the issuance of a grading permit.*

Standard conditions of approval:

23. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
24. 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).
25. 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.
26. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit.
27. 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.
28. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation.
29. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
30. Large scale development approval shall be valid for one calendar year.
31. 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.
32. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - d. Project Disk with all final revisions
 - e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
 - f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all

improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action: ☒ Approved ☐ Denied ☐ Forwarded

Meeting Date: September 22, 2008

Motion: Myres

Second: Winston

Vote: 6-0-1 (Anthes recused)

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



PC Meeting of September 22, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: Bates and Associates
From: Jesse Fulcher, Current Planner
Date: September 16, 2008

ITEM # 08-3037: Large Scale Development (Victory Commons)

Applicable Requirements:

Y	Site Development & Parking Lot Standards
NA	I-540 Design Overlay
Y	Street Tree Planting Standards
NA	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	Y	Size of plant material at time of installation indicated
N	N	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
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 Submitted	Final Submitted	
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</i> <i>8 per tree- and ground cover -50% evergreen)</i>
Greenspace Design Requirements		
NA	NA	Greenspace adjacent to street R.O.W. (25' wide)
NA	NA	Large street trees planted every 30' L.F. along R.O.W.
NA	NA	25% of total site area left in greenspace (80% landscape)
NA	NA	Parking lots and outdoor storage screened with landscaping
Street Tree Planting Standards (none of 1, 2, or 3 apply)		
NA	NA	Residential Subdivisions- 1 large species shade tree/ lot tree <i>planted within R.O.W. if possible</i>
N	N	Nonresidential Subdivision- 1 large species shade tree/30 L.F. <i>tree planted within 15-25' greenspace</i>
NA	NA	Urban Tree Wells-urban streetscape only-8 foot sidewalk
NA	NA	Structural Soil-if urban wells are used, a note or detail of structural <i>soil must be indicated on the landscape plan</i>
NA	NA	Timing of planting indicated on plans (subdivisions only)
NA	NA	Written description of the method for tracking plantings
Stormwater Facilities (none of 1, 2, or 3 apply)		
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

Conditions of Approval:

1. Before construction document approval, the landscape plan must be stamped by a Landscape Architect licensed within the state of Arkansas.
2. Under the new 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 signature of Final Plat.
3. A 3-year maintenance bond for all mitigation trees is required prior to signing the final plat.



PC Meeting of September 22, 2008

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: Greg Howe, Urban Forester

Date: September 17, 2008

ITEM # LSD 08-3037: Large Scale Development (Victory Commons)

Requirements Submitted:

	Initial Review with the Urban Forester
✓	Site Analysis Map Submitted
F	Site Analysis Written Report Submitted
T	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	1.291
square feet	56,253
Existing Tree Canopy	
acres	.853
square feet	37,111
percent of site area	65.97%
Existing Tree Canopy Preserved	
acres	0.103
square feet	4,500
percent of total site area	8.00
Percent Minimum Canopy Required	15%

← Numbers are not correct.
See Note 1 below.

FINDINGS:

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

- **This site is over half covered by canopy. A water holding area is located on the southern portion of the site. This development has not**

set aside the minimum 15% (8,438 square feet) tree canopy.

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

- **Environmental degradation should not occur on this site. A proposed Tree Preservation is planned in the wetland.**

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.

- **Canopy removed will have little effect on adjacent neighbors due to separation of the parcel by industrial use, railroad and highway right-of-ways. However, new residents of the proposed structure will have visual and noise abatement lost by removal of the trees to the west and south**

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

- **None were presented for consideration**

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

- **The size and shape of this lot does affect the flexibility of design.**

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

- **The general health of these trees good to fair with a few poor trees.**

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

- **There will be trees cleared with this development. The applicant will be saving some canopy along the southern portion of the lot.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **Trees shown for preservation should not be affected by utilities.**

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

- **Topography is not an issue on this site.**

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

- **No off-site alternatives have been provided. In the far northwest corner of the adjacent property under the same ownership the submitted plans include the placement of a detention pond. This pond as designed will remove almost 100% of the tree canopy of that parcel**

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

- **There 13 trees proposed for on-site mitigation required on this site.**

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

- **Engineering, Fire and Utility constraints have affected the developmental design**

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 with the following conditions;**
 - 1. Provide new tree canopy calculations for the tree damaged by Tropical Storm Ike. Percent canopy shall not drop below 7% for continued approval.**
 - 2. Remove the detention pond (#1) from the northwest corner. Place a temporary detention pond on that adjacent parcel outside of any tree canopy areas and with Engineering approval.**
 - 3. All trees on the adjacent parcel are to remain until such time that the parcel is reviewed for development.**
 - 4. Replace the tree preservation retaining wall on Sheet C2.1 with the same one depicted on Sheet L101**
 - 5. On Sheet L101 remove the grading lines from the tree side of the retaining wall.**
 - 6. No utility service lines or any improvements with the exception of hand tree plantings will be allowed within the Tree Preservation Area.**
 - 7. Revisions to Tree & Natural Area Standard Notes**
 - a. Note 10: correct the word trunk**
 - b. Note 13: change name from the National Arborist Association to Tree Care Industry Association**
 - 8. The Tree Preservation Area should be identified on the easement plat and include the Tree Preservation Area signature block required for the Urban Forester. This will accomplish a restrictive easement on the area to ensure that the canopy is maintained and preserved.**
 - 9. Mitigation is required on the site in the amount of 13 (2) inch caliper large species trees. The applicant has requested and been approved to plant these trees on-site. If all trees can not be planted on the site, the remaining amount will be paid into the Tree Escrow Account for future planting.**
 - 10. All mitigation trees must be planted prior to the issuance of a final certificate of occupancy. These trees can not be located within any utility easement. A 3-year bond, letter of credit, or check of shall be deposited with the City of Fayetteville before issuance of a certificate of occupancy**



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: September 8, 2008
SUBJECT: Parks & Recreation Subdivision Committee Review Comments

Meeting Date: September 11, 2008
Item: LSD 08-3037 (Victory Commons, 560)
Park District: SW
Zoned: I-1
Billing Name & Address: Paradigm Companies

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$960 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	10 @ \$680 per unit = \$ <u>6,800</u>

COMMENTS:

- Parks and Recreation Advisory Board reviewed this project on July 7th 2008 and recommended accepting money in lieu of land to meet the requirements of the development.
- Tsa-La-Gi trail corridor is located to the north of this property. Park Staff would like to work with the developer to obtain land for the trail when the property develops.
- Fees for 10 multi-family units are due prior to the issuance of building permits.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 West Mountain St.

Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

479-575-8206

To: Jesse Fulcher, Planner

Date: September 8, 2008

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

Re: Plat Review Comments (July 30, 2008 Subdivision Committee Meeting)

Development: **LSD – 08-3037 –Victory Common**

Engineer: **Bates & Associates**

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Provide written permission to grade on the adjacent property. (Specifically the Rail Road to the southwest of the parking lot)
3. Indicate the scale of the off-site detention pond on sheet 3. The pond appears to be located on the adjacent property. Relocate the pond so that the 3:1 slope is more than 5 ft from the property line or provide a private drainage easement from the Rail Road to allow the detention on their property.
4. Identify the finish floor elevation for the building north of the proposed off-site detention pond. Ordinance required the structure to be 1 ft above and 20 ft from the 100 yr wse.

Drainage Report:

5. Review CN numbers selected. Provide supporting spreadsheet showing pervious and impervious areas with the appropriate CN values to support the values used. The values in the table 2.3a are based on a specific amount of impervious area. (This may limit the development of area 1b to 75% impervious)
6. Review the Tc for the DA 2. The entire sheet flow area is not grass.
7. Review the Tc for the DA1b. The site is assumed developed but the Tc indicates existing conditions.
8. The distribution for Post DA1a should be Type III.
9. Revise the offsite pond so that the 100 yr event does not exceed predevelopment flows.
10. Provide a standard scale for the Drainage Area Maps (Bar scale provided is not correct).
11. Indicate the amount of excess storage available for off-site detention pond. If this is less than 25%, document the proposed percentage and the reasoning for consideration.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.

Fayetteville, AR 72701

Telephone: 479-575-8206

ENGINEERING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Glenn E. Newman, Jr., P.E., Staff Engineer
DATE: September 17, 2008
SUBJECT: Victory Commons – Wetland Determination

Staff has requested a wetland determination for the southern portion of the Victory Commons site that holds water and supports vegetation commonly seen in "damp" areas at the first technical plat review meeting July 16th. Even though this site is not immediately adjacent to a creek and is fed by overland flow from the adjacent gravel parking area, staff has concerns that this area may be a wetland. Attached is a map indicating hydraulic soils are present at the site which is also an indication of potential wetlands. At this time staff, does not have any record, either formal or informal, indicating whether this area is a wetland.

Without a determination and/or delineation of wetlands within the limits of the project, engineering cannot evaluate the requirements of the Unified Development Code 170.07 Performance Criteria (4) Drainage into wetlands:

"Areas defined as "wetlands" by the appropriate federal agencies shall be protected from adverse changes in runoff quantity and quality from associated land development."

Nor, can engineering be assured the development is not occurring in a wetland, which would require a Corp of Engineers permit for site development, which may alter the site layout.

Friday September 12, Bates and Associates presented a letter indicating, *in their opinion*, a wetland determination is not required since, the limits of construction is a "safe" distance away from the area identified by the developer as possible wetlands. (see the attached documents)

Please note, the letter presented is not a determination or delineation of wetlands by the appropriate federal agency, only the opinion of Bates and Associates.

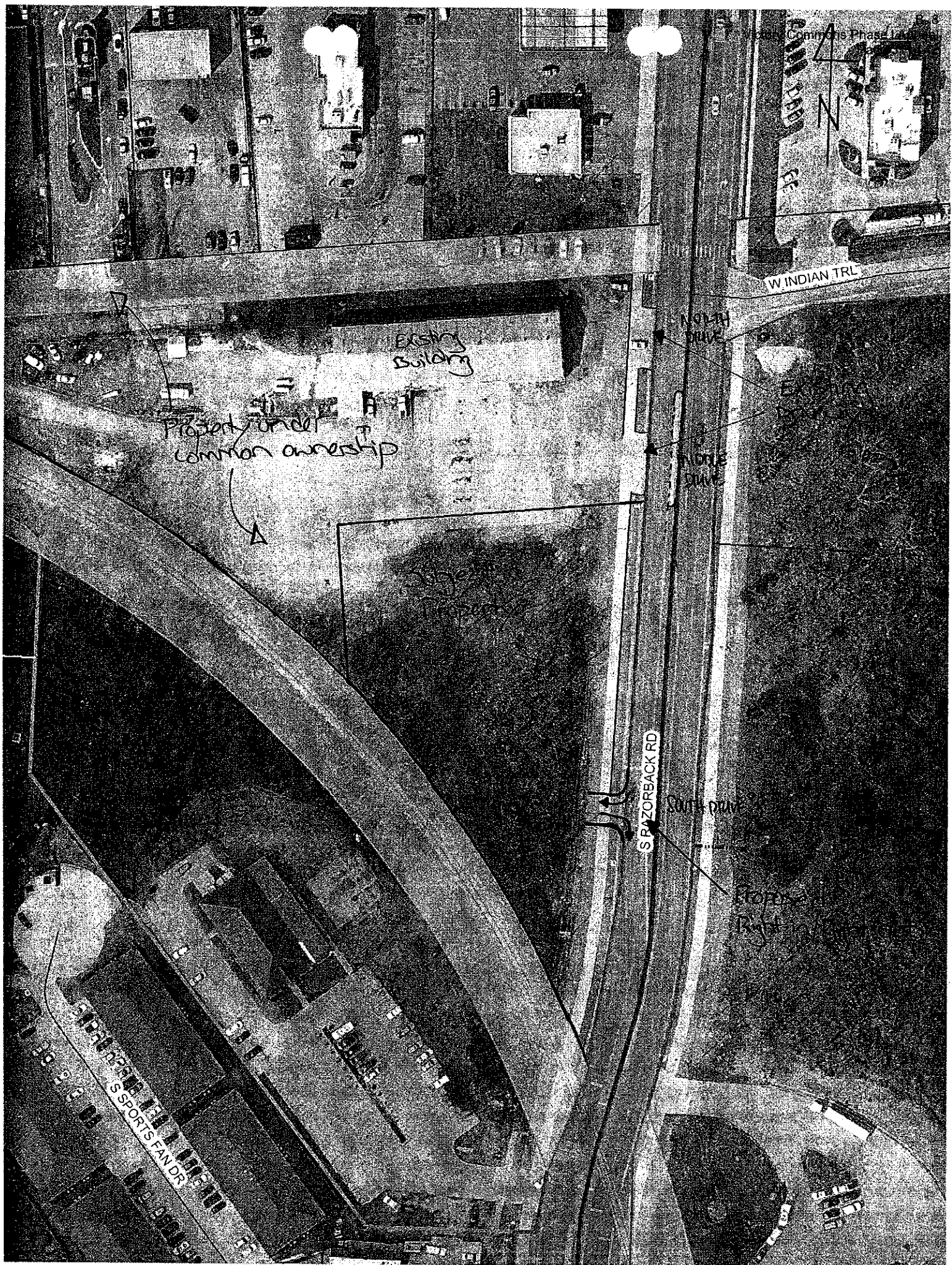
Wednesday September 17, the Developer stated he has submitted a request to the Corp of Engineers for a wetland determination of the site and is waiting for a response from the Corp of Engineers.

Based on the above statements by the developer and the opinion of Bates and Associates, engineering is willing to allow the project to move forward provided a condition is added requiring applicant to present a "wetland determination" by the appropriate federal agencies and to meet the performance criteria of section 170.07 (4) of the UDC prior to the issuance of a grading permit. (which may require an environmental filter system assuming the applicants exhibit is correct and there are wetlands on site)

From: Brian Pugh
To: Fulcher, Jesse; Garner, Andrew; Sanders, Dara
Date: 9/8/2008 12:41 PM
Subject: Subdivision Committee 9-11-08

LSD 08-3037 (Victory Commons) Enclosure at 15' x 12' is correct size for one dumpster. Solid Waste recommends considering a cardboard dumpster as well to provide recycling service. Double enclosure should be 30' x 12'. Please call Solid Waste to discuss.

Brian Pugh
Waste Reduction Coordinator
Fayetteville Solid Waste and Recycling
479-718-7685
479-444-3478 Fax



