

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
December 2, 2008**

A meeting of the Fayetteville City Council will be held on December 2, 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: Hiring Freeze Appeal: Replacement of Financial Analyst

A. Consent:

1. Approval of the November 6, 2008 City Council meeting minutes. **APPROVED.**
2. **Bid # 08-67 Roberts-McNutt, Inc:** A resolution awarding Bid # 08-67 and approving a contract with Roberts-McNutt, Inc. in the amount of \$38,827.00 to replace the roof of the ICH Building; and approving a project contingency in the amount of \$3,882.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 217-08.

3. **Bid # 08-68 Diamond International:** A resolution awarding Bid # 08-68 and approving the purchase of one (1) dump truck from Diamond International in the amount of \$107,147.00 for use by the Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 218-08.

4. **Bid # 08-69 Stamm Manufacturing:** A resolution awarding Bid # 08-69 and approving the purchase of one (1) aerial platform truck from Stamm Manufacturing in the amount of \$97,336.00 for use by the Transportation/Traffic Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 219-08.

5. **Bid # 08-70 Williams Tractor, Inc:** A resolution awarding Bid # 08-70 and approving the purchase of one (1) front-load diesel tractor from Williams Tractor, Inc. in the amount of \$68,894.00 for use at the Noland Wastewater Treatment Plant; and approving a budget adjustment in the amount of \$25,426.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 220-08.

6. **AT&T:** A resolution approving the purchase of fifty (50) Pinpoint X GPS Integrated modems and antennae from AT&T through the State of Arkansas purchasing contract in the amount of \$50,420.00; and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 221-08.

7. **2008 Bulletproof Vest Partnership Grant:** A resolution accepting the 2008 Bulletproof Vest Partnership Grant in the amount of \$16,033.56; and approving a budget adjustment recognizing the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 222-08.

8. **Target Grant:** A resolution authorizing the Fayetteville Police Department to accept a grant from Target in the amount of \$250.00 for the purchase of Community Oriented Policing supplies; and approving a budget adjustment to recognize the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 223-08.

9. **Edward Byrne Memorial Discretionary Grant:** A resolution approving a budget adjustment for the Fayetteville Police Department to accept and recognize reimbursement revenues from a portion of the Edward Byrne Memorial Discretionary Grant in the projected amount of \$52,000.00 for the department's participation in the Northwest Arkansas Sex Offender and Violent Crimes Task Force.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 224-08.

- 10. U.S. Department of Justice Community Oriented Policing:** A resolution authorizing the Fayetteville Police Department to accept a Technology Program Grant from the U.S. Department of Justice Community Oriented Policing services in the amount of \$444,268.00; and approving a budget adjustment to recognize the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 225-08.

- 11. Act 833 Revenues:** A resolution approving a 2008 Budget adjustment for the Fayetteville Fire Department in the amount of \$42,288.00 to recognize Act 833 revenues for the purchase of protective gear.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 226-08.

- 12. McClelland Consulting Engineers, Inc. Task Order # 15:** A resolution approving a notice to proceed on Task Order # 15 with McClelland Consulting Engineers, Inc. in the amount of \$177,600.00 for final plans & specs and bidding associated with the Runway 16 Safety Area Improvements at Drake Field.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 227-08.

- 13. Old Square, Inc:** A resolution approving a two-year lease agreement with Old Square, Inc., for the annual rental amount of \$7,800.00 to lease approximately 3,500 square feet for document storage.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 228-08.

B. Unfinished Business:

- 1. Hiring Freeze:** Hiring Freeze Appeals: A resolution to approve the hiring of one full time Financial Analyst; one full time Building Maintenance Worker II; one full time Police Officer and two full time Animal Services Caregivers.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 229-08.

- 2. 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 failed at the November 6, 2008 City Council meeting. This ordinance was reconsidered at the November 18, 2008 City Council meeting. This ordinance was left on the third reading at the November 18, 2008 City Council meeting and then tabled to the December 2, 2008 City Council meeting.*

Left on the Third Reading

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5197.

3. **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. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting.*

Left on the Second Reading

THIS ITEM FAILED.

4. **Amend Chapter 164, ADM 08-3094 (UDC Chapter 164.04 Animals & Fowl):** An ordinance amending the Unified Development Code by repealing and replacing UDC Section 164.04: Animals and Fowl, to permit a property owner to keep a maximum of four chickens (hens) within residential districts of the city, subject to the restrictions herein. *This ordinance was left on the First Reading at the November 18, 2008 City Council meeting.*

Left on the First Reading

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5198.

5. **Proposed 2009 Annual Budget & Work Program:** A resolution adopting the 2009 Annual Budget and Work Program as amended and approved. *This resolution was tabled at the November 18, 2008 City Council meeting to the December 2, 2008 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 230-08.

6. **Southpass Development Company, LLC:** A resolution to approve approximately \$744,880.00 as a 50/50 cost share with Southpass Development Company, LLC for the sewer installation costs for the Regional Park and Southpass PZD. *This resolution was tabled at the November 18, 2008 City Council meeting to the December 2, 2008 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 231-08.

C. New Business:

1. **Park West, LLC Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Park West, LLC in the

amount of \$2,157,000.00 for the upgrade of the future location of Highway 112 through Phase 1 of the Park West Development from two lanes to a four-lane boulevard.

THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE AND REFERRED TO THE STREET COMMITTEE FOR REVIEW.

2. **RZN 08-3131 (Nall):** An ordinance rezoning that property described in rezoning petition RZN 08-3131, for approximately 0.66 acres, located at 1211 West James Street, southwest of Garland and Mount Comfort from RMF-24, Residential Multi-Family, 24 units per acre, to R-O, Residential Office.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5199.

3. **C-PZD 08-3121 (Core Pet Wellness):** An ordinance establishing a Commercial Planned Zoning District Titled C-PZD 08-3121 (Core Pet Wellness) located at 2406 North Old Wire Road, containing approximately 0.58 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5200.

4. **VAC 08-3136 (CMN Business Park II):** An ordinance approving VAC 08-3136 submitted by McClelland Consulting Engineers for property located at CMN Business Park II, Lots 8 and 14, northeast corner of Steele Boulevard and Van Asche Drive to vacate a portion of a utility easement, a total of 0.61 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5201.

5. **VAC 08-3130 (Sisemore):** An ordinance approving VAC 08-3130 submitted by Donna Stewart for property located at 1326 South China Berry Lane to vacate a portion of a utility easement on the subject property, a total of 81.6 square feet.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5202.

6. **I-PZD 08-3062 (Westside Storage):** An ordinance establishing an Industrial Planned Zoning District Titled I-PZD 08-3062 Westside Storage, located at 1192 North Ruppel Road, containing approximately 0.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

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

7. **Villas at Stonebridge Appeal:** An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2170, Villas at Stonebridge, located south of Highway 16 East and east of Goff Farm Road; containing approximately 53.03 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

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

8. **Chapter 162 Use Units:** An ordinance to amend Chapter 162 Use Units of the Unified Development Code §162.01 (O) *Unit 15 Neighborhood Shopping Goods* by adding Recreational Vehicle Sales.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5203.

Announcements:

1. **City Council Tour:** None

Adjournment: MEETING ADJOURNED AT 9:20 P.M.

NOTICE TO MEMBERS OF THE AUDIENCE

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B. Unfinished Business:

1. Hiring Freeze: Hiring Freeze Appeals:

One Building Maintenance Worker II – Building Services

One Police Officer – Police Department

Two Full Time Animal Services Caregivers – Animal Services

- 2. 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 failed at the November 6, 2008 City Council meeting. This ordinance was reconsidered at the November 18, 2008 City Council meeting. This ordinance was left on the third reading at the November 18, 2008 City Council meeting and then tabled to the December 2, 2008 City Council meeting.*

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Announcements:

- 1. City Council Tour: None**

Adjournment:

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Fayetteville Police Department
100-A West Rock
Fayetteville, AR 72701
Telephone: (479) 587-3555
Fax: (479) 587-3563

B. 1
Hiring Freeze
Page 1 of 6

Departmental Correspondence

To: Mayor Dan Coody and Members of the City Council
From: Greg Tabor, Police Chief 
Date: November 26, 2008
Re: **Hiring Freeze Appeal – Police Officer**

Background

A Police Officer position has become vacant due to the resignation of an existing budgeted officer.

Discussion

The immediate filling of a vacant Police Officer position is important to the ongoing efficiency of our daily operations. A new Police Officer can take more than six months to become fully trained and ready for duty. This vacancy and training time results in manpower shortages and increased overtime to cover the normal duties of that position. In addition, our department currently has three Police Officers on active military duty in Iraq since last February further depleting our available manpower.

Recommendation

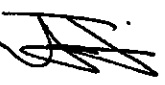
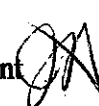
Staff recommends approval of this hiring freeze appeal for the vacant Police Officer position.

Budget Impact

This position is a budgeted full-time position and will result in a slight decrease in personnel expenses due the reduction in salary.



MEMORANDUM

TO: Mayor Dan Coody & City Council Members
THRU: Greg Tabor, Police Chief 
FROM: Jill Hatfield, Animal Services Superintendent 
DATE: November 26, 2008
RE: Animal Services Full-time Caregiver Position Openings

The Animal Services Division currently has two full-time Animal Services Caregiver positions vacant. One vacancy was created due to the death of a 6 year staff member. The other vacancy is open due to the termination of a six month probationary employee.

Replacing these two full-time caregiver positions is vital in providing adequate staffing to care for the animals, providing clean sanitary kennels, feeding and vaccinating the animals sheltered along with providing customer service to adopters and citizens looking for their lost pets. The caregivers also perform duties including assisting with euthanasia, veterinary care and medicating the animals. The current caregivers are working additional hours on their scheduled days off to perform essential duties while being paid overtime. Although we are utilizing volunteer and community service workers, many of the caregiver duties require trained and certified staff due to health and safety concerns such as handling dangerous animals, chemicals, and zoonotic diseases. The starting salary for these positions is \$9.53 per hour.