Victory Commons Phase 1A

W INDIAN TRL

Existing Building

Property under common ownership

NORTH DRIVE

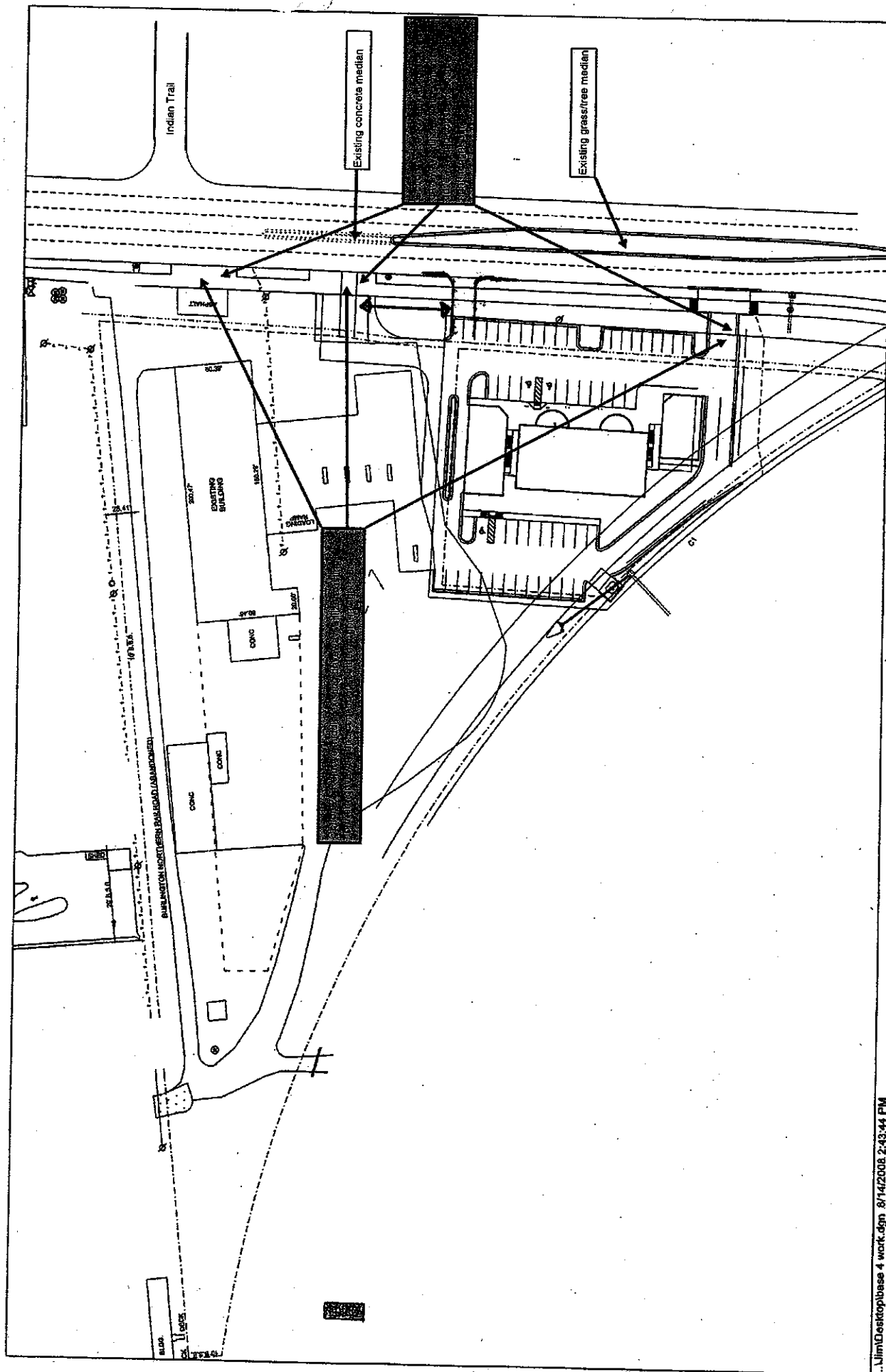
MIDDLE DRIVE

S PAZORBACK RD

SOUTH DRIVE

Proposed Right of Way

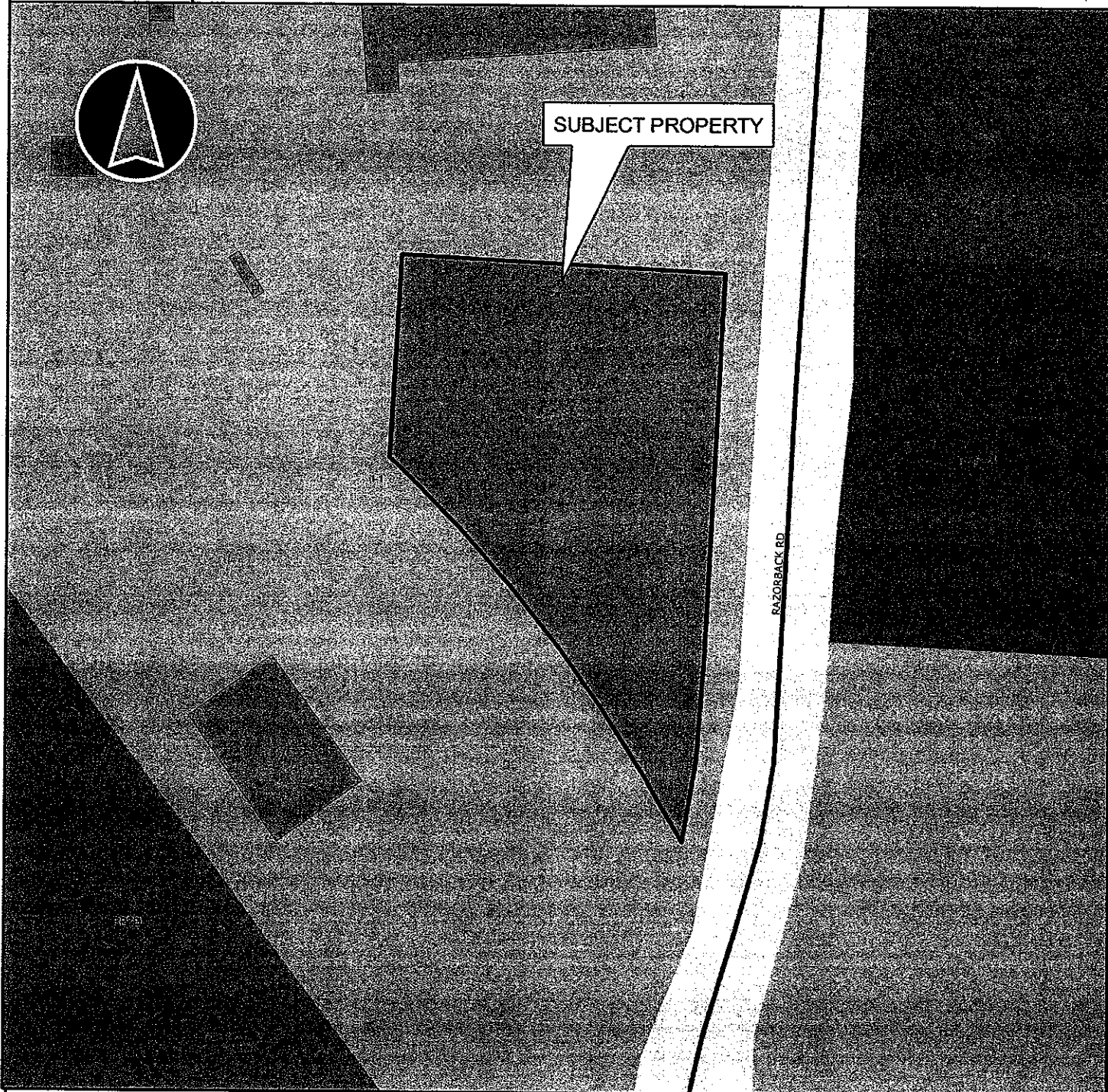
S SPORTS FAN DR



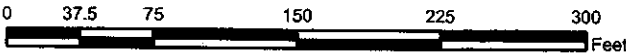
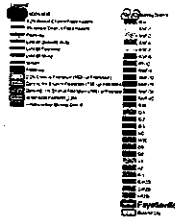
LSD08-3037

Close Up View

VICTORY COMMONS



Overview



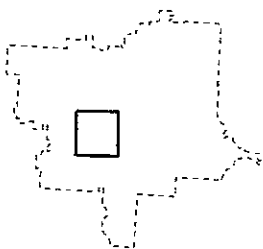
LSD08-3037

One Mile View

VICTORY COMMONS



Overview



Legend

Subject Property



Boundary

 Planning Area

 Outside City

Legend

Hillside-Hilltop Overlay District



0

0.25

0.5

1

Miles

**Victory Commons
Planning Commission Minutes
September 22, 2008**

CUP 08-3097: (VICTORY COMMONS, 560): Submitted by TRACY HOSKINS for property located SOUTH OF RAZORBACK ROAD, N OF THE ARKANSAS-MISSOURI SPUR. The request is for additional square footage of residential over the percentage allowed by the UDC.

LSD 08-3037: (VICTORY COMMONS, 560): Submitted by BATES & ASSOCIATES for property located at RAZORBACK ROAD, 500-FEET SOUTH OF THE INTERSECTION WITH 6TH STREET. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUST and contains approximately 1.29 acres. The request is for a commercial development with 18 attached dwelling units and 9,319 s.f. of commercial space with associated parking.

Jesse Fulcher, Current Planner, gave the staff report, discussing both proposals at the same time. The conditions are virtually the same as was discussed at Subdivision Committee. Staff is supportive of a Conditional Use Permit to add additional residential use to the project. Fulcher discussed conditions of approval as recommended by staff, including the requested landscape variance, the requested reduction of street trees, Commercial Design Standards, and curb-cut/access locations. The only condition added since Subdivision Committee was regarding the off-site detention pond, which is causing the removal of additional trees on the site. The Urban Forester is present to speak to this issue.

Tracy Hoskins, Paradigm Development (applicant), stated that the project was located on the old Mitchell Oil Gas Company property. We do have a few items we would like to discuss further. 1) 2 ft. of right-of-way at north on the landscape variance, 2) the curb cut location and removal of north driveway with this development, and 3) relocation and redesign of detention pond. We would like to discuss the off-site detention pond, which is off-site on a piece of property we own. The pond is in an optimum place, between an old block building and railroad tracks in a remote part of the development. We feel it is appropriately located, and that the advantages of planning outweigh the trees we would lose. Regarding the two feet of adjustment on the greenspace at the north of the lot, we are 13 ft. away at north end of the lot, at the south end we are 18 feet. We don't mind redesigning the parking lot to accommodate that shift, if that's what the Planning Commission wants. We would want to leave the plan as is - we are providing more square feet of greenspace. As for planting and irrigation, we don't know that to be an accurate statement. Assuming we are using the right type of plants we need, the State has sent an email stating they are OK with it. Hoskins discussed the curb-cut/access original proposal, the planned proposal, and the AHTD response of denial. We have asked to remove a portion of the median (concrete nose) to create a full access to this project - we can't make any commitments on removing the driveway to the north, and we ask that to be struck from the conditions. We can look at it at a later phase.

No public comment was received.

Commissioner Myres stated that on the curb cut issue, if under condition #1, can we require removal of curb cut to the north?

Pate stated yes, it is owned by this property owner. The same property owner is asking the City to consider approval of an off-site detention pond, removing trees off-site of the property, and a portion

Planning Commission
September 22, 2008
Page 13 of 26

of the proposed driveway off-site of where the building is located. Staff would certainly reconsider our recommendation for option #1 (removing a portion of the median to create a full-access turning movement) if the north curb cut remains full-access. The highway department, when they constructed this median, left one full-access curb cut open. They constructed a second curb cut to the south, however it's right-in/right-out only because of the existing median. We don't believe that was by chance. In discussing this issue with our city engineer, Mr. Petrie, this afternoon, it is clear from earlier meetings with the applicant that our recommendation is that we cannot support a full-access curb cut that close to another full-access curb cut, removing the median in concert with that proposal. You see in the conditions two different options presented by staff, but we've tried to accommodate several different options. Option 1 includes a south right-in/right-out full-access curb cut, removing a portion of the concrete median, and closure of the very north curb cut almost across from Indian Trail. The reason the applicant is requesting a second option to be approved is that we have received a letter that the highway department may not be supportive of this plan as proposed. The letter states that they are not supportive of removing any trees or any median whatsoever at this point in time. Granted, the design drawings have not been presented, it is simply a concept, and staff is willing to work with the applicant to talk to the highway department about this option, as we support it. However, if that option does not occur, we have presented a second option that will allow three curb cut access points to the overall property, maintaining a full access point adjacent to the building to the north, and two right-in/right-out curb cut accesses to this property. We don't typically have a response from AHTD this soon in the process, so if we recommend something and AHTD says no, we will have to bring something back before the Subdivision Committee to reconsider it. We're trying not to have that delay for this project, so we have multiple options for you to consider.

Commissioner Myres stated she was in agreement with staff that a change needs to be made to access. She supports staff's recommendation of option 2 in order for this to work.

Pate clarified that staff's recommendation is either one, not recommending choosing between one or the other.

Hoskins stated he agrees with staff on the curb cut access, just not the proposal to remove the curb cut to the north. He discussed the history of Razorback Rd. improvements. Trying to plan a driveway access two properties away seems like a reach. Our opposition is that we don't have full plans developed for the entire site.

Commissioner Myres stated she supports staff's decision.

Commissioner Winston asked about Indian Trail.

Pate discussed curb cuts to the north at the gas station being very close.

Commissioner Lack stated that on the 2 ft. strip of land associated with the landscape waiver he would support staff. It is appropriate that plantings be on land you own. The fact that AHTD purchased more land than they need does not preclude them from using it in the future. I also agree with staff on the curb cuts. A lot of what goes in to this decision is far beyond the distance between

curb cuts, but also proximity to a very busy intersection, Indian Trail, and the railroad tracks. I hope that option #1 works, it seems to be a winning option for the developer. On #12, the detention pond, I would like staff to clarify the specific trees we are talking about from a preservation standpoint.

Pate gave a brief history of the site's issues. In general, a detention pond was not located where it is now, it was to the south. The applicants have designed a site with a runoff coefficient that they have stated would accommodate full build-out on this property, located in the far west corner where the railroad used to be and where it is, between the block building and the corner. The only problem with that from a development standpoint is that is the only location where there are also trees. It would cause removal of several trees. This proposal came before staff at Subdivision Committee for the first time, and there has not been the typical time to review.

Greg Howe, Urban Forester, stated that the Commission should be aware that there is the actual project where the structure will be built, and then there is an off-site detention pond. For the on-site building location, we've had a plan in and a site analysis, a site report, and a tree preservation plan turned in. For the off-site detention pond, we've not received any of those things, which are required by Code. I've not had anything to review for this project on the off-site part of it. Regarding the photos submitted by the applicant showing the condition of the trees, there are 34 trees that I've counted that will be taken out by this detention pond. The trees you have in front of you are 3 or 4 trees within that group and they are the worst looking ones. There are several other trees within that group of 34 that are in much better condition than the ones you see. So, we're not just talking about some poor-looking trees that will come out. So my concern is that staff has not had a chance to fully review the off-site detention pond plan since a plan has never been formally presented. Howe directed the Planning Commission's attention to the tree preservation plan, sheet L101, showing two large groupings of trees in the top left hand corner that are X'd out where the pond is going. None of those groups are listed in the table on the tree preservation plan. Some of the significant trees are, but not all of the canopy within it. We just received this prior to this meeting, earlier this week, with all the other large scale development information. So there hasn't been due diligence done on this. The site analysis from the original tech plat has not been updated and sent to myself in regards to this change nor has the site analysis report.

Commissioner Lack stated he's seeing a number of 2 7/8-8" elms enumerated in the plans here - has that changed?

Howe stated that they are new since Subdivision Committee. One of the other things that has happened on-site where the building structures are proposed, is that a tree came down during a recent storm, and we asked for a new calculation for the canopy number, and we have not received that.

Commissioner Lack asked if there was a Subdivision Committee report.

Commissioner Cabe gave a Subdivision Committee report on the detention pond and tree removal. In general, we agreed with staff's recommendation, and asked staff and developer to sort through these issues. A lot of this is new information tonight. We were not aware that drawings have not been submitted. I agree with staff's recommendation to relocate the pond in order to preserve the

Pate stated that the information about the trees had not been provided at the Subdivision Committee meeting; we were not aware there were trees in that area, we simply asked for that information. The Subdivision Committee directed staff and the applicant, asked if we had enough time to work that out before we got here, so now we are discussing details that would normally be worked out by Subdivision Committee.

Commissioner Lack stated that at this point, I would have to support staff on that. I'm looking at trees listed in the table, and have some pause with placing a high priority on some of these trees such as the hackberry and cherry, but certainly respect staff's recommendation on that.

Hoskins stated that on September 17th, a report was given back to the City of Fayetteville, new calculations were including the tree that had been damaged by the storm. It did not change our mitigation on the Victory Commons site whatsoever because it was a tree that had already been planned to be removed, so it did not change the calculations. Subdivision Committee was on Thursday of last week. There were a few things that needed to be worked out, including detention, by Monday morning of the following week. Engineering was still working on detention pond issues. As far as the recalculation of trees, etc, this is an off-site situation. We will mitigate for whatever is required. On page L101, which was the re-submittal on Monday, the submittal was drawn from Mr. Howe's meeting with our landscape architect, Alan Osmer. This plan is the result of their meeting. There are not 30 trees out there, and the pictures that were sent to you are a cross-section of everything that is out there, including the one with 13 trunks. On this new submittal, originally the tree numbers went up to 1161. 1162 and beyond reflect the trees up in the north corner, where the off-site detention pond is to be located. There are 12 trees; we are saving 2 of the 12. Of the 10 that are to be removed, 5 are in poor health, they are hackberry/elm, etc, low-priority, and the other five are hackberry trees in fair health, mid-level priority. If the Urban Forester feels that we need to mitigate for what we're taking out, we are happy to do so. But as far as a revised plan, it has been submitted.

Commissioner Lack stated a concern with the priority level of the trees and the importance of maintaining trees vs. mitigating for them. There is a provision in the ordinance that allows for mitigation, regarding the nature, species and priority of the trees; is it appropriate to require the canopy be maintained or is mitigation more appropriate?

Howe stated that it seems like a slippery slope. If we start looking at every tree on every site, to this conditions – I've not necessarily agreed with all of the health conditions. The Code is set up to preserve trees, it is not a tree mitigation code. It would be difficult to support them to be completely removed. He discussed the health of trees. I think we're walking a tight rope in what we're calling preservation and mitigation. Howe discussed mitigation survival rate for other projects – it does not appear to be working, with a 31% survival rate. There are 12 significant trees on this site, but 34 that make up this canopy. They would be taking these trees out and only leave about 6 on the entire proposal. Part of the reason to recommend they stay now is because there appears to be no reason to take them out. A future development might ease that, but haven't had the time or information to

Planning Commission

September 22, 2008

Page 16 of 26

support that at this point.

Commissioner Lack stated that he has some difficulty with the idea of going against that recommendation from an ideological standpoint, but I would personally find some favor in the idea of being able to mitigate at least some of these trees. There is a grouping in the lower right-hand corner, it might be that there could be some reforming of the pond that could do better and save some of these trees. There might be some middle ground on that, but I wouldn't feel comfortable sending this forward to the City Council with the potential for them to be doing Subdivision Committee work. I would either want to concur with staff and say move the pond, or maybe table the issue to work out that issue.

Commissioner Winston asked how the Urban Forester would proceed were he given more time.

Howe stated he would look closer at the condition and health of the individual trees. I believe the mitigation shown doesn't reflect all of the trees to be removed here. He discussed mid/low level priorities and classification. Realistically, we don't have a canopy calculation to review for this parcel. I would like to see those calculations, and take a closer look at the health of these trees.

Commissioner Winston asked if it is possible to send the project back to Subdivision Committee after we have worked out these issues.

Pate stated that it could, but it would have to ultimately come back to the Planning Commission for approval.

Hoskins stated he could save trees in the southeast corner by reconfiguring the detention pond. With off-site tree removal like this, the UDC provides that the Urban Forester can make any call he feels is appropriate. We've offered to mitigate. We've not done the calculation because we have to wait for the Urban Forester's decision before we can figure out how many trees we have to mitigate for. We believe we can save the trees at the southeast corner, the trees in the middle are gone no matter what. Please don't table or refer the project back to Subdivision Committee. We would prefer to be denied.

Commissioner Lack stated that he wanted to clarify that he would not want to deny, but would lean toward going with staff with the information presented now.

Commissioner Kennedy asked if the recommendation is to move pond altogether, or modify it?

Howe stated that his recommendation would be to move the pond and make it temporary, because we know there's other development to come to this site. My concern is with saving the trees on the edge of the pond now, or on the more interior part of the development. I see this as being unlikely in the future development to be the trees that would be saved. It's more likely that the trees up in the corner would have a higher percentage chance of being saved with future development of the site. If we save those trees now in the corner, redesign the pond, go through that process, and then a year or two years from now we come in with a hotel that might be going in to that site, and take them out

anyway for parking spaces or something else. That's what I was trying to say before about the fact that you're trying to do some future forecasting, and trying to look at something you don't have everything to be able to look at what's going to happen to that site.

Motion:

Commissioner Myres made a motion to approve the Conditional Use Permit with conditions as listed in the staff report. **Commissioner Cabe** seconded the motion. **Upon roll call the motion passed with a vote of 6-0-1, with Commissioner Anthes recusing.**

Motion:

Commissioner Myres made a motion to approve the Large Scale Development in favor of conditions #1, 2, 3, 4, 12, and all other conditions as recommended by staff. **Commissioner Winston** seconded the motion.

Kit Williams, City Attorney, stated that regarding condition #12, there needs to be something that staff can do -- maybe you should leave the approval of the new location on approval of the engineering and planning staff.

Pate stated that he can add that to the conditions.

Commissioner Lack asked for clarification on condition #1 -- whether it is a reduction to zero feet as the applicant has proposed, or two feet as staff has proposed.

Commissioner Myres clarified it was as staff proposed.

Upon roll call the motion passed with a vote of 6-0-1, with Commissioner Anthes recusing.

City of Fayetteville Staff Review Form

C. 1
VAC 08-3108
Forest Hills PZD
1 of 20

City Council Agenda Items and Contracts, Leases or Agreements

11/4/2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate *[Signature]*
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 08-3108: (FOREST HILLS PZD, 440): Submitted by MORRISON-SHIPLEY ENGINEERS, INC. for property located at 3485 W WEDINGTON DRIVE. The property is zoned R-PZD, RESIDENT. PLANNED ZONING DISTRICT and contains approximately 0.33 acres. The request is to vacate a portion of a sewer easement contained within the project.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

10-17-08

Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

10-17-08

Date

Original Contract Date:

Original Contract Number:

Paul a. Besh
Finance and Internal Service Director

10-20-08

Date

Received in City
Clerk's Office

10-17-08
ENTERED

Sam Cordy
Mayor

10/20/08

Date

Received in
Mayor's Office

10/20/08
ENTERED

Comments:

City Council Meeting of November 04, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: October 14, 2008

Subject: Sewer Easement Vacation for Forest Hills PZD (VAC 08-3108)

RECOMMENDATION

Staff recommends approval of an ordinance vacating a portion of a sewer easement on the subject property.

BACKGROUND

The subject property is located south of the intersection of Wedington Drive and Salem Road. The 0.33-acre sewer easement is part of an approximately 82.39-acre property that was rezoned to R-PZD 07-2793 Forest Hills by the City Council on June 03, 2008. A Wal-Mart Neighborhood Market was included as part of the overall PZD development plan and was intended to be developed concurrently with street construction and utility installation. The Planning Commission on October 13, 2008 voted to approve the large scale development for Wal-Mart and to forward three separate vacation requests to the City Council.

The 15' sewer easement contains an 8" sewer line which extends from the west property line through the north half of the property, bisecting the approved Neighborhood Market building. The easement must be vacated and the sewer line removed prior to construction of the building.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City with no objections to the requested sewer easement vacation. This item was heard at the regular Planning Commission meeting on October 13, 2008 and forwarded by vote of 6-0-1 on the consent agenda to recommend this vacation request to the City Council. Staff recommends the following conditions of approval with the vacation:

1. Any relocation or damage to existing facilities shall be at the owner/developers expense.
2. A performance bond for the future installation of water and sewer lines to serve the remaining undeveloped properties shall be submitted and approved by the City Engineering Department prior to building permit approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 08-3108 SUBMITTED BY MORRISON-SHIPLEY ENGINEERS, INC. FOR PROPERTY LOCATED AT 3485 W WEDINGTON DRIVE TO VACATE A PORTION OF A SEWER EASEMENT, A TOTAL OF 0.33 ACRES.

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 sewer 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 sewer 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. Any relocation or damage to existing facilities shall be at the owner/developers expense.
2. A performance bond for the future installation of water and sewer lines to serve the remaining undeveloped properties shall be submitted and approved by the City Engineering Department prior to building permit approval.

Page 2
Ord.

PASSED and APPROVED this day of , 2008.

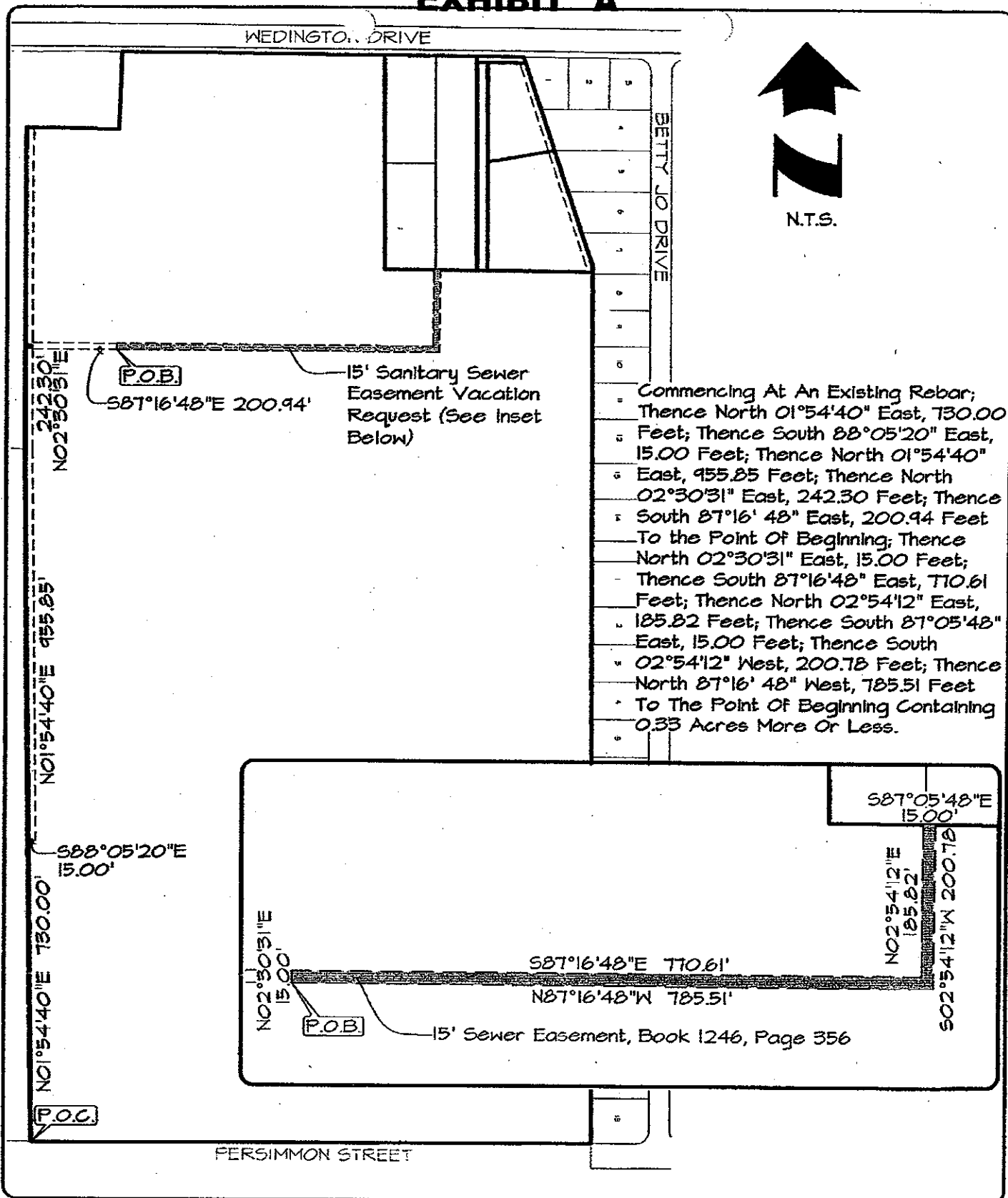
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

EXHIBIT "A"



MORRISON SHIPLEY
ENGINEERS • SURVEYORS

2407 SE Cottonwood Street • Bentonville, AR 72712 • 478.273.2268 • mormonshipley.com

EASEMENT VACATION EXHIBIT

Fayetteville, Washington County, Arkansas

Drawn By	CLD
Date	8/22/08
Project No.	WAP-24
Drawing Name	Vacation Exhibit

EXHIBIT "B"
VAC 08-3108

PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, ALL IN FRACTIONAL SECTION 7, TOWNSHIP 16 NORTH, RANGE 30 WEST, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS. BEING THE PARCEL DESCRIBED PER SURVEY RECORD #2005-00022480 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT AN EXISTING REBAR AT THE SW CORNER OF SAID PARCEL NORTH 01°54'40" EAST, 730.00 FEET; THENCE SOUTH 88°05'20" EAST, 15.00 FEET; THENCE NORTH 01°54'40" EAST, 955.85 FEET; THENCE NORTH 02°30'31" EAST, 242.30 FEET; THENCE SOUTH 87°16' 48" EAST, 200.94 FEET TO THE POINT OF BEGINNING; THENCE NORTH 02°30'31" EAST, 15.00 FEET; THENCE SOUTH 87°16'48" EAST, 770.61 FEET; THENCE NORTH 02°54'12" EAST, 185.82 FEET; THENCE SOUTH 87°05'48" EAST, 15.00 FEET; THENCE SOUTH 02°54'12" WEST, 200.78 FEET; THENCE NORTH 87°16' 48" WEST, 785.51 FEET TO THE POINT OF BEGINNING CONTAINING 0.33 ACRES MORE OR LESS.



PC Meeting of October 13, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~October 2, 2008~~ Updated October 14, 2008

VAC 08-3108: (FOREST HILLS R-PZD, 440): Submitted by MORRISON-SHIPLEY ENGINEERS, INC. for property located at 3485 W WEDINGTON DRIVE. The property is zoned R-PZD, RESIDENT. PLANNED ZONING DISTRICT and contains approximately 0.33 acres. The request is to vacate a portion of a sewer easement contained within the project.

Planner: Jesse Fulcher

Findings:

Property Description: The subject property is located south of the intersection of Wedington Drive and Salem Road. The 0.33-acre sewer easement is part of an approximately 82.39-acre property that was rezoned to R-PZD 07-2793 Forest Hills by the City Council on June 03, 2008. As part of the large scale development plan submitted for Wal-Mart Neighborhood Market, the applicants have submitted three vacation requests and a property line adjustment.

The 15' sewer easement contains an 8" sewer line both of which extend from the west property through the north half of the property, bisecting the proposed Neighborhood Market building. The easement must be vacated and the sewer line removed prior to construction of the building.

Request: The applicant is requesting to vacate a portion of the existing 15' sewer easement. The applicant has submitted the required notification forms to the utility companies and to the City with the results summarized below.

UTILITIES

RESPONSE

Ozarks Electric

No Objections

Cox Communications

No Objections

Southwestern Electric Power Company

No Objections.

Arkansas Western Gas

No Objections

AT&T Arkansas

No Objections.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections. With construction of the Neighborhood Market and associated infrastructure, a new sewer line.

Transportation

No Objections

Solid Waste

No Objections

Public Comment: Staff has not received public comment.

Recommendation: Staff recommends forwarding VAC 08-3110 to the City Council with a recommendation of approval with the following conditions:

1. Any relocation or damage to existing facilities shall be at the owner/developers expense.
2. A performance bond for the future installation of water and sewer lines to serve the remaining undeveloped properties shall be submitted and approved by the City Engineering Department prior to building permit approval.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: October 13, 2008

Motion: Lack

Second: Graves

Vote: 6-0-1 (Trumbo recused)



MORRISON SHIPLEY

ENGINEERS • SURVEYORS

September 3, 2008

City of Fayetteville
Planning Division
125 W. Mountain St.
Fayetteville, AR 72701
Attn: Jeremy Pate

**Re: 15' Sanitary Sewer Easement Vacation Request
Forest Hills Development**

Dear Jeremy,

On behalf of the property owner, Forest Hills Partners, LLC, we respectfully request to vacate a portion of the existing 15' sanitary sewer easement located on the driving range portion of the property being developed. The easement and sewer line serves two adjacent tracts, Thetford Photography and Farm Bureau which will be removed with the proposed development. In addition to the vacation request, a large scale development plan, public improvement package, and lot line adjustment are being submitted to initiate the first phase of development on the 82 acre tract known as Forest Hills. Plans include abandoning a portion of the sewer and rerouting it along the newly constructed public streets.

According to the vacation application we are to send out a public notice to all owners adjacent to the easement to be vacated. The utility easement is located internally in the subject property which is owned by Forrest Hills Partners, LLC. No other property owners are directly adjacent to portion of easement in which we are requesting vacation. After talking with Jan Gamble we were told that surrounding owners notifications do not need to be dispersed since the vacation is located internally in the property.

If at all possible, we would like to keep the vacation request on the same schedule as the lot line adjustment, large scale development plans, and public improvement plans which are being submitting concurrently.

If you have any questions or need additional information, please do not hesitate to contact me at (479)273-2209.

Sincerely,
Morrison-Shipley Engineers, Inc.

Heather M. Robason, P.E.
Project Manger

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: Ozarks Electric

Applicant Name: Forest Hills Partners LLC

Applicant Phone: 979-494-5682

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement - 15' Sanitary Sewer 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**) 3485 Wadlington Drive
(Driving Range Site)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Mike Plipp 8-26-08
Signature of Utility Company Representative

System Staking Tech
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: ATT

Applicant Name: Forest Hills Partners, LLC

Applicant Phone: 979-494-5682

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement - 15' Sanitary Sewer 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**) 3485 Wedington Drive
(Driving Range Site)

(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:

RELOCATION OF ANY EXISTING ATT FACILITIES OR
DAMAGE TO EXISTING ATT FACILITIES WILL BE
@ THE OWNER/DEVELOPER'S EXPENSE

Susan K. Clonan

Signature of Utility Company Representative

MANAGER ENGINEER DESIGN

Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: ARKANSAS WESTERN GAS

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 979-494-5682

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement - 15' Sanitary Sewer 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**) 3485 Wedington Drive
(Driving Range Site)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

ASSISTANT OPERATING MANAGER - FAYETTEVILLE
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: Cox Communications

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 979-494-5682

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement - 15' Sanitary Sewer 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**) 3485 Wedington Drive
(Driving Range Site)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

Field Engineer
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: AEP/SWPCo

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 979-494-5682

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement - 15' Sanitary Sewer 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**) 3485 Wedington Drive
(Driving Range Site)

(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:

Samy Winkler 9/2/08
Signature of Utility Company Representative

R/W AGENT
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDate: Aug 25, 2008

Utility Company: _____

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 979-494-5682

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement - 15' Sanitary Sewer 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**) 3485 Wadington Drive
(Driving Range Site)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Signature of Utility Company Representative

Title

Transportation Mgr

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDate: Aug 25, 2008

Utility Company: _____

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 479-444-5682

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement - 15' Sanitary/Sewer 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**) 3351 Wrdington Drive
(Thetford Photography Site)

(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:

Ben Paul
Signature of Utility Company RepresentativeWaste Reduction Coordinator
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDate: Aug 25, 2008

Utility Company:

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 979-444-5682

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement - 15' Sanitary Sewer 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) 3485 Wedington Drive
(Driving Range Site)

(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.)