Please see the Animal Services Caregiver position description attached for more information. Thank you for your consideration.

cc: Sondra Smith, City Clerk

EMPLOYEE REQUISITION
CITY OF FAYETTEVILLE

DEPARTMENT: Police DIVISION: Animal Services / Animal Shelter

♦ **POSITION DATA** (COMPLETE ALL ITEMS IN THIS SECTION)

TITLE Animal Services Caregiver

GRADE 103 FTE: 1.00 ☒ FULL TIME ☐ PART TIME ☐ TEMPORARY

*PRE-EMPLOYMENT DRUG SCREENING DOT SAFETY SENSITIVE X EXEMPT

DATE EMPLOYEE NEEDED 12/1/2008 CDL REQUIRED YES ☐ NO ☒

GL FUND & PROGRAM/SPLIT OUT 1010.2720 / 100% /

POSITION CONTROL #: _____

♦ **BUDGET STATUS**

1. ☒ EXISTING BUDGETED POSITION

<u>Susan Morgan</u>	<u>2124</u>	<u>11/20/2008</u>
NAME OF FORMER EMPLOYEE	EMP#	LAST DAY IN POSITION

2. ☐ NEW POSITION (REQUIRES HR DIV. APPROVED JOB DESCRIPTION & VALUATION)

POSITION AUTHORIZED BY: ☐ CURRENT ANNUAL BUDGET
☐ IN-YEAR BUDGET ADJUSTMENT

♦ **NOTES/COMMENTS**

ADVERTISE POSITION? Yes ☒ No ☐

DOES THIS EMPLOYEE NEED INTERNAL SERVICES TRAINING? Yes ☐ No ☒

OTHER COMMENTS:

♦ **APPROVAL SIGNATURES** (ALL SIGNATURES ARE REQUIRED TO OPEN A POSITION)

[Signature] 11/21/08
Division Head Date

Human Resources Division Date

Budget & Research Division _____ Date
[Signature] 11-26-08
Department Director Date

THIS EMPLOYEE REQUISITION FORM MUST BE PROPERLY COMPLETED WILL ALL APPROVAL SIGNATURES PRIOR TO THE HR DIVISION INITIATING ACTION TO FILL JOB OPENING.

EMPLOYEE REQUISITION
CITY OF FAYETTEVILLE

DEPARTMENT: Police DIVISION: Animal Services / Animal Shelter

♦ **POSITION DATA** (COMPLETE ALL ITEMS IN THIS SECTION)

TITLE Animal Services Caregiver

GRADE 103 FTE: 1.00 ☒ FULL TIME ☐ PART TIME ☐ TEMPORARY

*PRE-EMPLOYMENT DRUG SCREENING DOT SAFETY SENSITIVE ☒ EXEMPT

DATE EMPLOYEE NEEDED 12/1/2008 CDL REQUIRED YES ☐ NO ☒

GL FUND & PROGRAM/SPLIT OUT 1010.2720 / 100%

POSITION CONTROL #: _____

♦ **BUDGET STATUS**

1. ☒ EXISTING BUDGETED POSITION

Garland Pilgrim 3198 11/21/08
NAME OF FORMER EMPLOYEE EMP# LAST DAY IN POSITION

2. ☐ NEW POSITION (REQUIRES HR DIV. APPROVED JOB DESCRIPTION & VALUATION)

POSITION AUTHORIZED BY: ☐ CURRENT ANNUAL BUDGET
☐ IN-YEAR BUDGET ADJUSTMENT

♦ **NOTES/COMMENTS**

ADVERTISE POSITION? Yes ☒ No ☐

DOES THIS EMPLOYEE NEED INTERNAL SERVICES TRAINING? Yes ☐ No ☒

OTHER COMMENTS:

♦ **APPROVAL SIGNATURES** (ALL SIGNATURES ARE REQUIRED TO OPEN A POSITION)

[Signature] 11/21/08
Division Head Date

[Signature] 11/26/08
Human Resources Division Date

[Signature] _____
Budget & Research Division Date

[Signature] _____
Department Director Date



CITY OF FAYETTEVILLE

Position Description

POSITION TITLE: Animal Caregiver

EXEMPT (Y/N): No

SUPERVISOR: Animal Service Coordinator

DEPARTMENT: Police

DIVISION: Animal Services

CITY/EOC/CIG CODES: 19387

Job Grade: 103

ESSENTIAL DUTIES AND RESPONSIBILITIES: *Note: All City of Fayetteville positions require the employee to provide good customer service to both internal and external customers, maintain positive and effective working relationships with other City employees (especially members of his or her own team), and have regular and reliable attendance that is non-disruptive. Other essential duties of this position include the following:*

1. Clean, disinfect and maintain facility including; cages, walls and floors. Launder and disinfect bedding, toys, and towels in an efficient manner.
2. Feed and socialize animals; provide toys, beds and comforts of home.
3. Perform first view examinations of eyes, ears, paws, teeth, coat, weight and overall health, administer dog and cat vaccinations, flea and tick control and administer medications as directed by staff veterinarian.
4. Scan for and implant microchips.
5. Assist and hold animal during euthanasia.
6. Assist the public with adoptions and counsel potential adopters on training, behavior and pet care.
7. Educate the public about spaying and neutering and disease and illness prevention.
8. Handle feral cats and aggressive dogs.
9. Utilize safe handling practices and use of chemicals (bleach and disinfectant).
10. Ensure proper use and disposal of needles and syringes and safety equipment.
11. Properly restrain animals and assist in taking blood work.
12. Knowledge and use of computer in order to enter information on persons and animals, document behavior, medications and vaccines given.
13. Perform other duties as assigned.

SECONDARY DUTIES AND RESPONSIBILITIES include the following:

1. Perform office duties by answering phone, dispatching officers to calls, intaking animals, processing applications and adoptions, issuing city licenses and rabies tags, when officers are unavailable.
2. Secondary duties as assigned.

MINIMUM QUALIFICATIONS

1. High school diploma or GED.
2. Must be 18 years of age or older.
3. Ability to obtain animal caregiver certification within one year of hire date.
4. Effectively communicate with others orally and in writing.
5. Must be proficient in the use of a personal computer and other related software programs. Must be able to effectively operate standard office equipment.
6. Must be proficient in the use of a washer/dryer, safety gloves, cat capture tools, tongs, needles/syringes, micro chip scanner, hoses and disinfectant sprayers.
7. While performing the functions of this job, the employee is regularly required to talk and hear. The employee regularly is required to stand, walk, and sit; use hands to finger, handle, or feel; reach with hands and arms; climb or balance; stoop, kneel, crouch, or crawl. The employee must regularly lift and/or move up to 50 pounds
8. While performing the functions of this job, the employee is regularly exposed to wet/and or humid conditions, moving mechanical parts; fumes or airborne particles; toxic or caustic chemicals and outside weather conditions.

AGENDA REQUEST

*Added
at Agenda
Session
11-25-08*

C. 8
Chapter 162 Use Units
Page 1 of 4

FOR: COUNCIL MEETING OF DECEMBER 2, 2008

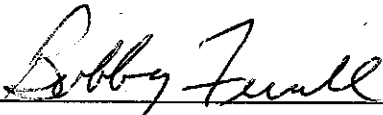
FROM:

ALDERMAN BOBBY FERRELL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend Chapter 162 Use Units Of The Unified Development Code §162.01
(O) Unit 15. Neighborhood Shopping Goods By Adding Recreational Vehicle Sales

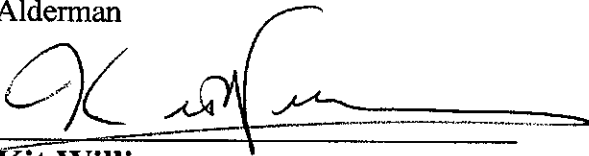
APPROVED FOR AGENDA:



Bobby Ferrell
Alderman

11-25-08

Date



Kit Williams
City Attorney (as to form)

11-25-08

Date

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND CHAPTER 162 USE UNITS OF
THE UNIFIED DEVELOPMENT CODE §162.01 (O) UNIT 15.
NEIGHBORHOOD SHOPPING GOODS BY ADDING
RECREATIONAL VEHICLE SALES**

WHEREAS, *Unit 15. Neighborhood shopping goods.* allows numerous uses including: bicycle shops, grocery stores, laundromats, dry cleaners, video rental stores, drugstores, etc. which generate traffic, but do not allow outside sales; and

WHEREAS, Recreational Vehicle Sales of scooters, motorcycles, ATVs, Personal watercraft and clothing accessories would be comparable to the existing allowed uses if no outside display or sales are permitted.

**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 **Chapter 162: Use Units**, §162.01 (O) *Unit 15. Neighborhood Shopping Goods* by adding Recreational Vehicle Sales to the Retail Trade table of allowed uses as shown on Exhibit "A" which is enacted as the replacement of the existing §162.01 (O) *Unit 15. Neighborhood Shopping Goods*.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

Exhibit "A"
Page 1 of 1

CHAPTER 162: Use Units

162.01 Establishment/Listing

(O) Unit 15. Neighborhood shopping goods.

- (1) *Description.* Unit 15 includes a variety of frequently purchased commercial goods, where convenience of location is more important than comparative shopping. These uses are grouped in limited areas while prohibiting all others not necessary near the residential areas.