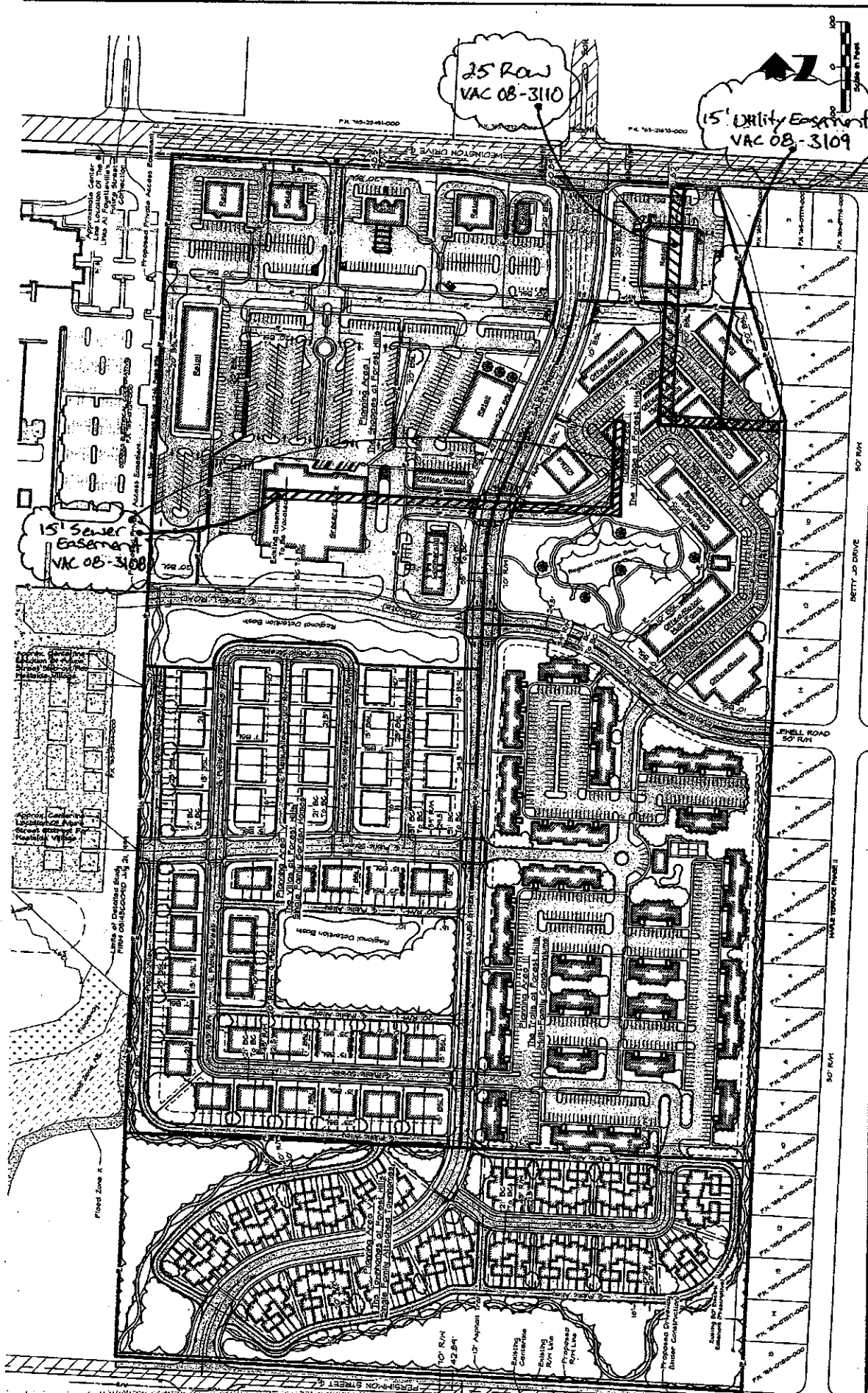
No objections provided the following conditions are met:

Easement being vacated is actual Sewer main.
Plans will have to be reviewed for how property will
be served with Sewer

Signature of Utility Company Representative

WIS Ops Mgr.

Title



5

MASTER LAND DEVELOPMENT PLAN

Submitted for Review

**THE SHOPPES AND
RESIDENCES AT FOREST HILLS**

Fayetteville, Washington County, Arkansas

Drawn By	GLD
Approved By	11-11
Date	4-4-08
Project No	
MAP-24	

Horizontal Bore	
Horizontal Bore	100
Profile Bore	100
Drawing Notes	
BIDD 12.8.07	



MORRISON SHIPLEY

ENGINEERS • SURVEYORS

1407 NE Chestnutwood Street • Bend, OR 97701 • 503.773.7228 • www.mountainambles.com[illegible]

FOREST HILLS R-PZD



WEDINGTON DR

SAFETY

WEDINGTON DE

SUBJECT PROPERTY

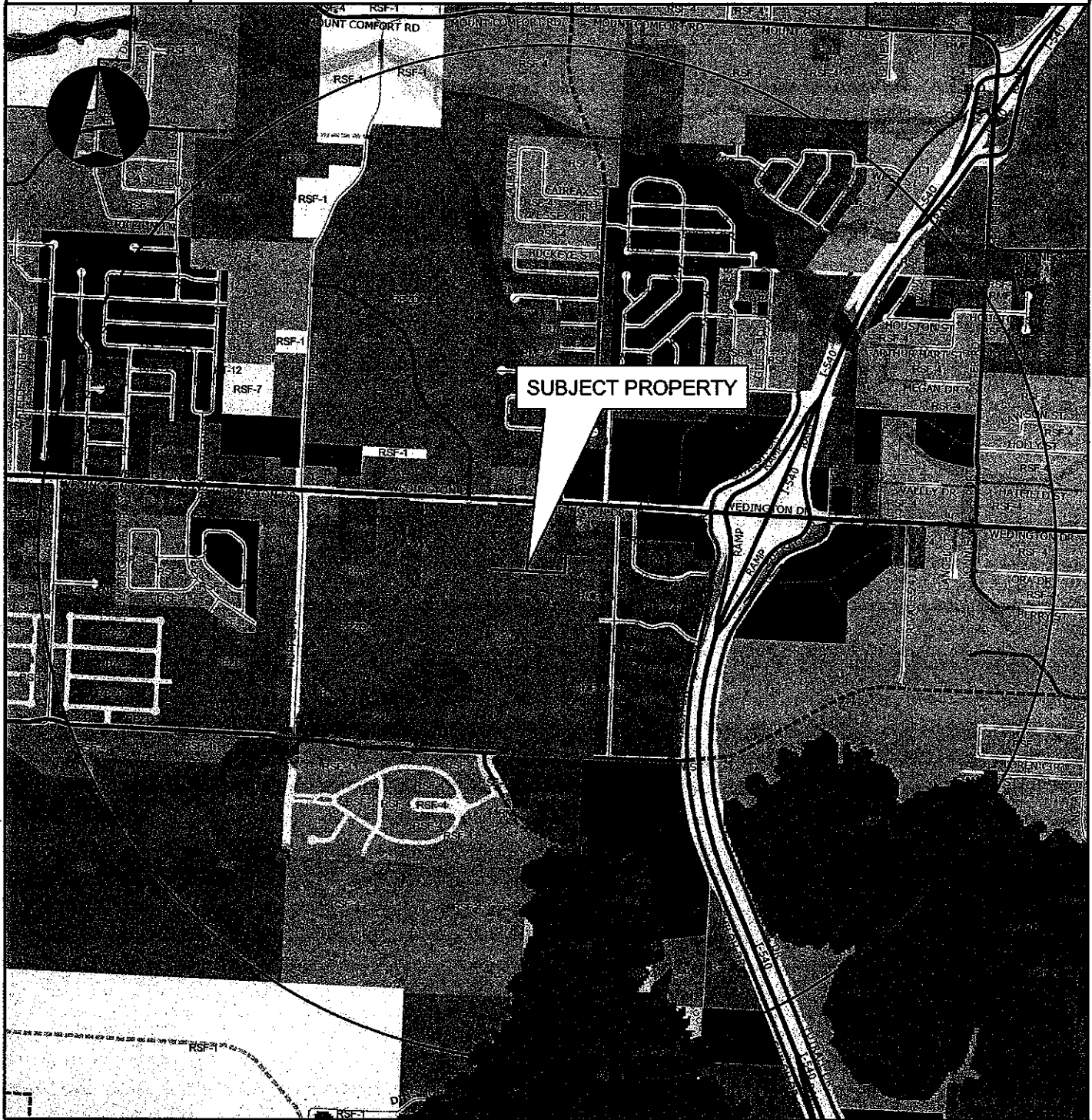
Overview



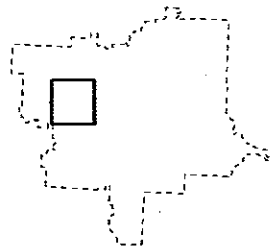
VAC08-3108

FOREST HILLS R-PZD

One Mile View



Overview



Legend

Subject Property
 VAC08-3108

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

C. 2
VAC 08-3109
Forest Hills PZD
1 of 20

City Council Agenda Items and Contracts, Leases or Agreements

11/4/2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate 
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 08-3109: (FOREST HILLS PZD, 440): Submitted by MORRISON-SHIPLEY ENGINEERS, INC. for property located at 3351 WEDINGTON DRIVE. The property is zoned R-PZD, RESIDENT. PLANNED ZONING DISTRICT and contains approximately 0.08 acres. The request is to vacate a portion of a utility easement on the subject property.

Cost of this request

\$ -
Category / Project Budget

Program Category / Project Name

Account Number

\$ -
Funds Used to Date

Program / Project Category Name

Project Number

\$ -
Remaining Balance

Fund Name

Budgeted Item ☐

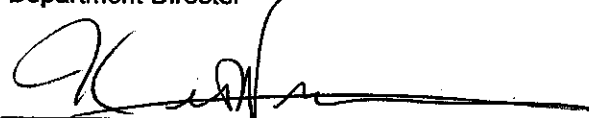
Budget Adjustment Attached ☐


Department Director

10-17-08
Date

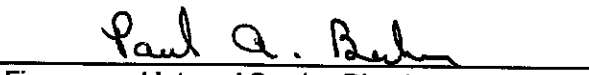
Previous Ordinance or Resolution #

Original Contract Date:


City Attorney

10-17-08
Date

Original Contract Number:

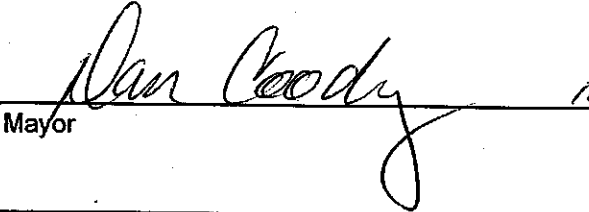

Finance and Internal Service Director

10-20-08
Date

Received in City
Clerk's Office

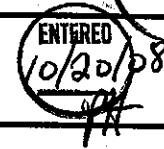
10-17-08




Mayor

10/20/08
Date

Received in
Mayor's Office



Comments:

City Council Meeting of November 04, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning 

Date: October 14, 2008

Subject: Utility Easement Vacation for Forest Hills PZD (VAC 08-3109)

RECOMMENDATION

Staff recommends approval of an ordinance vacating a portion of a utility easement on the subject property.

BACKGROUND

The subject property is located south of the intersection of Wedington Drive and Salem Road. The 0.08-acre utility easement is part of an approximately 82.39-acre property that was rezoned to R-PZD 07-2793 Forest Hills by the City Council on June 03, 2008.

The 15' utility easement is located at the northeast corner of the overall Forest Hills development and contains no existing utility lines.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City with no objections to the requested sewer easement vacation. This item was heard at the regular Planning Commission meeting on October 13, 2008 and forwarded by vote of 6-0-1 on the consent agenda to recommend this vacation request to the City Council. Staff recommends the following conditions of approval with the vacation:

1. Any relocation or damage to existing facilities shall be at the owner/developers expense.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 08-3109 SUBMITTED BY MORRISON-SHIPLEY ENGINEERS, INC. FOR PROPERTY LOCATED AT 3351 W WEDINGTON DRIVE TO VACATE A PORTION OF A UTILITY EASEMENT, A TOTAL OF 0.08 ACRES.

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. Any relocation or damage to existing facilities shall be at the owner/developers expense.

Page 2
Ord.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

DRAWING NAME: PINWAP-240505WA.P-2-4 VASATION EXHIBITS.DWG LAST MODIFIED: AUG 26, 2008 - 1147AM PLOTTED ON: AUG 27, 2008 - 2:06PM BY CHRYSL.

EXHIBIT "B"
VAC 08-3109

PART OF TRACT B OF THE LOT SPLIT TO THE CITY OF FAYETTEVILLE, ARKANSAS
RECORDED AS DOC. #96068085 IN THE CURCUIT CLERK'S OFFICE OF WASHINGTON
COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF TRACT B NORTH 89°20'01" WEST,
15.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°20'01" WEST, 246.05
FEET; THENCE NORTH 00°06'00" EAST, 15.00 FEET; THENCE SOUTH 89°20'01" EAST,
245.57 FEET; THENCE SOUTH 18°52'58"EAST, 1.49 FEET; THENCE SOUTH 00°08'00",
WEST, 13.60 FEET TO THE POINT OF BEGINNING CONTAINING 0.08 ACRES MORE
OR LESS.



PC Meeting of October 13, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~October 2, 2008~~ Updated October 14, 2008

VAC 08-3109: (FOREST HILLS R-PZD, 440): Submitted by MORRISON-SHIPLEY ENGINEERS, INC. for property located at 3351 WEDINGTON DRIVE. The property is zoned R-PZD, RESIDENT. PLANNED ZONING DISTRICT and contains approximately 0.08 acres. The request is to vacate a portion of a utility easement on the subject property.

Planner: Jesse Fulcher

Findings:

Property Description: The subject property is located south of the intersection of Wedington Drive and Salem Road. The 0.08-acre easement is part of an approximately 82.39-acre property that was rezoned to R-PZD 07-2793 Forest Hills by the City Council on June 03, 2008. As part of the large scale development plan submitted for Wal-Mart Neighborhood Market, the applicants have submitted three vacation requests and a property line adjustment. The subject 15' utility easement is located at the northeast corner of the overall Forest Hills development and contains no existing utility lines.

Request: The applicant is requesting to vacate the existing 15' utility easement. The applicant has submitted the required notification forms to the utility companies and to the City with the results summarized below.

UTILITIES

RESPONSE

Ozarks Electric	No Objections
Cox Communications	No Objections
Southwestern Electric Power Company	No Objection.
Arkansas Western Gas	No Objections
AT&T Arkansas	No Objections.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections

Transportation

No Objections

Solid Waste

No Objections

Public Comment: Staff has not received public comment.

Recommendation: Staff recommends forwarding VAC 08-3109 to the City Council with a recommendation of approval with the following conditions:

1. Any relocation or damage to existing facilities shall be at the owner/developers expense.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: October 13, 2008

Motion: Lack

Second: Graves

Vote: 6-0-1 (Trumbo recused)



September 4, 2008

City of Fayetteville
Planning Division
125 W. Mountain St.
Fayetteville, AR 72701
Attn: Jeremy Pate

**Re: Utility Easement Vacation Request
Forest Hills Development**

Dear Jeremy,

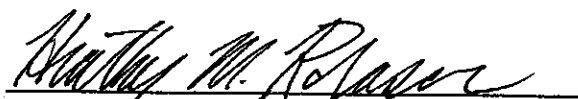
On behalf of the property owner, Forest Hills Partners, LLC, we respectfully request to vacate a 15' utility easement located on the southern property line of Thetford Photography. This easement was dedicated with a lot split filed in 1996. Forest Hills Partners is proposing to reconfigure lot lines with a lot line adjustment. After speaking with the utility companies, it appears that there are no existing utility lines in the easement. If lines do exist, the developer will relocate them to serve his development and new easements will be granted.

According to the vacation application we are to send out a public notice to all owners adjacent to the easement to be vacated. The utility easement is located internally in the subject property which is owned by Forrest Hills Partners. The only property owner adjacent to the utility easement is The City of Fayetteville. After talking with Jan Gamble we were told that surrounding owners notifications do not need to be dispersed since the vacation is located internally in the property.

If at all possible, we would like to keep the vacation request on the same schedule as the lot line adjustment, large scale development plans, and public improvement plans which are being submitting concurrently.

If you have any questions or need additional information, please do not hesitate to contact me at (479)273-2209.

Sincerely,
Morrison-Shipley Engineers, Inc.



Heather M. Robason, P.E.
Project Manager

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: OZARKS Electric

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 479-494-5682

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**) 3351 Wrdington Drive
(Thetford Photography Site)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Mike Phillips 8-26-08
Signature of Utility Company Representative

System STAKING TECH
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: ATI

Applicant Name: Forest Hills Partners, LLC

Applicant Phone: 479-494-5682

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**) 3351 Wrdington Drive
(Thetford Photography Site)

(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: I HAVE FORWARDED THIS REQUEST TO OUR R.O.W. DEPT IN LITTLE ROCK. THEY WILL SEND YOU THE DOCUMENTS TO FILE @ THE COUNTY COURTHOUSE FOR THE VACATION TO BE RECORDED — IF ANY ATI FACILITIES ARE DAMAGED OR NEED TO BE RELOCATED IT WILL BE AT THE OWNER/DEVELOPER'S EXPENSE

Signature of Utility Company Representative

Title

I DO NOT HAVE ANY OBJECTION TO THIS UTILITY EASEMENT VACATION. FILING @ THE COURTHOUSE WILL RELEASE ATI'S RIGHTS.

Susan K. Clouser
Manager Engineering Design

Page 5

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: ARKANSAS WESTERN GAS

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 479-494-5682

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**) 3351 Wrdington Drive
(Thetford Photography Site)
(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:

SEZBandy
Signature of Utility Company Representative

ASSISTANT OPERATING MANAGER - FAYETTEVILLE
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: Cox Communications

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 479-494-5682

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**) 3351 Wrdington Drive
(Thetford Photography Site)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

Field Engineer
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: AEP/SWPCo.

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 479-494-5602

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) 3351 Wrdington Drive
(Thetford Photography Site)
(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:

Sandy Winkler 9/02/08
Signature of Utility Company Representative

R/W AGENT
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDate: Aug 25, 2008

Utility Company: _____

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 479-494-5602

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**) 3351 Wrdington Drive
(TheHerd Photography Site)
(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

W S Ops Mgr

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDate: Aug 25, 2008

Utility Company: _____

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 779-494-5682

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**) 3351 Wrdington Drive
(Thetford Photography Site)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Signature of Utility Company Representative

Title

Transportation Mgr

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 10-2-08

UTILITY COMPANY: Solid Waste & Recycling

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**)

**

(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.)

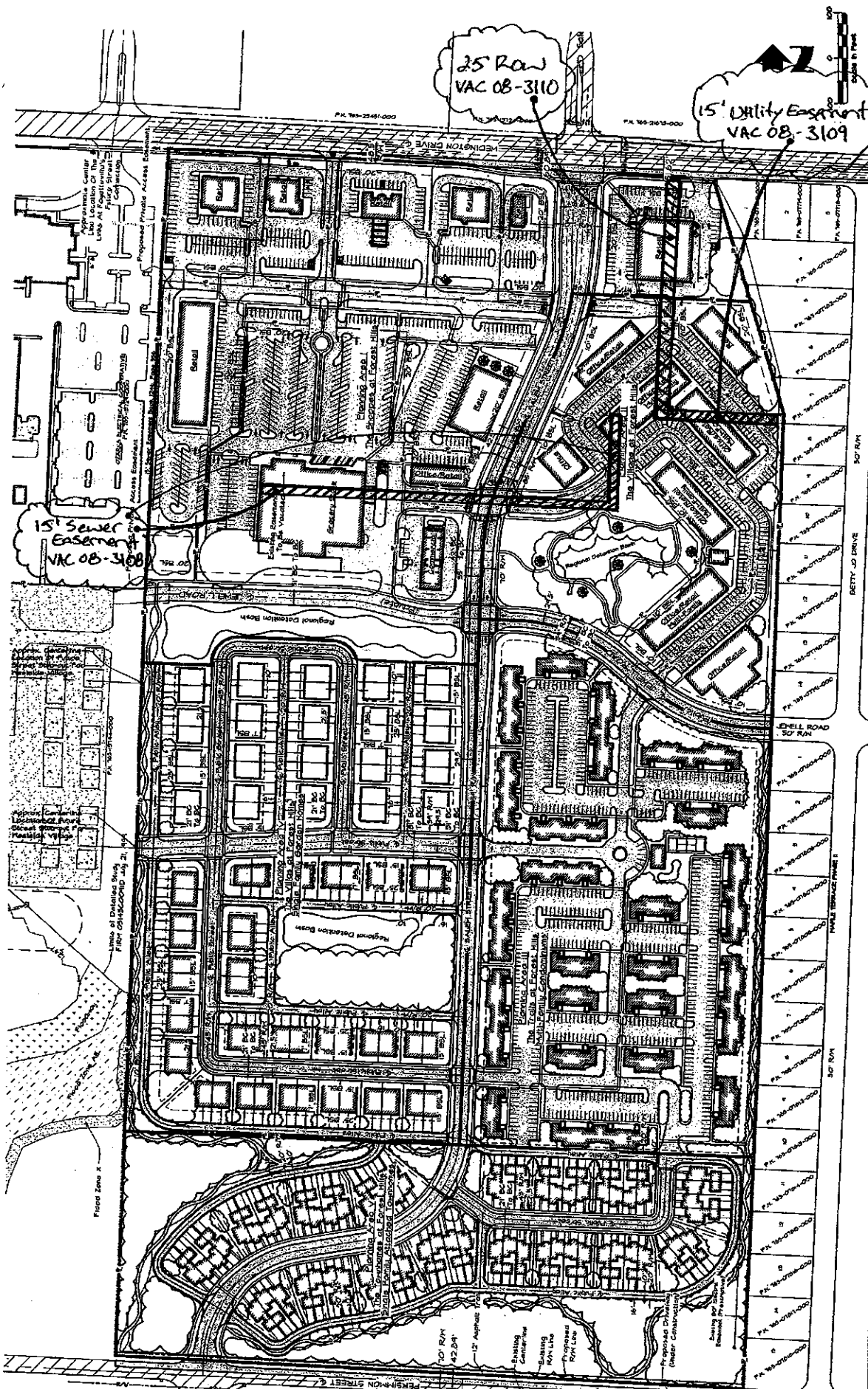
- ☐ No objections provided the following conditions are met:

Brian Puff

Signature of Utility Company Representative

Waste Reduction Coordinator

Title



5
 6

MASTER LAND DEVELOPMENT PLAN
 Issued for Review

THE SHOPPES AND
 RESIDENCES AT FOREST HILLS
 Fayetteville, Washington County, Arkansas

Project No.	100-000000
Project Name	Forest Hills PZD
Project Date	10/1/08
Project Status	Final
Project Location	Forest Hills PZD



MORRISON SHIPLEY
 ENGINEERS & SURVEYORS
 2402 W. Commercial Street • Fayetteville, AR 72715 • 479-771-0000 • mshipley@msurvey.com

No.	Date	By	For
1	10/1/08	MS	Final Review
2	10/1/08	MS	Final Review
3	10/1/08	MS	Final Review
4	10/1/08	MS	Final Review
5	10/1/08	MS	Final Review

VAC08-3109

Close Up View

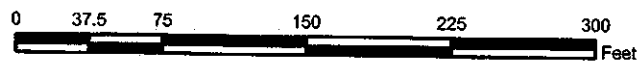
FOREST HILLS R-PZD



SUBJECT PROPERTY

BETTY JO DR

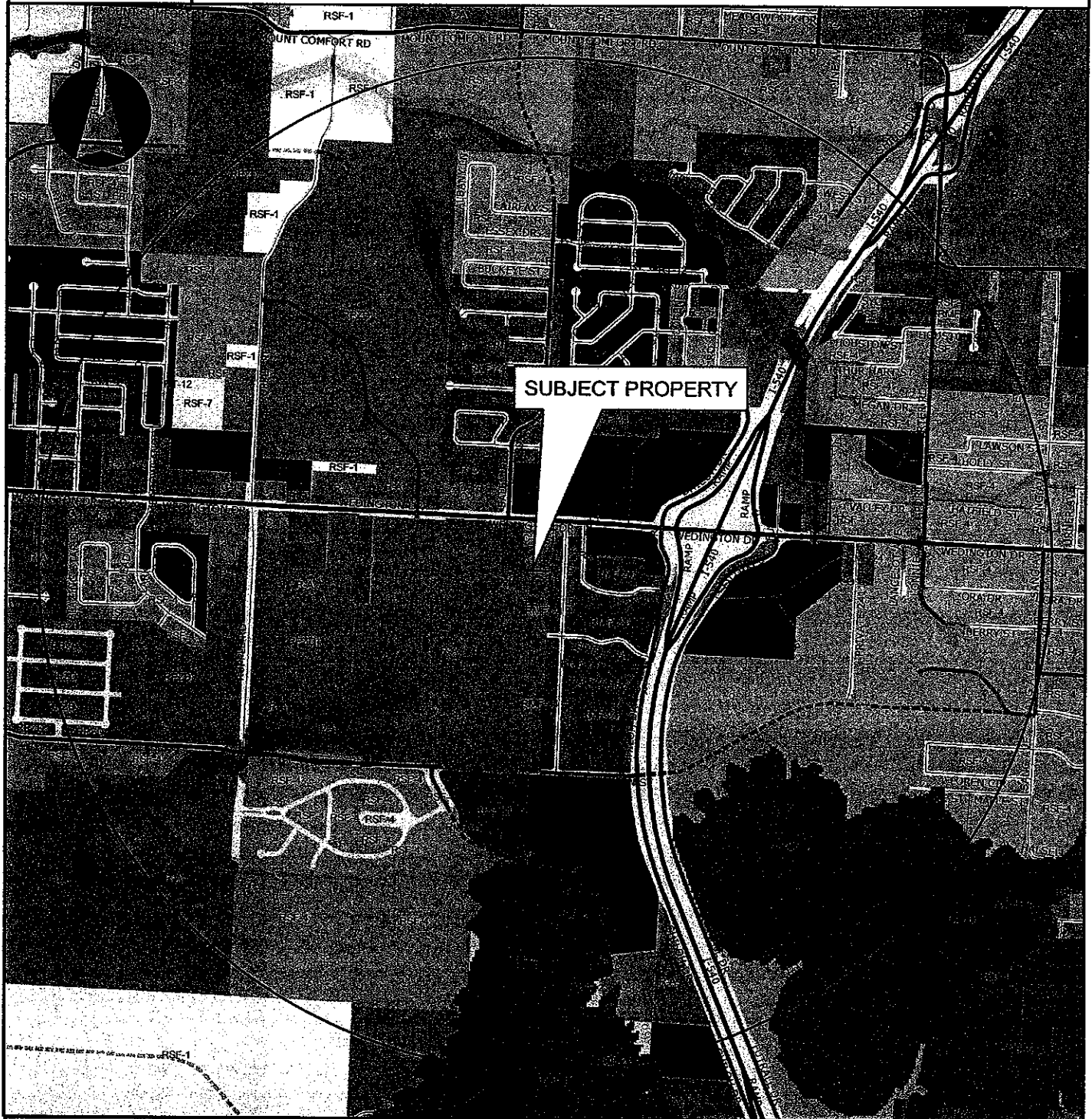
Overview



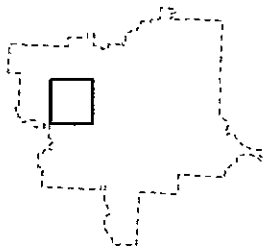
VAC08-3109

FOREST HILLS R-PZD

One Mile View



Overview



Legend

Subject Property
VAC08-3109

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

C-3
VAC 08-3110
Forest Hills PZD
1 of 20

**City Council Agenda Items
and
Contracts, Leases or Agreements**

11/4/2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate 
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 08-3110: (FOREST HILLS PZD, 440): Submitted by MORRISON-SHIPLEY ENGINEERS, INC. for property located at 3351 WEDINGTON DRIVE. The property is zoned R-PZD, RESIDENT. PLANNED ZONING DISTRICT and contains approximately 0.29 acres. The request is to vacate unconstructed R-O-W.

Cost of this request

\$ -
Category / Project Budget

Program Category / Project Name

Account Number

\$ -
Funds Used to Date

Program / Project Category Name

Project Number

\$ -
Remaining Balance

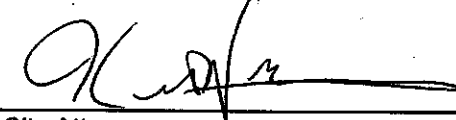
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

 10-17-08
Department Director Date

Previous Ordinance or Resolution #

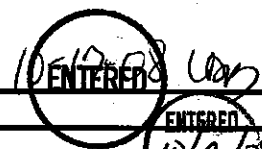
 10-17-08
City Attorney Date

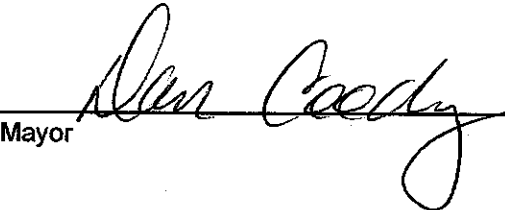
Original Contract Date:

Original Contract Number:

 10-20-08
Finance and Internal Service Director Date

Received in City
Clerk's Office



 10/20/08
Mayor Date

Received in
Mayor's Office



Comments:

City Council Meeting of November 04, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: October 14, 2008

Subject: Right-of-way Vacation for Forest Hills PZD (VAC 08-3110)

RECOMMENDATION

Staff recommends approval of an ordinance vacating unconstructed right-of-way on the subject property.

BACKGROUND

The subject property is located south of the intersection of Wedington Drive and Salem Road. The 0.29-acre right-of-way is part of an approximately 82.39-acre property that was rezoned to R-PZD 07-2793 Forest Hills by the City Council on June 03, 2008.

The subject 25' right-of-way is located at the northeast corner of the overall Forest Hills development and was dedicated in 1996 when the Fayetteville Planning Commission approved a lot split of property that now contains Thetford Photography. The right-of-way was dedicated to provide access to the rear parcel and to allow connectivity to undeveloped property to the south. The subject right-of-way is surrounded by the Forest Hills development and is requested to be vacated to allow new development, which will include public street construction and connectivity between developments.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City with no objections to the requested sewer easement vacation. This item was heard at the regular Planning Commission meeting on October 13, 2008 and forwarded by vote of 6-0-1 on the consent agenda to recommend this vacation request to the City Council. Staff recommends the following conditions of approval with the vacation:

1. Any relocation or damage to existing facilities shall be at the owner/developers expense.

BUDGET IMPACT

None.

*not in
Bth A*

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 08-3110 SUBMITTED BY MORRISON-SHIPLEY ENGINEERS, INC. FOR PROPERTY LOCATED AT 3351 W WEDINGTON DRIVE TO VACATE UNCONSTRUCTED RIGHT-OF-WAY, A TOTAL OF 0.29 ACRES.

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 right-of-way 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 right-of-way:

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. Any relocation or damage to existing facilities shall be at the owner/developers expense.

Page 2
Ord.

PASSED and APPROVED this day of , 2008.

APPROVED:

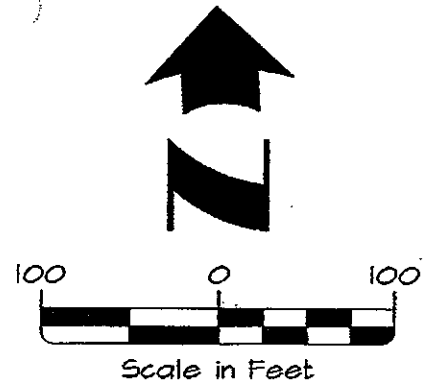
ATTEST:

By: _____
DAN COODY, Mayor

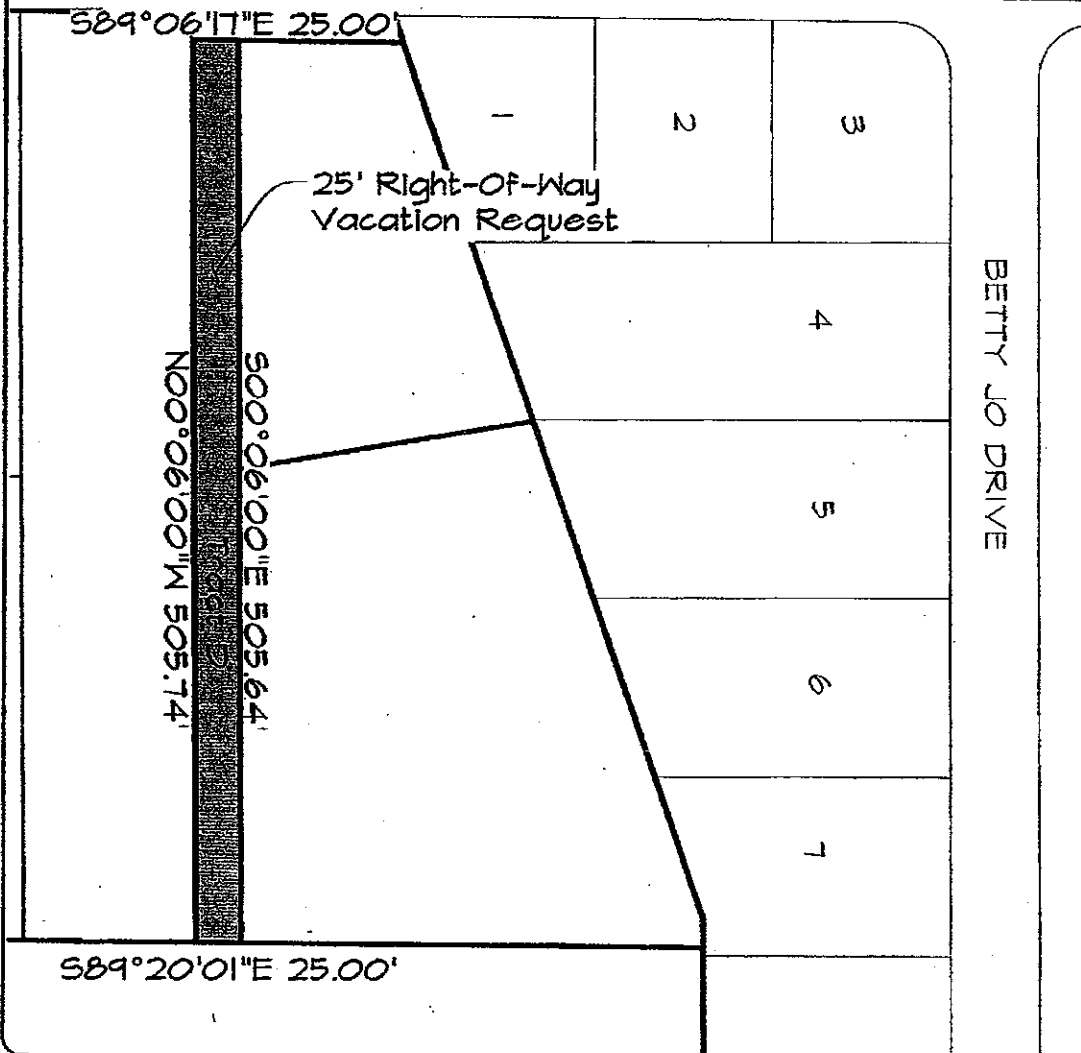
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