(2) *Included uses.*

Retail Trade	
Apparel and accessory	
Bicycle shop	
Bookstores	
Camera shop	
Cellular telephones and accessories	
Clothing	
Drugstore	
Florists	
Food:	•Bakery •Food specialty stores •Dairy products •Grocery •Supermarkets •Delicatessen •Health food store
Home furniture store	
Jewelry	
Hardware store	
Hobby shop	
Laundry-coin operated	
Leather goods and luggage	
News and magazine stand	
Optical goods	
Pet shop	
Picture framing, retail	
Radio and television store	
Record, tape, and cd shop	
Recreational Vehicle Sales (interior display only, no outdoor display/sales)	•Scooter/Motorcycle •ATV •Personal watercraft
Service establishment:	•Dry cleaning •Barber and beauty shop (6 or fewer chairs) •Laundry
Shoe	
Sporting goods	
Stationary store	
Tailoring	
Toy shop	
Video rental store	



DEPARTMENTAL CORRESPONDENCE

Hiring Freeze Appeal
Financial Analyst
Handed out at the City
Council Meeting 12-02-08

TO: Mayor Dan Coody and City Council

THRU: Paul A. Becker, Finance Director *PAB.*

FROM: Kevin Springer, Budget Director *KS*

DATE: December 1, 2008

SUBJECT: **Hiring Freeze Replacement of Financial Analyst - Duties**

Below is a summary of the duties performed by the Financial Analyst position. I have broken them out based on what is done only by the Financial Analyst position and what is done by all positions.

Duties performed only by the Financial Analyst Position:

- Responsible for the monitoring of the Project Accounting System to ensure budgetary compliance is achieved. Currently there are over 180 projects with a budget of \$125 Million.
- Assists divisions with monitoring the current budget (\$10 Million) and developing the proposed budget. Divisions assigned to Financial Analyst include:
 - ▶ City Clerk/Treasurer
 - ▶ Mayor
 - ▶ Public Information
 - ▶ Building Safety
 - ▶ Current Planning
 - ▶ Engineering
 - ▶ Long Range Planning
 - ▶ Transportation
 - ▶ Accounting
- Prepares monthly Engineering Personnel Services allocation to capital projects.
- Responsible for the coordination of the Five-Year Capital Improvement Program.
- Coordinate the development and updating of the Cost Allocation Plan.

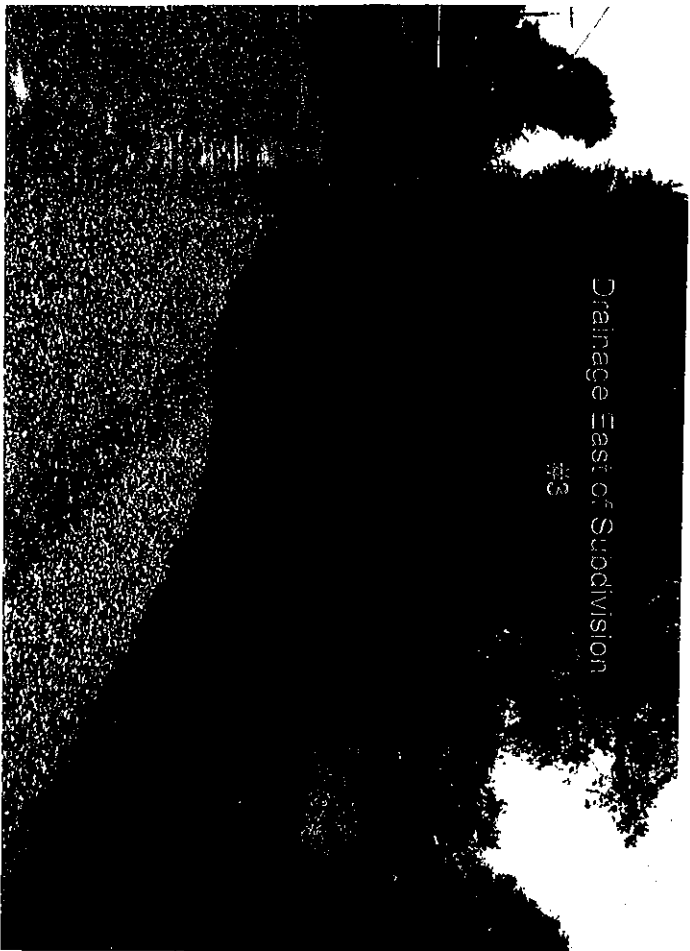
Duties performed by all of the staff positions:

- Provide consultation to all department directors, division heads, and project managers on capital budget and expenditure matters to ensure that all budget and accounting principles are followed.
- Assist with the coordination and production of a Mayor proposed budget and a City Council adopted budget including sufficient data to address the financial plan, operational plan, and policy directives of the City.

If you have any questions concerning the Financial Analyst job duties, please let me know. Thank you for your attention to this matter.

Amberwood Place Appeal
Handed out at the City Council Meeting 12-02-02

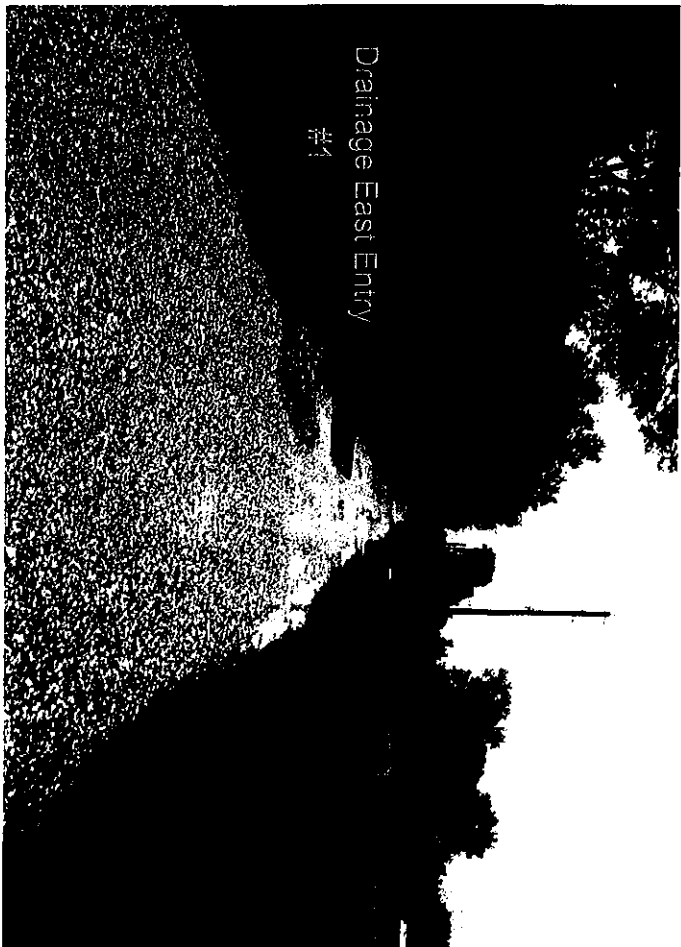




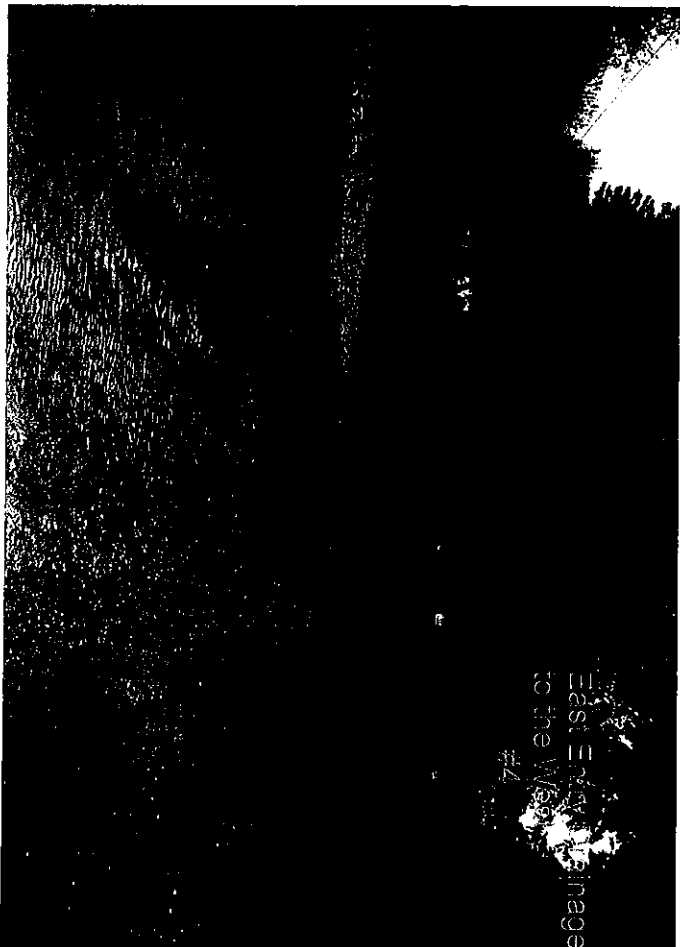
Drainage East of Subdivision
#3



West Entry Drainage
#2



Drainage East Entry
#1



East Entry Drainage
to the West
#4

Handed out at
the City Council
meeting 12-02-08

B.4

CHAPTER 164: SUPPLEMENTARY ZONING REGULATIONS

164.04 Animals And Fowl

- (A) It shall be unlawful for any person to permit or allow any domesticated animal or fowl to run at large within the corporate limits of the city.
- (B) Animals traditionally associated with the practice of livestock raising or farm animals, such as horses, goats, swine, chickens, cows and other such animals are not considered pets and are not permitted within any zoning district in the city limits, with the exception of R-A, Residential Agricultural, unless otherwise stated herein.
- (C) It shall be lawful for any person to keep, permit or allow any fowl within the corporate limits of the city in all Residential zones under the following terms and conditions:
- (1) The principal use of the property shall be a single family dwelling. No fowl shall be allowed in multi-family complexes, including two-family and three-family dwellings.
 - (2) No more than four (4) hens shall be allowed for each single-family dwelling.
 - (3) No roosters shall be allowed.
 - (4) There shall be no outside slaughtering of hens.
 - (5) ~~All hens must be kept in a secure enclosure constructed with a minimum of four square feet of area per chicken at least two feet above the surface of the ground when the owner is not present. When the owner is present all hens must be kept in the covered enclosure or a fenced enclosure at all times. All hens shall be kept in the side or rear yard, and may not be permitted in the front yard area. All hens must be kept in a secure, fenced enclosure constructed with a minimum area of 100 square feet. All hens shall be kept in the side or rear yard, and may not be permitted in the front yard area.~~
 - (6) A **chicken coop/roost area** enclosure shall not be located closer than forty (40) **twenty-five (25)** feet to any residential structure on an adjacent lot, and shall meet building setbacks.
 - (7) Enclosures must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons.
 - (8) Fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of this Ordinance.
 - (9) The City may further restrict the use of fowl within residential districts if it causes a public nuisance or public health issue as defined in City Codes.
 - (10) All regulations administered by the Animal Services Division shall be enforceable by law, and this ordinance shall not supersede or replace any regulation thereof.
- (D) The above Section C is not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl kept in areas of the City which are zoned R-A, Residential Agricultural.
- (E) *Separation of use.* The following uses, where permitted, shall be conducted no nearer than the following stated number of feet to the boundary of an R District, or to a dwelling on the same premises.