Tract D Of The Lot Split Filed
For Record October 29, 1996,
Document # 96068085



WEDINGTON DRIVE



MORRISON SHIPLEY
ENGINEERS • SURVEYORS

RIGHT-OF-WAY VACATION EXHIBIT

Fayetteville, Washington County, Arkansas

Drawn By	CLD
Date	8/22/08
Project No.	WAP-24
Drawing Name	Vacation Exhibit

EXHIBIT "B"
VAC 08-3110

TRACT D OF THE LOT SPLIT FILED FOR RECORD OCTOBER 29, 1996, DOCUMENT # 96068085 BEING MORE PARTICULAR DESCRIBED AS FOLLOWS:

A PART OF THE FRACTIONAL NORTHWEST QUARTER (NW $\frac{1}{4}$) OF THE SOUTHWEST QUARTER (SW $\frac{1}{4}$) OF SECTION SEVEN (7), IN TOWNSHIP 16 NORTH, OF RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS NORTH 00 DEGREES 08 MINUTES 00 SECONDS WEST, A DISTANCE OF 779.80 FEET AND NORTH 89 DEGREES 20 MINUTES 01 SECONDS WEST, A DISTANCE OF 261.05 FEET FROM THE SOUTHEAST CORNER OF SAID FORTY ACRES TRACT; THENCE NORTH 89 DEGREES 20 MINUTES 01 SECONDS WEST, A DISTANCE OF 25.00 FEET; THENCE NORTH 00 DEGREES 08 MINUTES 00 SECONDS WEST, A DISTANCE OF 505.74 FEET; THENCE SOUTH 89 DEGREES 06 MINUTES 17 SECONDS EAST, AS DISTANCE OF 25.00 FEET; THENCE SOUTH 00 DEGREES 08 MINUTES 00 SECONDS EAST, A DISTANCE OF 505.64 FEET TO THE POINT OF BEGINNING. CONTAINING 12642.23 SQUARE FEET OR 0.29 ACRES, MORE OR LESS.



PC Meeting of October 13, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~October 2, 2008~~ Updated October 14, 2008

VAC 08-3110: (FOREST HILLS R-PZD, 440): Submitted by MORRISON-SHIPLEY ENGINEERS, INC. for property located at 3351 WEDINGTON DRIVE. The property is zoned R-PZD, RESIDENT. PLANNED ZONING DISTRICT and contains approximately 0.29 acres. The request is to vacate unconstructed R-O-W.

Planner: Jesse Fulcher

Findings:

Property Description: The subject property is located south of the intersection of Wedington Drive and Salem Road. The 0.29-acre right-of-way is part of an approximately 82.39-acre property that was rezoned to R-PZD 07-2793 Forest Hills by the City Council on June 03, 2008. As part of the large scale development plan submitted for Wal-Mart Neighborhood Market, the applicants have submitted three vacation requests and a property line adjustment.

The subject 25' right-of-way is located at the northeast corner of the overall Forest Hills development and was dedicated in 1996 when the Fayetteville Planning Commission approved a lot split of property that now contains Thetford Photography. The right-of-way was dedicated to provide access to the rear parcel and to allow connectivity to undeveloped property to the south. The subject right-of-way is surrounded by the Forest Hills development and is requested to be vacated to allow new development, which will include public street construction and connectivity between developments.

Request: The applicant is requesting to vacate the existing 25' right-of-way. The applicant has submitted the required notification forms to the utility companies and to the City with the results summarized below.

UTILITIES

Ozarks Electric

Cox Communications

RESPONSE

No Objections

No Objections

Southwestern Electric Power Company No Objection.

Arkansas Western Gas No Objections

AT&T Arkansas No Objections.

CITY OF FAYETTEVILLE: **RESPONSE**

Water/Sewer No Objections

Transportation No Objections

Solid Waste No Objections

Public Comment: Staff has not received public comment.

Recommendation: Staff recommends forwarding VAC 08-3110 to the City Council with a recommendation of approval with the following conditions:

1. Any relocation or damage to existing facilities shall be at the owner/developers expense.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: October 13, 2008

Motion: Lack

Second: Graves

Vote: 6-0-1 (Trumbo recused)



September 4, 2008

City of Fayetteville
Planning Division
125 W. Mountain St.
Fayetteville, AR 72701
Attn: Jeremy Pate

**Re: Right-of-Way Vacation Request
Forest Hills Development**

Dear Jeremy,

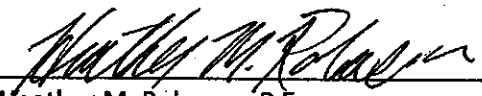
On behalf of the property owner, Forest Hills Partners, LLC, we respectfully request to vacate a 25' strip of right-of-way located between Thetford Photography and Farm Bureau tracts. The strip of right-of-way was deeded to the City of Fayetteville in 1996 when the property was split into four tracts. It appears the right-of-way was required to provide access to the southern tract, Tract B, which did not have street frontage. Forest Hills Partners, LLC is proposing to provide access into the development by extending Salem Street as shown on the lot line adjustment plat and public improvement plans. Therefore, the access will no longer be needed.

According to the vacation application we are to send out a public notice to all owners adjacent to the right-of-way to be vacated. The only properties adjacent to the right-of-way are owned by Forest Hills Partners, LLC and The City of Fayetteville. After talking with Jan Gamble, we were told that surrounding owners notifications do not need to be dispersed since the vacation is located internally in the property.

If at all possible, we would like to keep the vacation request on the same schedule as the lot line adjustment, large scale development plans, and public improvement plans which are being submitting concurrently.

If you have any questions or need additional information, please do not hesitate to contact me at (479)273-2209.

Sincerely,
Morrison-Shipley Engineers, Inc.



Heather M. Robason, P.E.
Project Manager

Rx Date/Time
AUG-26-20

AUG-29-2008(FRI) 10:55
9:42 AM

C.3
VAC 08-3110
Forest Hills PZD
10 of 28
P. 03

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: OPARKS ELECTRIC

Applicant Name: Forest Hills Partners, LLC

Applicant Phone: 479-494-5682

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**) 3351 Waddington Drive
(Thetford Photography Site)
(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

☒ No objections to the vacation(s) described above.

☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Mike Phillips 8-26-08
Signature of Utility Company Representative

System Staking Tech
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: ATT

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 479-494-5682

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**) 3351 Wedington Drive
(Thetford Photography Site)

(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:

PROVIDED ANY RELOCATION OR DAMAGE TO EXISTING ATT FACILITIES
WILL BE AT THE OWNER DEVELOPER'S EXPENSE

Susan K. Chouin
Signature of Utility Company Representative

MANAGER ENGINEERING-DESIGN
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008
Utility Company: ARKANSAS WESTERN GAS
Applicant Name: Forest Hills Partners, LLC Applicant Phone: 479-494-5682

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**) 3351 Wedington Drive
(Thetford Photography Site)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

ASSISTANT OPERATING MANAGER - FAYETTEVILLE
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: Cox Communications

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 479-494-5682

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:

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(Thetford Photography Site)

(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

Field Engineer
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: Aug 25, 2008

Utility Company: AEP/SWPCO

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 979-494-5682

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:

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(Thetford Photography Site)
(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:

Samm Winkler 9/2/08
Signature of Utility Company Representative

R/W AGENT
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY BASEMENT VACATIONSDate: Aug 25, 2008

Utility Company: _____

Applicant Name: Forest Hills Partners, LLCApplicant Phone: 479-494-5682

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Basement
- ☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

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General location / Address (referring to attached document- must be completed**) 3351 Wedington Drive
(Theford Photography Site)

(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 P. [Signature]
Signature of Utility Company RepresentativeWaste Reduction Coordinator
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDate: Aug 25, 2008

Utility Company: _____

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 479-494-5682

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.
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- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Signature of Utility Company Representative

Title Transportation Mgr.

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDate: Aug 25, 2008

Utility Company: _____

Applicant Name: Forest Hills Partners, LLC Applicant Phone: 979-494-5682

REQUESTED VACATION (applicant must check all that apply):

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UTILITY COMPANY COMMENTS:

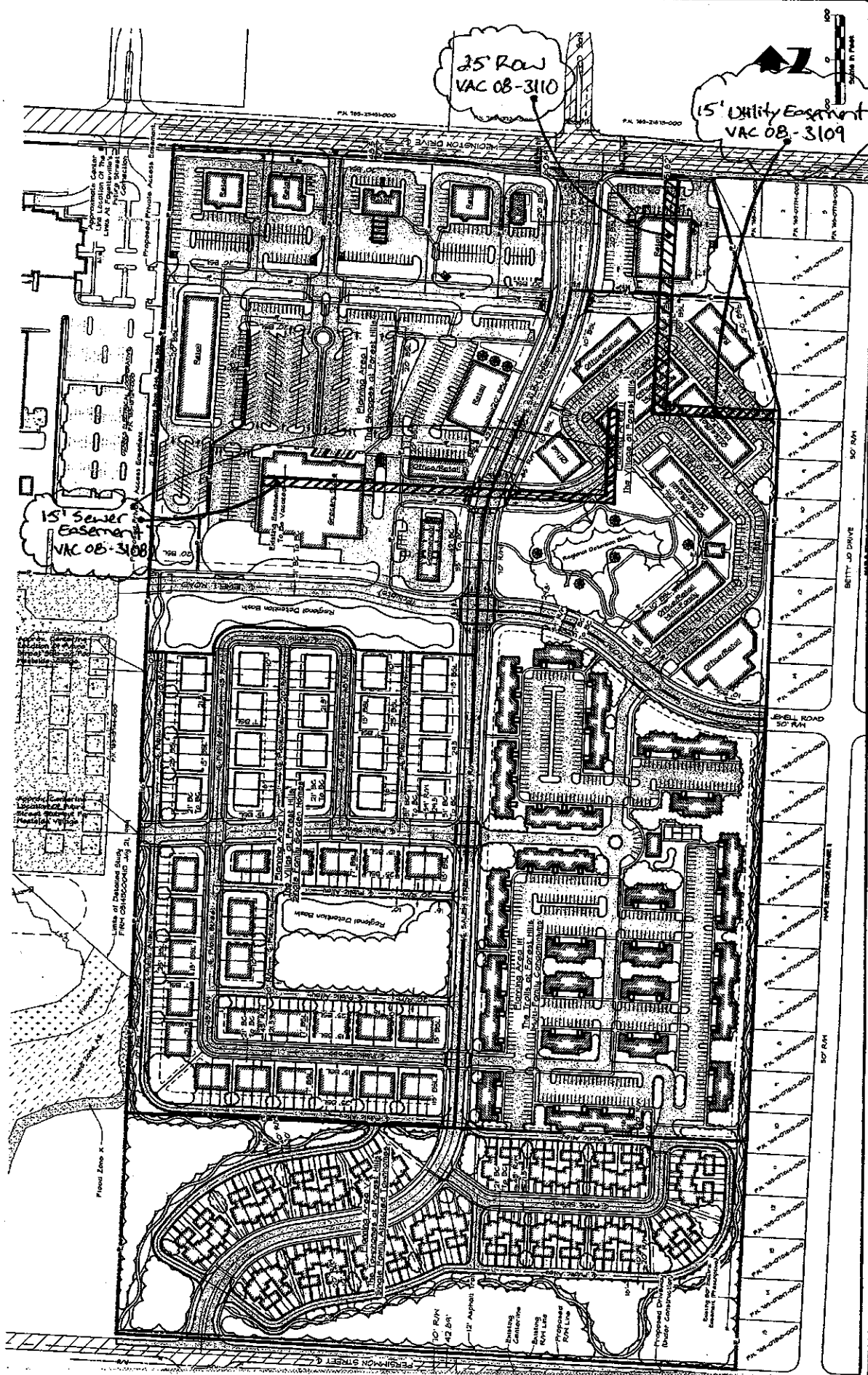
- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Signature of Utility Company Representative

WIS OPS Mgr

Title



5
 6

MASTER LAND DEVELOPMENT PLAN
 Issued for Review

THE SHOPPES AND
 RESIDENCES AT FOREST HILLS
 Fayetteville, Washington County, Arkansas

Project Name	Forest Hills PZD
Project No.	08-3110
Project Date	08-31-10
Project Status	Final
Project Location	Fayetteville, AR
Project Owner	Forest Hills PZD



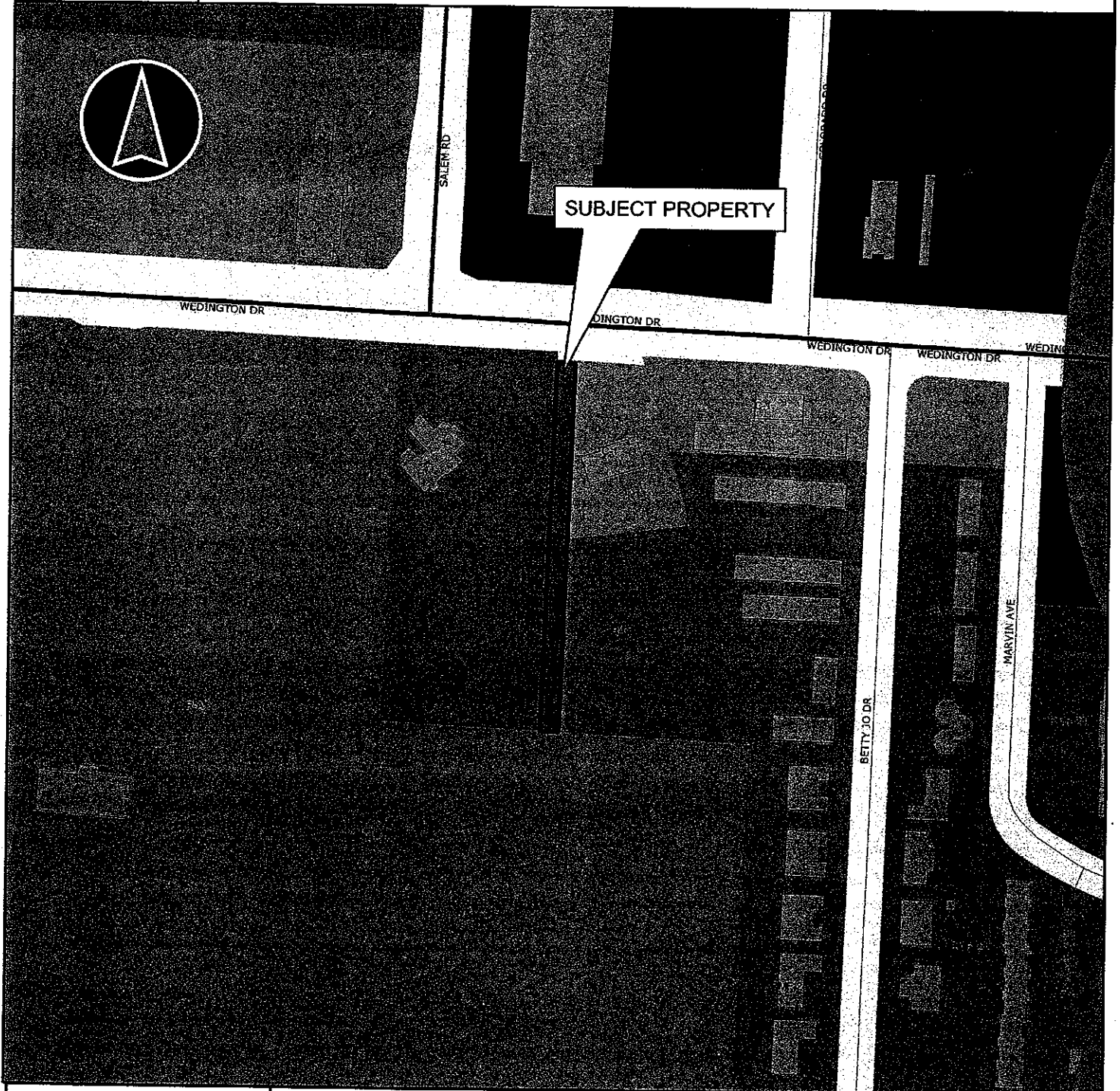
MORRISON SHIPLEY
 ENGINEERS & SURVEYORS
 2407 W. Cumberland Street • Bentonville, AR 72713 • 479.278.0288 • morrisonshipley.com

Project Name	Forest Hills PZD
Project No.	08-3110
Project Date	08-31-10
Project Status	Final
Project Location	Fayetteville, AR
Project Owner	Forest Hills PZD

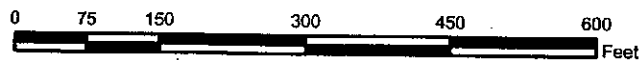
VAC08-3110

Close Up View

FOREST HILLS R-PZD



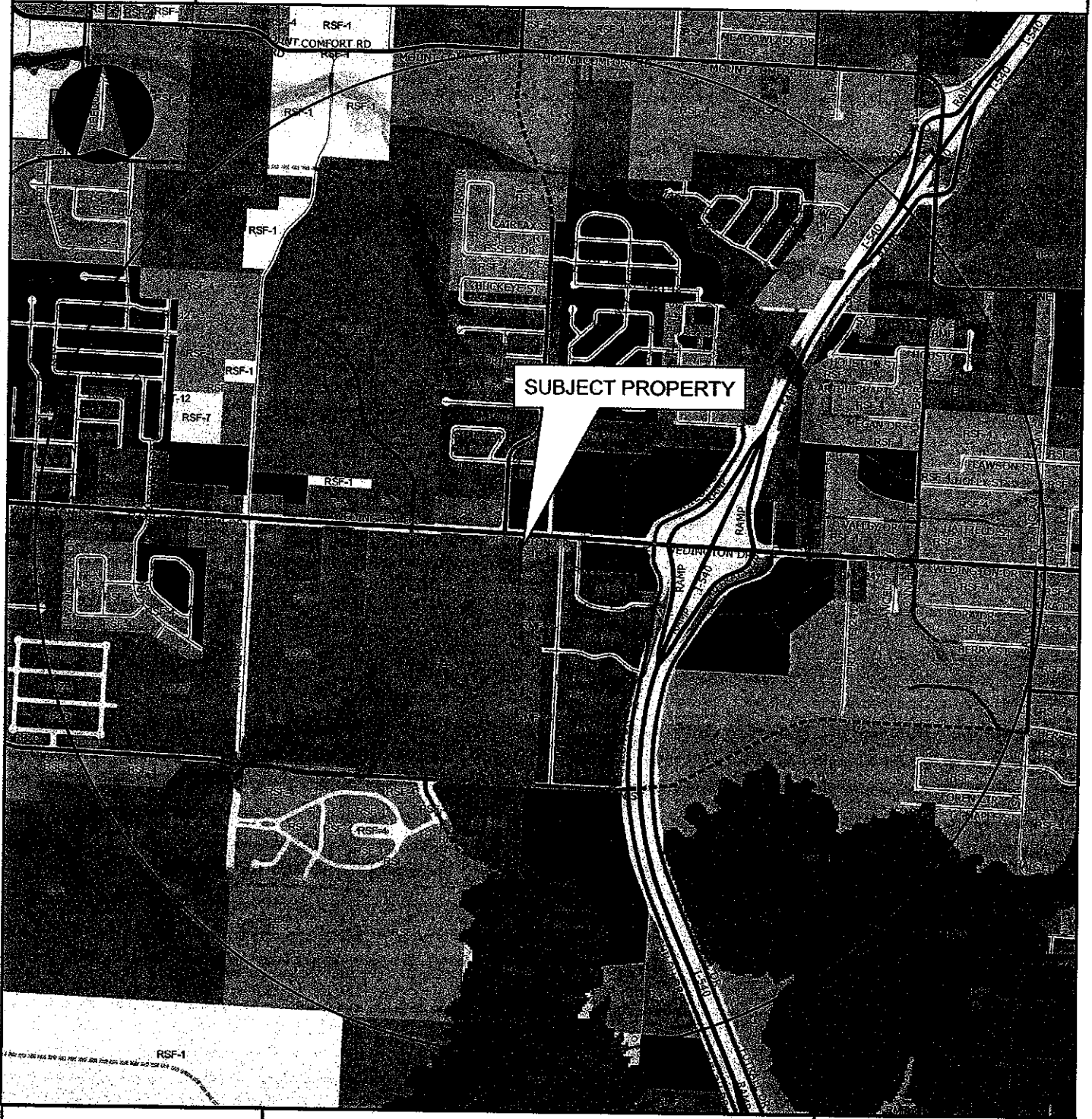
Overview



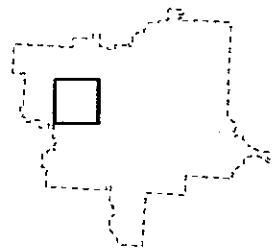
VAC08-3110

FOREST HILLS R-PZD

One Mile View



Overview



Legend

Subject Property

VAC08-3110

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District



City Council Meeting of November 4, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Karen Minkel, Interim Director of Long Range Planning

From: Leif Olson, Long Range Planner

Date: October 16, 2008

Subject: ADM 08-3100 (Clean Technology Use Unit) Approval of an ordinance to adopt a Clean Tech Use Unit by amending Chapter 161: Zoning Districts, Chapter 162: Use Units and Chapter 163: Use Conditions and of the Unified Development Code.

RECOMMENDATION

Staff recommends approval of an ordinance amending the Unified Development Code to adopt a Clean Tech Use unit and assign it to appropriate zoning districts.

BACKGROUND

Planning Staff has determined that there is a need for a clean technologies use unit in order to allow these types of businesses to locate in appropriate commercial and industrial zoning districts.

Clean technologies are defined as businesses that create and/or produce goods and services that greatly reduce or eliminate negative environmental impacts, for instance, wind, solar or fuel cell technologies. Clean technologies are also engaged in research and development of these types of products or services. In many instances, the impact of laboratory or fabrication components of clean technologies is minimal. Ideally, clean technologies would produce no greater amount of noise, smoke, truck traffic, etc. than a comparable commercial use such as a restaurant or retail business. The Planning Commission will conduct public hearings and issue conditional use permits for clean technologies located in areas that are not zoned industrial.

Planning Staff is proposing that the clean tech use unit be allowed by right in the I-1 and I-2 industrial zoning districts and as a conditional use in the R-A, R-O, C-1, C-2, C-3, Downtown Core, Main Street Center and P-1 Institutional zoning districts. The Planning Commission forwarded this item to the City Council at its' September 26, 2008 meeting with a recommendation of approval.

BUDGET IMPACT

None

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 162: USE UNITS
AND CHAPTER 163: USE CONDITIONS OF THE UNIFIED
DEVELOPMENT CODE TO ADD A CLEAN TECH USE UNIT
AND ASSIGN IT TO APPROPRIATE ZONING DISTRICTS.

WHEREAS, the City of Fayetteville recognizes that economic development and job creation are high priorities, and

WHEREAS, the City of Fayetteville recognizes that many emerging clean technologies are compatible with industrial and commercial types of land use, and

WHEREAS, the City of Fayetteville recognizes the importance of encouraging the development of clean technology businesses within the City.

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 the Unified Development Code Chapter 162: Use Units by adding a clean tech use unit, shown as "Exhibit A" attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas, hereby amends the Unified Development Code Chapter 163: Use Conditions by adding a clean tech use unit, shown as "Exhibit B" attached hereto and made a part hereof.

Section 3: That the City Council of the City of Fayetteville, Arkansas, hereby amends the Unified Development Code Chapter 161: Zoning Regulations by adding a clean tech use unit in appropriate zoning districts, shown as "Exhibit C" attached hereto and made a part hereof.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

“Exhibit A”
 ADM 08-3100

Chapter 162: Use Units is amended by adding a new use unit for clean technologies.

(OO) Unit 42. *Clean Technologies.*

(1) *Description.* Unit 42 consists of uses that fabricate or produce goods and services that greatly reduce or eliminate negative environmental impacts, create new technologies or improve the productive and responsible use of natural resources.

Alternative Energy Fabrication and Storage Components:	•Wind •Solar •Fuel cells •Batteries •Hybrid systems
Fabrication or Production of Materials:	•Nano Technologies •Solar panels •Computer components, such as microchips •Advanced packaging
Research and Development:	•Monitoring and control systems •Energy infrastructure management •Energy efficiency management •Materials and recycling management •Transportation logistics •Environmental cleanup and safety •Scientific or high tech research laboratories

“Exhibit B”
ADM 08-3100

Chapter 163: Use Conditions is amended by adding a Clean Technologies section.

163.16 Clean Technologies

- (A) *Clean Technologies.* Clean Technologies shall be a conditional use in all Agricultural, Residential-Office, Commercial and Institutional districts subject to the following conditions:
- (1) *Low volume large truck traffic.* The Planning Commission shall determine that the intended use creates no greater amount of large truck traffic than what is typically generated with similar uses within the designated zoning district, for example food and beverage delivery to restaurants and bars.
 - (2) *Nuisance.* The Planning Commission shall determine that the intended use does not result in the production of offensive noise, vibration, dust, smoke, noxious odors or other such nuisance that would be detrimental to adjoining or surrounding uses.

“Exhibit C”
ADM 08 - 3100

Chapter 161: Zoning Districts is amended by adding the Clean Tech Use Unit as permitted and conditional uses in appropriate zoning districts.

Use Unit 42 – Clean Technologies would be allowed as a Use by Right in the following Zoning Districts:

161.24 I-1, Heavy and Light Industry
161.25 I-2, General Industry

Use Unit 42 – Clean Technologies would be allowed as a Conditional Use in the following Zoning Districts:

161.03 R-A
161.16 R-O
161.17 C-1
161.18 C-2
161.19 C-3
161.20 Downtown Core
161.21 Main Street Center
161.26 P-1, Institutional

Planning Commission

September 22, 2008

Page 26 of 26

ADM 08-3100: (UDC AMENDMENT CH. 112, CLEAN TECH. USE UNIT): Submitted by Planning Staff. An ordinance to amend Chapter 162: Use Units and Chapter 163: Use Conditions of the Unified Development Code in order to create a Clean Technology Use Unit. The Clean Technology Use Unit will be allowed as a use by right or as a conditional use in industrial and commercial zoning districts.

Jeremy Pate, Director of Current Planning, gave the staff report, describing the purpose of the clean tech use unit, which would be allowed in industrial districts by right, and various commercial and mixed-use districts by conditional use permit.

No public comment was received.

Commissioner Lack stated it was a very well-received addition to the UDC. A lot of companies will have the willingness and opportunity to move here because of this ordinance. I do have some concerns: 1) ability to quantify huge volumes of truck traffic, 2) odors, dust, smoke, noise. I am concerned about the things that are not quantifiable. I am also concerned about public interaction nature of our buildings in downtown, especially. These uses are typically more closed in, with labs, etc than retail. I don't want to create possibility of a faceless storefront.

Pate discussed that the Commission is often called upon to do just what Commissioner Lack mentioned, to make decisions on items that are quantifiable. As we have discussed previously, the Conditional Use Permit process looks at compatibility and appropriateness of use, which can not be easily quantified. Staff would require information to be submitted by the applicant to understand the amount and impact of truck traffic, noise, etc. and make an educated and informed recommendation to the Commission to decide. It would not be one person, but 9 persons that decide this issue.

Commissioner Cabe stated he had some of the same concerns, but took comfort in the fact that there are a lot of us up here, not just one person making the decision. I feel confident we as a group can make those decisions.

Motion:

Commissioner Cabe made a motion to forward the request to the City Council with a recommendation of approval. **Commissioner Anthes** seconded the motion. **Upon roll call the motion passed with a vote of 7-0-0.**

All business being concluded, the meeting was adjourned at 9:59 PM.

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
November 6, 2008**

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

Call to Order

Roll Call

Pledge of Allegiance

Agenda Session Presentations:

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. ✓ Approval of the October 21, 2008 City Council meeting minutes.
2. ✓ **Allied Waste Services:** A resolution authorizing the Mayor to execute a contract with Allied Waste Services to haul and dispose of solid waste in the city limits of Fayetteville.
3. ✓ **Fulton Waste & Sustainability Services:** A resolution authorizing the Mayor to execute a contract with Fulton Waste & Sustainability Services to haul and dispose of solid waste in the city limits of Fayetteville.

4. **Bale Chevrolet:** A resolution approving the purchase of one (1) compact extended cab pickup truck from Bale Chevrolet of Little Rock through the state vehicle purchase contract in the amount of \$14,427.00 plus add-on light bar; and approving a budget adjustment in the amount of \$15,036.00.
5. **GCM Properties, LTD., LLC:** A resolution approving Amendment #1 to the lease agreement with GCM Properties, LTD., LLC, extending the term of the lease for a period of one year.
6. **McClelland Consulting Engineers:** A resolution approving Amendment #1 to the agreement for professional engineering services with McClelland Consulting Engineers, Inc. in the amount of \$29,290.00 for design services for the Mt. Sequoyah pressure plane improvements; approving the elevated storage tank placement; and approving a \$20,000.00 contingency.
7. **Edward Byrne Memorial Justice Assistance Grant:** A resolution accepting the 2008 Edward Byrne Memorial Justice Assistance Grant in the amount of \$24,316.00, \$8,106.00 of which will be used by the Fayetteville Police Department for the purchase of equipment with the remainder to be split equally between the City of Springdale and Washington County; and approving a budget adjustment recognizing the grant revenue.
8. **Alcoholic Beverage Control Enforcement Grant:** A resolution authorizing the Fayetteville Police Department to accept a 2008-2009 grant from the Arkansas Alcoholic Beverage Control Enforcement Division in the amount of \$31,677.00 to host a state underage drinking prevention conference; and approving a budget adjustment recognizing the grant revenue.
9. **Westside Storage Inc:** A resolution approving a settlement with Westside Storage Inc., in the amount of \$92,545.00 for right-of-way and easement acquisition for the Ruppel Road widening project.
10. **Capps Rent A Car Inc:** A resolution approving a lease agreement with Capps Rent A Car Inc. for the lease of one (1) 2008 4-door sedan in the amount of \$35,000.00 for use by the Fayetteville Police Department officer assigned to the Internal Revenue Service Task Force; and approving a budget adjustment recognizing the reimbursement revenue.
11. **Arkansas Economic Development Commission:** A resolution authorizing the Building Safety Division to accept a grant from the Arkansas Economic Development Commission Energy Office in the amount of \$2,500.00 to fund the Fayetteville Residential Energy Efficiency Promotion program; and approving a budget adjustment recognizing the grant revenue.
12. **Policy 41.2.8 Vehicular Pursuit:** A resolution approving and adopting Policy No. 41.2.8 "Vehicular Pursuit" to the Fayetteville Police Department's Policies, Procedures & Rules Manual.
13. **Policy 26.2.1 Nepotism:** A resolution approving and adopting Policy No. 26.2.1 "Nepotism" to the Fayetteville Police Department's Policies, Procedures & Rules Manual.

B. Unfinished Business:

1. Hiring Freeze: Hiring Freeze Appeals:

- 2. ANX 08-2897 Southpass Development:** An ordinance annexing that property described in annexation petition ANX 08-2897 (CC2008-38), for property located west of I-540 and Cato Springs Road, containing approximately 855.97 acres. *This ordinance was left on the First Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading

- 3. R-PZD 08-2898 Southpass Development:** An ordinance establishing a Residential Planned Zoning district titled R-PZD 08-2898, Southpass, located south of the City of Fayetteville at the intersection of Interstate 540 and Cato Springs Road (State Highway 265); containing approximately 910.36 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading

- 4. ADM 08-3117 (Southpass MSP Amendments):** A resolution for ADM 08-3117 amending the Master Street Plan, realigning Shiloh Drive, a collector, through the Southpass PZD site south to Cato Springs Road, and changing the designation of Cato Springs Road from a collector to a principal arterial in the Southpass vicinity, as described and depicted in the attached maps. *This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting. This resolution was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*

- 5. Southpass Development Infrastructure Cost Share:** A resolution expressing the willingness of the City of Fayetteville to cost share street and sewer infrastructure costs that would be utilized by both the Southpass Development and the future community park. *This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting. This resolution was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*

- 6. RZN 08-3084 (Candlelight Place):** An ordinance rezoning that property described in rezoning petition RZN 08-3084, for approximately 0.94 acres, located at the southeast corner of Gregg Avenue and Ash Street from RSF-4, Residential Single-Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre. *This ordinance was left on the First Reading at the October 21, 2008 City Council meeting and Tabled to the November 4, 2008 City Council meeting.*

Left on the First Reading.