40 25 FEET

Fowl Enclosure **chicken Coop** in Residential districts (from residential dwelling on adjacent lot)

50 FEET

Animal hospital; serving household pets and similar small animals

Commercial breeding, raising

Boarding: breeding, raising, or boarding of household pets or similar small animals for commercial purposes

Kennel

Egg farm

100 FEET

Animal hospital: serving livestock and similar animals

Boarding or training of horses

Dairy farm

Poultry farm

Farm: for raising cattle, goats, horses, sheep, rabbits and

Fayetteville Code of Ordinances

poultry

200 FEET
Hog raising
Livestock: assembly, breeding, feeding, sales or shipment

(Code 1965, App. A., Art. 7 (3); Ord. No. 1747, 6-29-70;
Code 1991, §160.078; Ord. No. 4100, §2 (Ex. A.), 6-16-98)

City of Fayetteville, Arkansas

2009 Proposed Budget: Budget Amendments

Eliminate PEG Office Coordinator Position	\$ (43,000)
Add YRCC Recreation Programs Coordinator Position	\$ 43,000
Eliminate "State Bridge Cost Sharing Program" Project	\$ (249,000)
Increase "In-House Pavement Improvements" Project	\$ 249,000

During the December 1, 2008 City Council Budget Worksession, the following changes were made to the 2009 Proposed Budget:

- Alderman Allen proposed adding a new position for the Parks & Recreation Division to work in the Yvonne Richardson Center. The YRCC Recreation Programs Coordinator position will be budgeted at \$43,000 And will cover salaries and benefits. The funding and the 1.00 FTE will be transferred from the Cable Administration Division from the PEG Office Coordinator position.
- City Engineer, Ron Petrie proposed reducing the 2009 Budget for the State Bridge Cost Sharing Program capital project and transferring the \$249,000 to the In-House Pavement Improvements project.

Budget Amendment #1: Detail Backup

	Budget Addition/ (Reduction)
General Fund:	
Expenses: Eliminate PEG Office Coordinator Position	(43,000)
Add YRCC Recreation Programs Coordinator Position	43,000
<i>Increase / (Decrease) Fund Balance</i>	<u>\$ -</u>
Sales Tax Capital Improvements Fund:	
Expenses: "State Bridge Cost Sharing Program" Project	\$ (249,000)
"In-House Pavement Improvements" Project	249,000
<i>Increase / (Decrease) Fund Balance</i>	<u>\$ -</u>

City of Fayetteville, Arkansas
2009 Operating Budget
General Fund (1010)

	Actual 2007	Budgeted 2008	Estimated 2008	Budgeted 2009
<u>Operating Revenues:</u>				
Property Tax (7.9% Growth)	\$ 1,252,489	\$ 1,437,900	\$ 1,455,000	\$ 1,570,000
Sales Tax - County (2% Growth)	11,055,463	11,175,000	11,007,000	11,227,000
Sales Tax - City (2% Growth)	7,782,087	9,379,000	9,754,000	9,949,000
Alcoholic Beverage Taxes	452,783	463,600	463,600	478,000
Franchise Fees	4,621,999	4,898,300	4,898,300	5,020,000
Licenses & Permits	1,335,140	1,316,300	1,316,300	1,332,000
Intergovernmental	3,199,444	2,067,700	1,928,063	2,139,000
Charges for Services	1,303,649	1,601,400	1,510,228	1,568,000
Fines & Forfeitures	1,639,935	1,585,600	1,526,467	1,616,000
Investment Earnings	822,571	584,000	376,000	381,000
Other	419,215	203,200	180,090	104,000
Transfer In - Sales Tax Capital Improvements	0	311,000	311,000	417,900
Total Revenues	<u>33,884,775</u>	<u>35,023,000</u>	<u>34,726,048</u>	<u>35,801,900</u>
<u>Operating Expenditures:</u>				
General Government:	3,548,554	3,264,092	3,208,637	3,134,171
Salary Contingency	0	504,000	504,000	477,600
Turnover Allowance	0	(316,700)	0	(331,700)
Cost Reimbursements	(2,178,432)	(2,199,232)	(2,199,232)	(2,279,159)
Outside Agencies	803,450	735,235	735,235	803,569
Fayetteville Public Library	1,635,709	1,587,901	1,587,901	1,613,216
Operations	7,452,275	7,596,818	7,443,836	7,686,002
Finance	2,616,020	2,667,741	2,616,800	2,740,015
Police	12,921,823	12,964,095	12,629,589	13,480,234
Fire	7,953,911	8,219,050	8,094,873	8,477,952
Total Expenditures	<u>34,904,832</u>	<u>35,023,000</u>	<u>34,621,639</u>	<u>35,801,900</u>
Operating Income (Loss)	\$ <u>(1,020,057)</u>	\$ <u>0</u>	\$ <u>104,409</u>	\$ <u>0</u>
<u>Non-Operating Revenues/(Expenditures):</u>				
Prior Year Reappropriations - Revenues	0	71,113	71,113	0
Prior Year Reappropriations - Expenditures	0	(437,647)	(437,647)	0
City Council Approved Items - Revenues	0	417,248	417,248	0
City Council Approved Items - Expenditures	0	(422,193)	(422,193)	0
Non-Operating Income/(Loss)	\$ <u>0</u>	\$ <u>(371,479)</u>	\$ <u>(371,479)</u>	\$ <u>0</u>

City of Fayetteville, Arkansas
2009 Operating Budget
General Fund (1010)

	Actual 2007	Budgeted 2008	Estimated 2008	Budgeted 2009
UNDESIGNATED FUND BALANCE ANALYSIS				
Beginning Undesignated Fund Balance	\$ 9,323,387	\$ 8,303,330	\$ 8,303,330	\$ 8,036,260
Operating Income/(Loss)	(1,020,057)	0	104,409	0
Non-Operating Income/(Loss)	0	(371,479)	(371,479)	0
Total Increase/(Decrease) Fund Balance	(1,020,057)	(371,479)	(267,070)	0
Ending Undesignated Fund Balance	\$ <u>8,303,330</u>	\$ <u>7,931,851</u>	\$ <u>8,036,260</u>	\$ <u>8,036,260</u>

DESIGNATED FUND BALANCE ANALYSIS (Wilson Springs Funds)

<u>Designated Fund Balance Revenue/(Expense):</u>				
Partner with UA for Economic Development	\$ 0	\$ (75,000)	\$ (75,000)	\$ 0
Fayetteville Downtown Partners	(40,000)	0	0	0
2008 Arts Festival Cost Sharing	0	(12,500)	(12,500)	0
Technology Development Corridor Plan	0	(4,000)	(4,000)	0
Water/Sewer Fill Dirt Removal Contract	0	(19,068)	(19,068)	0
Industrial Park (Lot 31E) Sell to Schoby	0	60,000	60,000	0
Arkansas Air Museum - Cabinets	0	(41,000)	(41,000)	0
Change In Designated Fund Balance	(40,000)	(91,568)	(91,568)	0
<u>Designated Fund Balance:</u>				
Beginning Designated Fund Balance	1,264,327	1,224,327	1,224,327	1,132,759
Change In Designated Fund Balance	(40,000)	(91,568)	(91,568)	0
Ending Designated Fund Balance	\$ <u>1,224,327</u>	\$ <u>1,132,759</u>	\$ <u>1,132,759</u>	\$ <u>1,132,759</u>

City of Fayetteville, Arkansas
General Fund Expenditures

	Actual 2007	Budgeted 2008	Estimated 2008	Budgeted 2009
<u>General Government Department:</u>				
Mayor's Administration	\$ 330,687	\$ 348,039	\$ 344,165	\$ 343,397
City Council	76,455	80,844	78,451	80,534
City Attorney	291,562	320,459	313,082	322,802
City Prosecutor	603,838	533,614	540,291	538,763
Economic Development	62,151	73,168	65,263	73,146
Public Information	140,632	158,949	150,719	151,885
Cable Administration	216,963	225,319	209,462	170,821
Internal Audit	83,920	85,135	84,253	87,581
City Clerk/Treasurer	331,993	371,740	365,240	366,569
Fayetteville District Court:				
District Judge	158,486	165,464	163,003	161,782
Criminal Cases	302,014	300,216	297,669	305,654
Probation & Fine Collection	49,237	50,634	52,023	53,073
Small Claims & Civil Cases	169,081	187,455	181,960	193,860
Miscellaneous:				
Insurance	13,178	13,972	13,972	12,971
Settlements	21,668	20,000	20,000	20,000
Professional/Contract Services	124,926	222,578	218,573	90,000
City of Springdale	14,749	26,281	26,281	0
Washington County Sheriff	14,749	17,163	17,163	0
Property Taxes	42,712	45,465	43,860	43,860
Fixed Assets	327,827	5,927	5,927	0
Minor Equipment	108,172	0	0	0
Other	63,554	254,231	259,841	117,473
Total General Government Department	<u>3,548,554</u>	<u>3,511,653</u>	<u>3,456,198</u>	<u>3,134,171</u>
<u>Other Areas:</u>				
Fayetteville Public Library	1,635,709	1,587,901	1,587,901	1,613,216
	<u>1,635,709</u>	<u>1,587,901</u>	<u>1,587,901</u>	<u>1,613,216</u>
Salary Contingency				
Merit (6 Months @ 3.00%)	0	117,832	117,832	227,600
Progression (12 Months @ 3.00%)	0	4,637	4,637	250,000
Turnover Allowance	0	(316,700)	0	(331,700)
	<u>0</u>	<u>(194,231)</u>	<u>122,469</u>	<u>145,900</u>
Outside Agencies:				
Central Emergency Medical Service	270,000	268,632	268,632	268,632
Community Access Television (CAT)	93,000	93,000	93,000	93,000
Boys & Girls Club	62,500	64,000	64,000	64,000
Council on Aging/NWA ED District	25,000	25,000	25,000	25,000
Ozark Regional Transit	185,666	185,666	185,666	254,000
Razorback Transit	50,000	50,000	50,000	50,000
First Night Fayetteville	10,000	0	0	0
Arkansas Air Museum	24,478	41,000	41,000	6,000
Ozark Military Museum	5,869	6,000	6,000	6,000
N.W.A. Regional Planning	36,937	36,937	36,937	36,937
Fayetteville Downtown Partners	40,000	0	0	0
Total Other Areas	<u>803,450</u>	<u>770,235</u>	<u>770,235</u>	<u>803,569</u>

City of Fayetteville, Arkansas
General Fund Expenditures

	Actual 2007	Budgeted 2008	Estimated 2008	Budgeted 2009
<u>Operations Department:</u>				
Operations Director	71,718	74,825	73,481	77,128
Human Resources:				
Human Resource Operations	386,885	400,281	396,209	406,723
Employee Benefits/Services	716,156	794,253	803,653	707,253
Building Services:				
General Maintenance	475,834	504,096	529,906	508,288
Janitorial	211,689	227,777	224,472	227,932
Parking & Telecommunications:				
Utilities Management	339,476	395,249	357,065	406,043
Parking Management	188,716	200,449	197,755	204,700
Parks & Recreation:				
Swimming Pool	126,501	121,988	114,441	137,794
Administration/Recreation Programs	526,345	412,150	419,250	414,890
Lake Recreation	78,788	79,247	79,635	83,553
Park Maintenance	1,199,378	1,251,189	1,252,713	1,290,434
Yvonne Richardson Community Center	136,072	125,705	129,650	163,063
Planning & Development Management:				
Planning & Development Management Director	128,772	126,742	89,323	0
Long Range Planning	222,158	234,455	222,486	245,000
Engineering:				
Engineering Design Services	209,414	198,494	196,507	210,395
Operations & Administration	521,790	528,314	523,625	558,110
Right-of-Way Acquisition	101,188	95,399	89,733	98,310
Public Construction	314,040	311,905	311,137	326,057
Current Planning	457,820	533,766	468,897	549,545
Planning Commission	40,703	45,325	48,478	44,921
Building Safety	673,206	675,709	676,140	694,900
Community Code Enforcement	325,626	341,059	320,839	330,963
Total Operations Department	<u>7,452,275</u>	<u>7,678,377</u>	<u>7,525,395</u>	<u>7,686,002</u>
<u>Finance Department:</u>				
Finance Director	126,013	139,314	139,829	138,650
Accounting & Audit	689,136	711,185	697,055	720,235
Budget & Research	296,070	309,863	304,384	313,237
Purchasing	224,843	227,198	227,493	234,160
Information Technology	1,279,958	1,314,277	1,282,135	1,333,733
Total Finance Department	<u>2,616,020</u>	<u>2,701,837</u>	<u>2,650,896</u>	<u>2,740,015</u>
<u>Police Department:</u>				
Central Dispatch	1,221,728	1,288,416	1,273,719	1,354,781
Support Services	2,723,571	3,045,888	2,889,085	3,021,768
Patrol/Warrant	7,776,149	8,070,328	7,917,086	7,985,074
Transfer Out - Drug Law Enforcement	233,000	233,000	233,000	233,000
Animal Services:				
Animal Patrol/Emergency Response	347,640	327,546	362,526	352,920
Animal Shelter	404,036	429,741	424,703	388,909
Veterinarian/Clinic Program	215,699	230,904	191,198	143,782
Total Police Department	<u>12,921,823</u>	<u>13,625,823</u>	<u>13,291,317</u>	<u>13,480,234</u>

City of Fayetteville, Arkansas
General Fund Expenditures

	Actual 2007	Budgeted 2008	Estimated 2008	Budgeted 2009
<u>Fire Department:</u>				
Prevention	442,708	416,979	411,715	428,446
Operations	7,304,828	7,737,970	7,628,906	7,822,212
Training	206,375	236,828	226,979	227,294
Total Fire Department	<u>7,953,911</u>	<u>8,391,777</u>	<u>8,267,600</u>	<u>8,477,952</u>
<u>Transfers Out & Cost Reimbursement:</u>				
Transfer Out - Capital Improvements	151,522	8,700	8,700	0
Cost Reimbursement	(2,178,432)	(2,199,232)	(2,199,232)	(2,279,159)
Total Transfers Out & Cost Reimbursement	<u>(2,026,910)</u>	<u>(2,190,532)</u>	<u>(2,190,532)</u>	<u>(2,279,159)</u>
Total General Fund Expenditures	<u>\$ 34,904,832</u>	<u>\$ 35,882,840</u>	<u>\$ 35,481,479</u>	<u>\$ 35,801,900</u>

City of Fayetteville, Arkansas
2009 Operating Budget
Sales Tax Capital Improvements Fund (4470)

	Actual 2007	Budgeted 2008	Estimated 2008	Budgeted 2009
Revenues:				
Sales Tax	\$ 7,782,087	\$ 6,253,000	\$ 6,502,700	\$ 6,633,000
Intergovernmental	61,814	639,538	639,538	0
Charges for Services	1,840,782	508,177	502,282	59,000
Investment Earnings	947,499	605,000	428,229	260,000
Transfer From General Fund	151,522	8,700	8,700	0
Transfer From Replacement Fund	1,103,115	139,441	139,441	0
Transfer From Impact Fee Fund	0	5,500	5,500	0
Bond Sale / Capital Lease Proceeds	328,000	0	0	0
Other	442,335	10,000	37,225	0
Total Revenue	12,657,154	8,169,356	8,263,615	6,952,000
Expenditures:				
Audit Expense	5,600	6,400	6,400	6,700
Capital Improvements Projects:				
Fire Safety Improvements	2,852,265	1,028,679	1,028,679	817,500
Police Safety Improvements	425,310	509,892	509,892	232,000
Library Materials Purchases	318,000	325,000	325,000	341,000
Parks & Recreation Improvements	891,478	561,511	561,511	117,000
Bridge & Drainage Improvements	190,743	2,213,758	2,213,758	559,000
Street Improvements	4,646,844	4,424,567	4,424,567	164,000
Transportation Improvements	354,011	495,081	495,081	172,000
In-House Pavement Improvements	1,939,844	1,858,575	1,858,575	1,168,900
In-House Sidewalk Improvements	668,745	940,913	940,913	787,000
Trail Improvements	1,495,678	1,453,602	1,453,602	1,300,000
Information Technology Improvements	418,418	519,867	519,867	335,500
District Court/Prosecutor Facility	173,520	4,227,321	4,227,321	0
Other Capital Improvements	398,289	664,025	664,025	253,500
Water & Sewer Improvements	0	128,909	128,909	0
Fire Improvements Leasing Payments:				
Fire Apparatus Lease Payments	497,126	251,207	251,207	0
Transfer To General Fund	0	311,000	311,000	417,900
Transfer To Fire Bond	831,275	853,479	853,479	280,000
Transfer To Shop Fund	25,280	0	0	0
Total Expenditures	16,132,426	20,773,786	20,773,786	6,952,000
Income (Loss)	\$ (3,475,272)	\$ (12,604,430)	\$ (12,510,171)	\$ 0

FUND BALANCE ANALYSIS:

Beginning Fund Balance	\$ 16,753,000	\$ 13,277,728	\$ 13,277,728	\$ 767,557
Income (Loss)	(3,475,272)	(12,604,430)	(12,510,171)	0
Ending Fund Balance	<u>\$ 13,277,728</u>	<u>\$ 673,298</u>	<u>\$ 767,557</u>	<u>\$ 767,557</u>
Less: Project Fund Reserve	(1,161,083)	(198,141)	(198,141)	(198,141)
Undesignated Ending Fund Balance	<u>\$ 12,116,645</u>	<u>\$ 475,157</u>	<u>\$ 569,416</u>	<u>\$ 569,416</u>

City of Fayetteville, Arkansas
Sales Tax Capital Improvements Fund
Capital Budget