- ✓ **7. R-PZD 08-3071 (Bridgedale Plaza):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-3071 Bridgedale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan. *This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading.

- ✓ **8. Victory Commons Phase I Appeal:** An appeal of certain conditions of approval of the Planning Commissions decision regarding Victory Commons Phase I. *This appeal was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*

C. New Business:

- ✓ **1. VAC 08-3108 Forest Hills PZD:** An ordinance approving VAC 08-3108 submitted by Morrison-Shipley Engineers, Inc. for property located at 3485 W Wedington Drive to vacate a portion of a sewer easement, a total of 0.33 acres.
- ✓ **2. VAC 08-3109 Forest Hills PZD:** An ordinance approving VAC 08-3109 submitted by Morrison-Shipley Engineers, inc. for property located at 3351 W Wedington Drive to vacate a portion of a utility easement, a total of 0.08 acres.
- ✓ **3. VAC 08-3110 Forest Hills PZD:** An ordinance approving VAC 08-3110 submitted by Morrison-Shipley Engineers, Inc. for property located at 3351 W Wedington Drive to vacate unconstructed right-of way, a total of 0.29 acres.
- ✓ **4. ADM 08-3100 Clean Tech Use Unit:** An ordinance amending Chapter 162: Use Units and Chapter 163: Use Conditions of the Unified Development Code to add a clean Tech Use Unit and assign it to appropriate zoning districts.

Announcements:

- 1. City Council Tour: November 3, 2008**

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

Pre-Agenda Meeting

10-22-08

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
November 4, 2008**

A meeting of the Fayetteville City Council will be held on November 4, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Agenda Session Presentations:

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

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6. **McClelland Consulting Engineers:** A resolution approving Amendment #1 to the agreement for professional engineering services with McClelland Consulting Engineers, Inc. in the amount of \$29,290.00 for design services for the Mt. Sequoyah pressure plane improvements; approving the elevated storage tank placement; and approving a \$20,000.00 contingency.
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11. **Arkansas Economic Development Commission:** A resolution authorizing the Building Safety Division to accept a grant from the Arkansas Economic Development Commission Energy Office in the amount of \$2,500.00 to fund the Fayetteville Residential Energy Efficiency Promotion program; and approving a budget adjustment recognizing the grant revenue.
12. **Policy 41.2.8 Vehicular Pursuit:** A resolution approving and adopting Policy No. 41.2.8 "Vehicular Pursuit" to the Fayetteville Police Department's Policies, Procedures & Rules Manual.
13. **Policy 26.2.1 Nepotism:** A resolution approving and adopting Policy No. 26.2.1 "Nepotism" to the Fayetteville Police Department's Policies, Procedures & Rules Manual.

B. Unfinished Business:

1. Hiring Freeze: Hiring Freeze Appeals:

- 2/ ✓ **ANX 08-2897 Southpass Development:** An ordinance annexing that property described in annexation petition ANX 08-2897 (CC2008-38), for property located west of I-540 and Cato Springs Road, containing approximately 855.97 acres. *This ordinance was left on the First Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading

- 3/ ✓ **R-PZD 08-2898 Southpass Development:** An ordinance establishing a Residential Planned Zoning district titled R-PZD 08-2898, Southpass, located south of the City of Fayetteville at the intersection of Interstate 540 and Cato Springs Road (State Highway 265); containing approximately 910.36 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading

- 4/ ✓ **ADM 08-3117 (Southpass MSP Amendments):** A resolution for ADM 08-3117 amending the Master Street Plan, realigning Shiloh Drive, a collector, through the Southpass PZD site south to Cato Springs Road, and changing the designation of Cato Springs Road from a collector to a principal arterial in the Southpass vicinity, as described and depicted in the attached maps. *This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting. This resolution was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*

- 5/ ✓ **Southpass Development Infrastructure Cost Share:** A resolution expressing the willingness of the City of Fayetteville to cost share street and sewer infrastructure costs that would be utilized by both the Southpass Development and the future community park. *This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting. This resolution was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*

- 6/ ✓ **RZN 08-3084 (Candlelight Place):** An ordinance rezoning that property described in rezoning petition RZN 08-3084, for approximately 0.94 acres, located at the southeast corner of Gregg Avenue and Ash Street from RSF-4, Residential Single-Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre. *This ordinance was left on the First Reading at the October 21, 2008 City Council meeting and Tabled to the November 4, 2008 City Council meeting.*

Left on the First Reading.

- ✓ **R-PZD 08-3071 (Bridgedale Plaza):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-3071 Bridgedale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan. *This ordinance was left on the Second Reading at the October 21, 2008 City Council meeting.*

Left on the Second Reading.

8. ✓ **Victory Commons Phase I Appeal:** An appeal of certain conditions of approval of the Planning Commissions decision regarding Victory Commons Phase I. *This appeal was tabled at the October 21, 2008 City Council meeting to the November 4, 2008 City Council meeting.*

C. New Business:

1. **VAC 08-3108 Forest Hills PZD:** An ordinance approving VAC 08-3108 submitted by Morrison-Shipley Engineers, Inc. for property located at 3485 W Wedington Drive to vacate a portion of a sewer easement, a total of 0.33 acres.
2. **VAC 08-3109 Forest Hills PZD:** An ordinance approving VAC 08-3109 submitted by Morrison-Shipley Engineers, inc. for property located at 3351 W Wedington Drive to vacate a portion of a utility easement, a total of 0.08 acres.
3. **VAC 08-3110 Forest Hills PZD:** An ordinance approving VAC 08-3110 submitted by Morrison-Shipley Engineers, Inc. for property located at 3351 W Wedington Drive to vacate unconstructed right-of way, a total of 0.29 acres.
4. **ADM 08-3100 Clean Tech Use Unit:** An ordinance amending Chapter 162: Use Units and Chapter 163: Use Conditions of the Unified Development Code to add a clean Tech Use Unit and assign it to appropriate zoning districts.

5. ~~**Amend Chapter 159 Water and Wastewater Impact Fees:**~~

Announcements:

1. **City Council Tour: November 3, 2008**

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

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

DATE: **November 7, 2008**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of November 7, 2008**

1. **Thank you to Marsha Melnichak:** A resolution to acknowledge and thank Marsha Melnichak of the Northwest Arkansas Times for her fair and accurate reporting of city business;
2. **Allied Waste Services:** A resolution authorizing the mayor to execute a contract with Allied Waste Services to haul and dispose of solid waste in the city limits of Fayetteville;
3. **Fulton Waste & Sustainability Services:** A resolution authorizing the Mayor to execute a contract with Fulton Waste & Sustainability Services to haul and dispose of solid waste in the city limits of Fayetteville;
4. **Bale Chevrolet:** A resolution approving the purchase of one compact extended cab pickup truck from Bale Chevrolet of Little Rock through the State Vehicle Purchase Contract in the amount of \$14,427.00 plus add-on light bar; and approving a budget adjustment in the amount of \$15,036.00;
5. **GCM Properties, LTD., LLC:** A resolution approving Amendment #1 to the Lease Agreement with GCM Properties, LTD., LLC, extending the term of the lease for a period of one year;

6. **McClelland Consulting Engineers:** A resolution approving Amendment #1 to the Agreement for Professional Engineering Services with McClelland Consulting Engineers, Inc. in the amount of \$29,290.00 for design services for the Mt. Sequoyah pressure plane improvements; approving the elevated storage tank placement and approving a \$20,000.00 contingency;
7. **Edward Byrne Memorial Justice Assistance Grant:** A resolution accepting the 2008 Edward Byrne Memorial Justice Assistance Grant in the amount of \$24,316.00, \$8,106.00 of which will be used by the Fayetteville police Department for the purchase of equipment with the remainder to be split equally between the City of Springdale and Washington County; and approving a budget adjustment recognizing the grant revenue;
8. **Alcoholic Beverage Control Enforcement Grant:** A resolution authorizing the Fayetteville Police Department to accept a 2008-2009 Grant from the Arkansas Alcoholic Beverage Control Enforcement Division in the amount of \$31,677.00 to host a State Underage Drinking Prevention Conference; and approving a budget adjustment recognizing the grant revenue;
9. **Westside Storage Inc.:** A resolution approving a settlement with Westside Storage, Inc. in the amount of \$92,545.00 for right-of-way and easement acquisition for the Ruppel Road widening project and to release a provision of the Bill of Assurance;
10. **Capps Rent-A-Car Inc.:** A resolution approving a lease agreement with Capps Rent-A-Car, Inc. for the lease of one 2008 4-door Sedan in the amount of \$35,000.00 for use by the Fayetteville Police Department Officer assigned to the Internal Revenue Service Task Force and approving a budget adjustment recognizing the reimbursement revenue;
11. **Arkansas Economic Development Commission:** A resolution authorizing the Building Safety Division to accept a grant from the Arkansas Economic Development Commission Energy Office in the amount of \$2,500.00 to fund the Fayetteville Residential Energy Efficiency Promotion Program and approving a budget adjustment recognizing the grant revenue;
12. **Policy No. 41.2.8 "Vehicular Pursuit":** A resolution approving and adopting Policy No. 41.2.8 "Vehicular Pursuit" to the Fayetteville Police Department's Policies, Procedures and Rules Manual;

13. Policy No. 26.2.1 “Nepotism”: A resolution approving and adopting Policy No. 26.2.1 “Nepotism” to the Fayetteville Police Department’s Policies, Procedures and Rules Manual;

14. Destruction of District Court Records: A resolution authorizing the Fayetteville District Court to destroy certain records pursuant to A.C.A. §16-10-211, Record Retention Schedule;

15. Release & Satisfaction of Judgment: A resolution to approve a budget adjustment in the Water & Sewer Fund in the amount of \$173,528.20 for a full release and satisfaction of Judgment in the Romine case;

16. Victory Gardens Appeal: A resolution to grant portions of the appeal of certain conditions of approval of LSD 08-3037, Victory Gardens.

Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record

P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville Final Agenda
November 3, 2008

Publication Charge : \$242.10

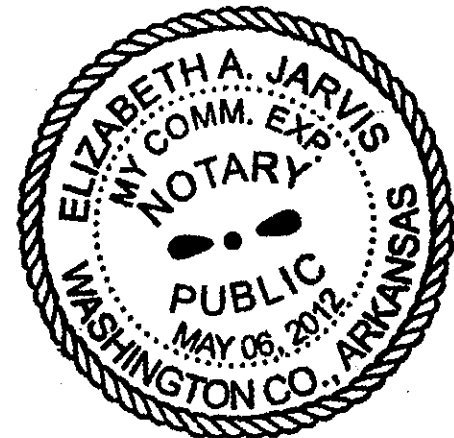
Signed: Cathy Wiles

Subscribed and sworn to before me
This 5 day of November, 2008.

Notary Public Elizabeth A. Jarvis

My Commission Expires: May 6, 2012

Do not pay from Affidavit, an invoice will be sent



RECEIVED

NOV 06 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
NOVEMBER 6, 2008**

Fayetteville
ARKANSAS

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

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

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the October 21, 2008 City Council meeting minutes.
2. **Allied Waste Services:** A resolution authorizing the Mayor to execute a contract with Allied Waste Services to haul and dispose of solid waste in the city limits of Fayetteville.
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RECEIVED

NOV 06 2008

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

C. New Business

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- 4. ADM 08-3100 Clean Tech Use Unit:** An ordinance amending Chapter 162 Use Units and Chapter 163 Use Conditions of the Unified Development Code to add a clean Tech Use Unit and assign it to appropriate zoning districts.

Announcements:

- 1. City Council Tour:** None

City Council Meeting:

November 6, 2008

A. Journ: 10:10 PM.

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

9-0

Subject:	Add: Resolution for Marsha Melnichak				
Motion To:		Add	Approve		
Motion By:		Ferrell	Allen		
Seconded:		Jordan	Ferrell		
<u>Passed</u>	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

8-0

8-0

197-08

Subject:	Consent (# 9 Westside Storage, Inc. removed for discussion)				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Lucas			
<u>Minutes Approved</u> <u>Passed</u> #9 Removed from Consent 198-08 to 208-08	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				
8-0					

Subject:	# 9 Westside Storage, Inc. Removed from Consent				
Motion To:		Amend Resolution	Approve		
Motion By:		Ferrell	Jordan		
Seconded:		Jordan	Ferrell		
#9 Consent Removed for discussion <u>Passed</u> 209-08	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				
8-0			8-0		

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

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

Subject:	ANX 08-2897 Southpass Development				
Motion To:		3rd Read	Pass		
Motion By:		Rhoads			
Seconded:		Fernell			
B. 2 Unfinished Business <u>passed</u> 5190	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	N		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	N		
	Mayor Coody				

8-0

6-2

Subject:	R-PZD 08-2898 Southpass Development				
Motion To:		3rd Read	Pass		
Motion By:		Gray			
Seconded:		Rhoads			
B. 3 Unfinished Business <u>passed</u> 5191	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	N		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	N		
	Mayor Coody				

8-0

6-2

Subject:	ADM 08-3117 (Southpass MSP Amendments)				
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Gray			
B. 4 Unfinished Business <u>Passed</u> 210-08	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	Absent during the vote.			
	Lucas	N			
	Jordan	N			
	Mayor Coody				

5-2

Subject:	Southpass Development Infrastructure Cost Share				
Motion To:		Table Indef			
Motion By:		Thiel			
Seconded:		Rhoads			
B. 5 Unfinished Business Tabled Indef.	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

8-0

Subject:	RZN 08-3084 (Candlelight Place)				
Motion To:		2nd Read	Table Indef.		
Motion By:		Rhoads	Rhoads		
Seconded:		Ferrell	Lucas		
B. 6 New Business <i>Tabled</i> <i>Indefinitely</i>	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

8-0

8-0

Subject:	R-PZD 08-3071 (Bridgedale Plaza)				
Motion To:		3rd Read	Pass		
Motion By:		Rhoads			
Seconded:		Ferrell			
B. 7 New Business <i>Failed</i>	Gray	✓	N		
	Thiel	✓	N		
	Cook	✓	N		
	Allen	✓	N		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	N		
	Mayor Coody				

8-0

3-5

Subject:	Victory Commons Phase I Appeal				
Motion To:		Amend Driveway Remain open until property is redeveloped.			
Motion By:		Ferrell			
Seconded:		Rhoads			
B. 8 New Business Amend Motion passed	Gray	✓			
	Thiel	N	allow current driveway until other parcels are developed then driveway to be moved north or closed		
	Cook	N			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	N			
	Jordan	✓			
	Mayor Coody				

5-3

Subject:	Victory Commons Phase I Appeal				
Motion To:		Amend Conditions of approval	Replate pg. 3 #12: #13 w/ staff amendments for #12: 13 and to delete #16: 18	Deny the appeal of the variance	Appeal for greenspace & withdraw wetlands
Motion By:		Ferrell		Thiel	
Seconded:		Jordan		Gray	
Amend motion passed	Gray	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Allen	✓		absent during the vote.	
	Rhoads	✓		✓	
Deny Variance passed 211-08	Ferrell	✓		N	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Mayor Coody				

8-0

6-1

Subject:	Jayetteville District Court Record Destruction				
Motion To:		Add to the Agenda	Approve		
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
Added at the Beginning of New Business Passed 2/2-08	Gray	Absent during the vote	Absent during the vote		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	Absent during the vote.	Absent during the vote.		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				
		6-0	6-0		

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

Subject:		VAC 08-3108 Forest Hills PZD			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Lucas	Jordan	
Seconded:			Jordan	Lucas	
C. 1 New Business <u>Passed</u> 5192	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	absent during the vote			
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
Mayor Coody					

7-0

7-0

7-0

Subject:		VAC 08-3109 Forest Hills PZD			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Jordan	Jordan	
Seconded:			Lucas	Lucas	
C. 2 New Business <u>Passed</u> 5193	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	absent during the vote			
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
Mayor Coody					

7-0

7-0

7-0

Subject:	VAC 08-3110 Forest Hills PZD				
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>	
Motion By:		<i>Jordan</i>	<i>Jordan</i>		
Seconded:		<i>Lucas</i>	<i>Lucas</i>		
C. 3 New Business <i>Passed</i> <i>5194</i>	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	<i>Absent during the vote.</i>			
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

*7-0**7-0**7-0*

Subject:	ADM 08-3100 Clean Tech Use Unit				
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>	
Motion By:		<i>Lucas</i>	<i>Jordan</i>		
Seconded:		<i>Ferrell</i>	<i>Lucas</i>		
C. 4 New Business <i>passed</i> <i>5195</i>	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	<i>Absent during the vote</i>			
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

*7-0**7-0**7-0*

Subject:	Romine Lawsuit Settlement Resolution				
Motion To:		Add to the Agenda		Pass	
Motion By:		Cook		Thiel	
Seconded:		Jordan		Gray	
<u>Passed</u>	Gray	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Allen	✓		✓	
	Rhoads	absent during the vote			
	Ferrell	Recuse		Recuse	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Mayor Coody				

213-08

6-0

6-0

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