Project Category	Project Title	Budgeted 2009
Audit Expense	Audit Expense	\$ 6,700
		<u>6,700</u>
Fire Safety Improvements	Fire Apparatus Purchases	500,000
	Fire Facility Maintenance	27,000
	SCBA Replacement	290,500
		<u>817,500</u>
Police Safety Improvements	Police Technology Improvements	75,000
	Police Unmarked Vehicles	30,000
	Police Building Improvements	20,000
	Specialized Police Equipment	30,000
	Covered Vehicle Unloading Dock - Animal Svcs	22,000
	Resurface Kennel Runs - Animal Svcs	55,000
		<u>232,000</u>
Library Material Purchases & Improvements	Library Material Purchases	318,000
	Library Computer Replacements	23,000
		<u>341,000</u>
Parks & Recreation Improvements	Forestry, Safety & ADA Compliance	32,000
	Tree Escrow	59,000
	Lights of the Ozarks	26,000
		<u>117,000</u>
Bridge & Drainage Improvements	Drainage Study/Phase II Stormwater Management	200,000
	Other Drainage Improvements	359,000
		<u>559,000</u>
Street Improvements	Global Positioning System	34,000
	Street/ROW/Intersection Cost Shares	130,000
		<u>164,000</u>
Transportation Improvements	Traffic Signal Improvements	172,000
	In-House Pavement Improvements	1,168,900
	In-House Sidewalk Improvements	787,000
		<u>2,127,900</u>
Trail Improvements	Trail Development	1,300,000
		<u>1,300,000</u>

City of Fayetteville, Arkansas
Sales Tax Capital Improvements Fund
Capital Budget

Project Category	Project Title	Budgeted 2009
Information Technology Improvements	Document Management	27,500
	Geographic Information System (GIS)	110,000
	Local Area Network (LAN) Upgrade	100,000
	Printer Replacements	18,000
	Microcomputer Replacements	55,000
	AccessFayetteville Technical Improvements	25,000
		<u>335,500</u>
Other Capital Improvements	P.E.G. Television Center - Equipment	42,000
	Building Improvements	173,000
	Telecommunication Systems Upgrades	16,000
	Energy Efficiency Program	12,500
	Laptop Computers for Council Chambers	10,000
		<u>253,500</u>
Transfer to General Fund	Transfers to/from Sales Tax Fund	<u>417,900</u>
		<u>417,900</u>
Transfer to Fire Bond	Fire Station #3/#5 - Lease Payment	<u>280,000</u>
		<u>280,000</u>
		<u>6,952,000</u>
		\$ <u>6,952,000</u>

C.1
Park West, LLC Cost Share
Handed out at the City Council Meeting 12-02-08

**CONTRACTUAL AGREEMENT FOR
COST SHARE OF STREET CONSTRUCTION COSTS**

This Agreement, made and entered into on this 2nd day of December, 2008 by and between the City of Fayetteville, Arkansas and Park West, LLC and Tracy Hoskins (principal shareholder and director), Witnesseth:

WHEREAS, Park West, LLC will be constructing a portion of a transportation corridor through Phase I of Park West development that will replace Highway 112 (Garland Avenue) in the future when all Phases are complete; and

WHEREAS, the City of Fayetteville passed a Transportation Bond program that included funds for the widening of Garland Avenue; and

WHEREAS, the City of Fayetteville's Street Committee has recommended that the route of the existing Highway 112 be realigned through the Park West property in order to eliminate two dangerous ninety degree bends; and

WHEREAS, Park West LLC and Tracy Hoskins (its principal shareholder and director) plan to continue the development of Park West along the proposed corridor for the relocated Highway 112 within the next five years.

NOW, THEREFORE, the City of Fayetteville, Park West, LLC and Tracy Hoskins agree as follows:

1. The City of Fayetteville agrees to:

- A. Pay for 50% of the new Highway 112 boulevard section in Phase I up to a maximum-not-to-exceed amount of **\$2,157,000.00** for street construction as was estimated by the developer's representative and shown on Exhibit "A", attached.
- B. Make reasonable efforts to provide payment to Park West, LLC within thirty (30) days after receipt of valid invoices but cannot guarantee all thirty day payments will be made within the thirty day period.

2. Tracy Hoskins and Park West, LLC agree to:

- A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable street installation.
- B. Provide a copy of the invoices from the Contractor and a completed lien waiver executed by the Contractor upon acceptance of the street construction.

C. Dedicate sufficient right-of-way for a boulevard section to be constructed in the Highway 112 Phase I cost share as shown on Exhibit "B".

3. It is further understood that the contract for construction is between Tracy Hoskins, Park West, LLC and their Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$2,157,000.00 for the street construction.

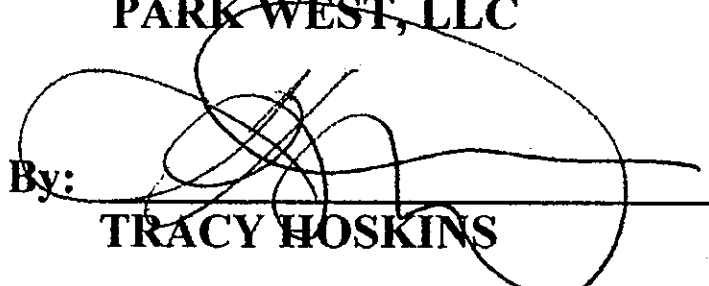
4. Within five (5) years or upon development approval along or near Phase II of the Highway 112 relocation project (whichever comes first), Tracy Hoskins, Park West, LLC or any successor owner shall dedicate to the City of Fayetteville or the State of Arkansas at least the sufficient right-of-way for half of the boulevard (50 feet) pursuant to the Master Street Standards. If this corridor property is approved for development with this street configuration, Park West, LLC or its successor shall be required to construct this street to Arkansas Department of Transportation standards for state highways.

5. The City of Fayetteville, Tracy Hoskins and Park West LLC may agree to a future cost share to construct this connection to Highway 112 as a boulevard and may seek to obtain funding for this project from state or federal sources.

6. If Park West has not commenced development by November 30, 2010, this contract is of no effect and is rescinded unless expressly extended by both parties.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

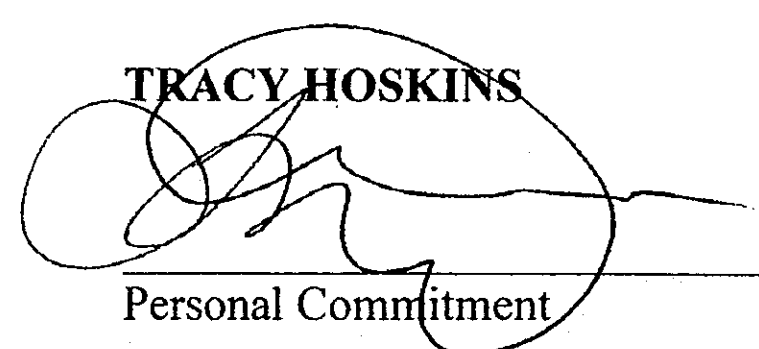
PARK WEST, LLC

By: 

TRACY HOSKINS

Title: 

TRACY HOSKINS


Personal Commitment

CITY OF FAYETTEVILLE

By: _____

DAN COODY, Mayor

Attest:

By: _____

Sondra Smith, City Clerk

EXHIBIT A

New Highway 112 Relocation Project
Estimate of Project Costs

Engineer - McKeehan Engineering 9/17/2008

STREETS AND DRAINAGE	
I - TOPSOIL EXCAV, C & G	
ITEM	
Site Prep: clearing, grubbing, soil removal	\$32,946.37
On-site placement, compaction of haul-in material (avg 4.5')	\$788,247.55
Undercut (up to 36" avg)	\$132,883.70
SUBTOTAL	\$954,077.62

II - A. CURB AND GUTTER	
ITEM	
2' wide standard concrete curb & gutter	\$169,871.94
SUBTOTAL	\$169,871.94

II - B. PAVEMENT SECTION	
ITEM	
Subgrade Preparation	\$15,946.04
Asphalt Paving (70-22) (1.5" Base Course, 1" Binder, 3/8" surface)	\$1,028,973.40
Regular Duty Asphalt (2" Asphalt over 6" Class 7 Base)	\$81,884.42
Tack Coat (0.10 gal/sy)	\$3,957.59
Prime Coat (0.03 gal/sy)	\$1,486.47
Line Striping (Thermoplastic 4")	\$13,151.38
Crosswalk striping and bars	\$3,444.41
SUBTOTAL	\$1,148,843.71

III - SIDEWALKS	
ITEM	
Concrete sidewalk with BC ramps	\$97,417.60
SUBTOTAL	\$97,417.60

IV - STORM SEWER PIPE CONST.	
ITEM	
18" RCP	\$62,469.04
24" RCP	\$13,699.35
30" RCP (Park West Phase 1B area crossing)	\$33,204.62
42" RCP (Relocated Hwy 112 Crossing at Existing Hwy 112)	\$0.00
Triple 5'x10' RCB Culvert (East end of project existing 112)	\$0.00
Concrete Channel Lining (Park Heights Area)	\$0.00
Bridging Structure over S2	\$350,000.00
SUBTOTAL	\$459,373.00

V - STORM INLETS/JUNC. BOXES	
ITEM	
Curb Inlet	\$48,795.78
Rip Rap	\$2,391.85
4' Inlet Extension (average of J2 total inlet length)	\$8,132.63
SUBTOTAL	\$59,320.36

VI - INST. PIPE END SECTIONS	
ITEM	
Endwall (West End of relocated 112)	\$7,828.20
SUBTOTAL	\$7,828.20

PART A - Streets and Drainage	\$2,390,512.93
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VII - MISCELLANEOUS	
I - MISC. CONSTRUCTION ITEMS	
ITEM	
Mobilization	\$175,000.00
Right of Way Acquisition (approx 611,800 SF near 112)	\$816,985.89 \$0.00
Right of Way Acquisition (approx 103,305 SF old 112 to Salem Rd)	n/a
Engineering & Surveying Fees (approximate)	\$169,200.00
Permitting (COE, AHJ, ADEG, City of Fayetteville)	\$2,500.00
Intersection Signalization	\$150,000.00
Maintenance of Traffic	\$18,000.00
Remove & Dispose Asphalt Paving	\$3,103.33
Street Lights	\$22,832.25
Culvert Crossing (at FVDC)	\$9,312.00
SUBTOTAL	\$1,385,853.47

II - LANDSCAPING	
ITEM	
Landscaping (incl street trees, wetlands)	\$264,600.00
SUBTOTAL	\$264,600.00

III - EROSION CONTROL	
ITEM	
Silt Fence	\$17,587.20
Filter Sock (parallel to existing ditch)	\$15,405.00
Inlet Protection	\$2,957.32
SUBTOTAL	\$35,949.52

IV - RE-VEGETATION	
ITEM	
Seeding, Mulching, etc.	\$3,821.10
SUBTOTAL	\$3,821.10

PART B - Erosion Control	\$43,433.82
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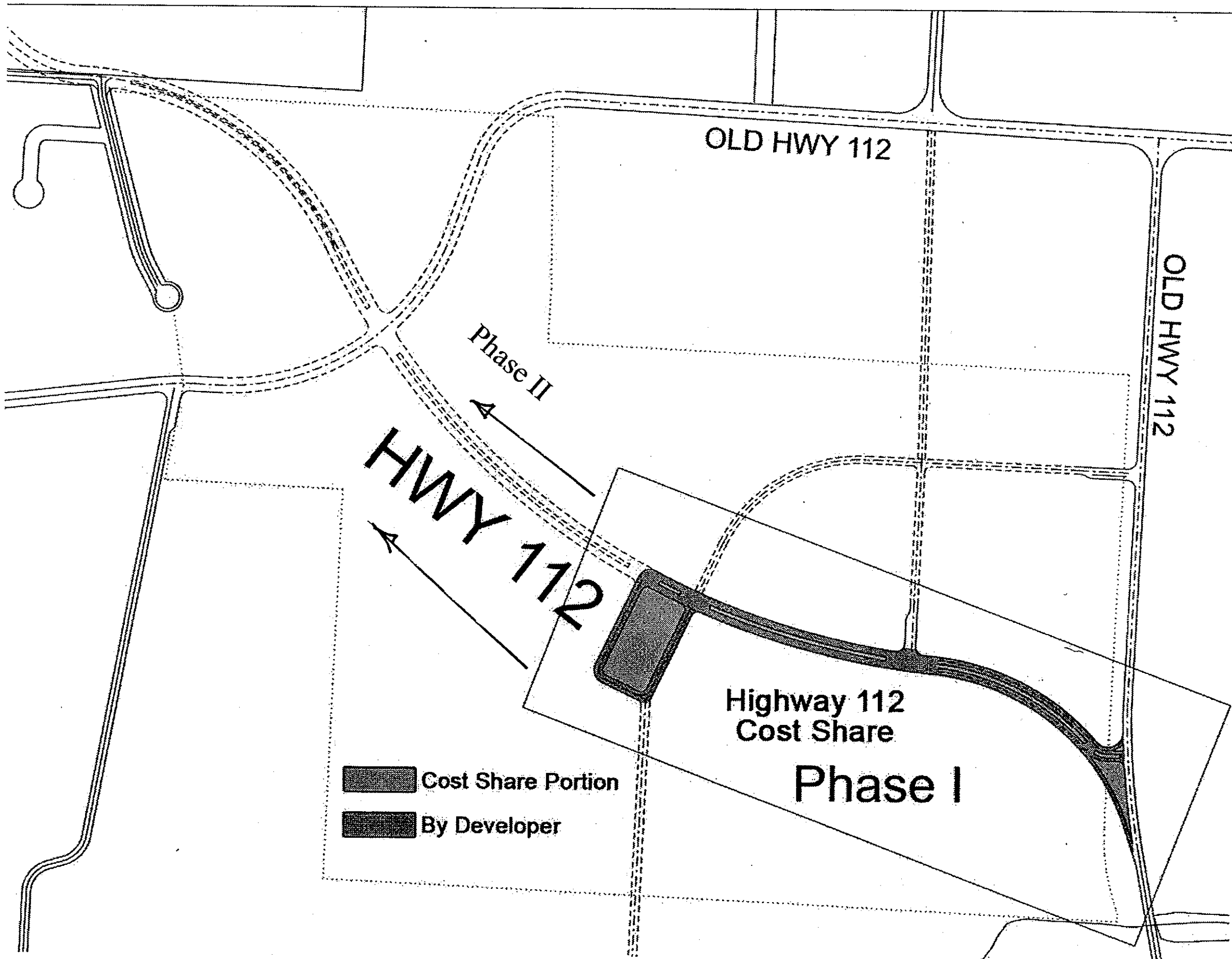
15% Contingency	\$685,043.48
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\$3,751,053.63

\$562,946.37

\$4,314,000.00

EXHIBIT B



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
November 6, 2008**

A meeting of the Fayetteville City Council was 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.

Mayor Coody called the meeting to order.

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

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

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:

Marsha Melnichak Resolution: Added before Consent.

Fayetteville District Court Record Destruction: Added at the beginning of New Business.

Romine Lawsuit Settlement: Added at the end of New Business.

The following Resolution was added to the agenda:

Alderman Ferrell moved to add the Marsha Melnichak Resolution to the agenda. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

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.

City Attorney Kit Williams read the resolution.

Mayor Coody read a proclamation honoring Marsha Melnichak.

Mayor Coody complimented Marsha regarding her fairness and accuracy when reporting.

Marsha Melnichak: I am stunned and I can't thank you enough. You make me feel like a part of the community even though I have only been here a few years. You have shown me what it means to be a community even when there are disagreements and diversity. Fayetteville is the place where it happens and I thank you all for this award.

Mayor Coody: Thank you.

Alderman Allen: I speak for all of us in saying we think you are the best and you are in our thoughts and prayers. We are delighted to see you tonight.

Mayor Coody also recognized Marsha's daughter Marilyn.

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

Resolution 197-08 as Recorded in the office of the City Clerk

Alderman Thiel: I think a lot of Marsha and I want her to know that publicly. She has meant a lot to me.

Alderman Rhoads: I have an appreciation for journalist and from that appreciation I would like to join in by saying that Marsha you were always a delight to work with and to watch you do your job and to watch the end result, it was accurate and impartial and truly what I think a journalist should be. I also salute you.

Alderman Ferrell: The thing that I really like about you a lot is your humor. No matter what the subject was we always injected humor. That is the spice of life.

Mayor Coody: It is obvious Marsha that you have really worked your way into the hearts of all of us at City Hall and we appreciate you and wish you the very best.

Consent:

Approval of the October 21, 2008 City Council meeting minutes.

Approved

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.

Resolution 198-08 as Recorded in the office of the City Clerk

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.

Resolution 199-08 as Recorded in the office of the City Clerk

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.

Resolution 200-08 as Recorded in the office of the City Clerk

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.

Resolution 201-08 as Recorded in the office of the City Clerk

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.

Resolution 202-08 as Recorded in the office of the City Clerk

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.

Resolution 203-08 as Recorded in the office of the City Clerk

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.

Resolution 204-08 as Recorded in the office of the City Clerk

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.

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.

Resolution 205-08 as Recorded in the office of the City Clerk

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.

Resolution 206-08 as Recorded in the office of the City Clerk

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.

Resolution 207-08 as Recorded in the office of the City Clerk

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.

Resolution 208-08 as Recorded in the office of the City Clerk

Alderman Jordan moved to approve the Consent Agenda as read with Item # 9 Westside Storage Inc. removed from the Consent Agenda. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

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.

City Attorney Kit Williams: I discussed this with Jeremy Pate and there are two provisions in the memo that was received from Ron on this. One was the settlement amount which was in the resolution. The second part was the fact that because we are affecting the access to that unit from Ruppel Road people pulling trailers would have a hard time getting in there. In order to resolve this issue Ron stated in his memo we need to withdraw that to release the owner from

that particular requirement so that the access can be from Wedington Road. That is why I have written the changes.

Jeremy Pate: It simply wasn't clarified in the original resolution and the new resolution clarifies that. I just wanted to make sure for future record that the Bill of Assurance is amended.

Alderman Ferrell moved to amend the resolution. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

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

Resolution 209-08 as Recorded in the office of the City Clerk

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals: None

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.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the Southpass items. There will be a presentation by our Parks Staff discussing the phasing and the cost associated with Parks and different funding options.

Alison Jumper, Park Planner II gave a brief slide presentation on the phasing and funding for Southpass.

Alderman Thiel: Do I understand that through 2011 it is showing phase A? So that is the soccer fields, concession, restroom, large playground, large shelter, great lawns, splash pad and trails. That does not include softball.

Alison Jumper: That is correct.

Alderman Thiel: The next phase is the baseball fields. Is there going to be any money in the budget to improve our current baseball fields that need some maintenance and work?

Alison Jumper: That may be a question for Connie on the funding side of it.

Alderman Thiel There are a lot of concerns from the public about the current condition of our fields.

Connie Edmonston, Parks and Recreation Director: I understand that concern. The fields are actually pretty good. It is the layout of the fields and some of the facilities, like the bleachers. We will keep them safe for our participants and we will be looking for donors. When we receive the deed we will be starting major fundraising. Hopefully we will be able to raise the funding so we can start the baseball a lot earlier than 2011. I think there is enough interest in our community and the nation for baseball that we will be able to do so.

Alderman Allen: Then what will become of the Walker field baseball park?

Connie Edmonston: We will keep some of the fields there and some of them will be turned back into greenspace. We will have some public meetings and we will decide how that neighborhood and the community would like Walker Park to develop.

Alderman Allen: I hear that a lot of people feel that they might be in the same predicament as some felt they were with the Boys and Girls Club. Everything is moving away from them and nothing is being maintained. That is a concern of mine too.

Connie Edmonston: We will have some fields there that teams can practice on and also when we are hosting large tournaments, teams can go there and play as part of it.

Alderman Allen: How are many of these children going to get to the new ones because their parents don't have the ability to get them there?

Connie Edmonston: It has been my experience that the parents pick up the slack and help to get the kids there. If there is a child that cannot make the games then other parents make certain that they are there.

Alderman Allen: I know that there is not an outreach program as I would like to have for the Boys and Girls Club. I just don't want there to be more leaving of the areas where some of those children can walk and be a part of things. I just want us to be careful and not exclude any segment of our population as we grow.

Connie Edmonston: I agree with you. I doubt if there are many kids today that will walk to Walker Park for a baseball game because the traffic is tremendous there. We will have our ears open and maybe by then we will have a program in place that can get the children there.

Alderman Allen: I just want us to not forget them.

Alderman Ferrell: Are the dollars for these future phases projected to be the dollars that will cost then or are they current projections?

Connie Edmonston: Those are 2008 dollars. Our hope is that we will be way ahead of schedule. As soon as the deed is given to us we will start a major fundraising program. We will also be looking for every type of grant that is available. We would also be looking at some public/private partnerships in amenities. The last thing is we could consider a special referendum for sales tax and also HMR Bond money. We are good until 2011. We want to be

better before 2011 and have the money for baseball. Hopefully we will get the money and get everything built. We are moving soccer first because we do not own the land that our soccer program is played on at Lewis Park. We know that Walker Park is also a very important need and that is why it is before the girl's softball program, baseball will be next and we hope it will be done a lot sooner.

Alderman Cook: As we look at this a lot of the infrastructure costs are going to fall under the Parks Department. They are going to bare the brunt of the financing for this. Fundraising is a whole new realm for the Parks Department. Would you say that any of these are more likely to happen more than the other ones? Do you have any other comments on the funding sources?

Connie Edmonston: We would like to first try and see how hard we can work to get money donated for it or have a private partnership and look at the different grants that are available. I would like us to see what we can do first. Until 2011 we can get at least the soccer and the great lawn done. We can show that we are making progress with it and I think once we start the turning of the ground the baseball will fall into place a lot sooner.

Mayor Coody: We need to remember that 2011 is less than 26 months from now.

Alderman Lucas: You mentioned traffic is so bad around Walker Park now. It looks like to me in this first phase we are going to have one entrance into the park is that right?

Connie Edmonston: We will have one until the second one comes in.

Alderman Lucas: That is around 2015?

Connie Edmonston: The Boys and Girls Club had one entry going in for quite some time but I really think that we will be fine. We can schedule games for a while if we do run into problems and have a 15 minute period in between ball games so that people can leave and people can come. When we start looking at this there might be some little parking lots that would be tucked in these areas. We would also encourage people to bring as few cars as possible.

Alderman Lucas: There is going to be quite a bit of maintenance to this park, where do you figure that money is going to come from.

Connie Edmonston: For the soccer fields we will be giving up the other soccer field.

Alderman Lucas: These are going to be more aren't they?

Connie Edmonston: They will be bigger but we can mow a soccer field in 15 minutes with our equipment.

Alderman Lucas: So you don't think you will need more personnel?

Connie Edmonston: We eventually might, but with Phase I we can definitely say no. Once we move baseball there we are going to start to probably have more and with the trails we are building. If we continue to build Parks and Trails in other parts of our City throughout the years with all that combined together yes.

Alderman Lucas: All the more reason to think about changing that to maintenance too on that tax that we have.

Alderman Thiel: Do we have a breakdown of the total cost of this cost share and the parks that we are going to have pay for, streets, parks, and water and sewer, etc?

Alison Jumper: That is included in slide 5 in the table.

Alderman Thiel: We have another sheet that is showing \$39 million.

Alison Jumper: Right the \$39 million was the option if we were not partnering with Southpass. The \$26 million is if we do partner with Southpass and do the 50/50 cost share on the roads.

Alderman Thiel: Does it say who pays for whether it is a Street Fund or whether it's Water and Sewer?

Alison Jumper: It doesn't but the column that says "City Development Total" are items that are not coming out of parks. They are either coming out of the Sewer or Transportation.

Jeff Erf, a citizen discussed the agreement that the City entered into with the developers back in September of 2004. He read certain obligations that had to be met prior to the project being completed. He asked how close are we to actually accomplishing that contingency. He asked what the process is for actually making the transfer or the annexation happen.

City Attorney Kit Williams: These were the contingencies that the developer's of Southpass wanted however they have the right to waive a contingency if they don't feel like it is any longer necessary. The City of Fayetteville made a request to the Fayetteville and Greenland School District to favorably consider transferring that property. We were supposed to in the contract make a request and we did so. The key question must be is this the kind of contingency that was put there by the developer that the developer now says if that doesn't work there is no contract. For that answer you have to ask Mr. Alexander.

Richard Alexander, the developer: We waived that quite a while back. We were hopeful that it could be. It was our desire that any future development and the tax revenues generated by that development go to the Fayetteville School District. We sought consultation with the City and Park staff, designed the project so that most of the development took place in the Fayetteville School District, so most of the revenues generated by the project would benefit the Fayetteville School District. We have waived that orally in conversations with the City Attorney and other City staff and do so publicly. It is our hope that we can still locate a Fayetteville Elementary or K-7th school on the site.

Jeff Erf: Your September 8th letter indicated that most of the property is located within the boundaries of the Greenland School District. He just said that it is not. Regarding the waiving of that contingency should this contract not be amended first? Is this not binding in any way?

City Attorney Kit Williams: I believe the contract is binding but that does not mean that the parties cannot agree to an amendment of it. Especially because this was a provision that was only being requested by the developers and you heard them say that this is no longer a condition of the contract. So the remainder of the contract remains binding and in full force.

Jeff Erf: So they can unilaterally make that decision without City Council agreeing to those terms?

City Attorney Kit Williams: Obviously this was a contingency that they wanted. This was not a contingency that the Fayetteville City Council wanted. We did not request that, this is something they requested. It was to their benefit not necessarily to ours. There are certain things in here that we have to do but these other things we have no control over so they can withdraw that request and the rest of the contract remains binding.

Jeff Erf: Are they going to be required to post some sort of bond guarantee on the million dollars so we know that it's in the bank when we start construction?

City Attorney Kit Williams: There is nothing in the contract that says they have to post any kind of bond on that. Assuming the land is annexed, the PZD is approved and the Southpass Developers have agreed that all of the contingencies within the contract are to their satisfaction and have been accomplished or waived, at that point in time we would expect a deed from them for the 200 acres. Once we begin construction on the park amenity that would be the time that the million dollars would become due and payable.

Jeff Erf: What happens if they don't have the money?

City Attorney Kit Williams: I guess at that point in time if they don't have the money we would have the deed to the park land and we would have a cause of action against them for a million dollars because their contract says that they will give it to us.

Jeff Erf: I think it would be easier if they would put up some sort of guarantee. I would encourage you to vote against the annexation.

Barbara Moorman, a citizen read an article from the newspaper that gave reasons to turn down the project. She went on to speak on changes in the past four years that are not reflected in the agreement. She stated you have good reasons to tap the brakes and not approve the Southpass items tonight.

Steven Donald, a citizen briefly commented on the contract. He stated all the contingencies have to be fulfilled before the developer is obligated to take an action. If I remember correctly at the last meeting the statement was made that \$17 million has already been invested so it sounds like the contract was written backwards. He went on to speak on the cost share and the funding of the project. He expressed his views on raising the sales tax. He stated as a voter this project is not even in the ballpark when it is compared to other tax revenue needs.

Richard Alexander: We are here because the City needed a park and we responded to an RFP in that regard. The money has been spent and the master plan has been developed. There have been some negative comments generally from the same handful of people. They ignore the economic potential benefits of this project. He went on to speak on the landfill and read the findings of Arkansas Department of Environmental Quality. He also spoke on the park itself and stated I suggest the City Council read this letter from ADEQ. I believe it answers the questions previously posed by the Council. I think it does so in an affirmative way.

Alderman Ferrell: You are an attorney aren't you?

Richard Alexander: Yes.

Alderman Ferrell: I know you guys don't own the easement conveyed to the City but let's just say you did and you got this document from ADEQ which says monies. Would you be satisfied with that that it said monies instead of whatever remedies needs to be paid for will be paid for by the Post Closure Trust Fund?

Richard Alexander: It is my understanding that the City by virtual of being a governmental entity within the estate has certain abilities or privileges with respect to the ADEQ and access to this money that other individuals would not enjoy. I made my position clear on the front end. I was in no way going to accept responsibility for this landfill. I believe the City has access to the ADEQ and this fund that would not be enjoyed by private individuals. I think that always played into the City's determination to go forward with this project and to deal with this landfill since they did have that ability. My answer would be different for a private individual than it would be for a governmental entity.

Alderman Ferrell: It says monies.

Richard Alexander: Well that is open ended in my opinion and that means as much as it takes.

Alderman Thiel: The land the City was looking at originally to buy for a park, we could not afford it and that is when we discussed entering into a partnership with someone and that was not all the property that you have now right?

Richard Alexander: Yes that is right.

Alderman Thiel: You have added how much?

Richard Alexander: We added 83 acres.

Alderman Thiel: What was the asking price whenever we decided not to purchase the original property from Cummings?

Richard Alexander: The City originally disclosed to us that they had an option to purchase the Cummings farm for \$6.9 million, that turned out not to be the case. When it came down to close on the land it was \$8.6 million for the original Cummings farm. In addition to that we had to buy the six acres that comprised the old house and that was the subject of a litigation.

Mayor Coody: The reason those numbers were different was because when Steve Davis was here we did not have a legal option to purchase. There was always this option to purchase this land out there if we so chose. That is not the same as purchasing and opting, we just had the option to buy it if we wanted it. That got transposed into people thinking we had an option to purchase. That was just a poor choice of words. The \$6.9 million, was that the number?

Richard Alexander: It never was.

Mayor Coody: The reason that \$6.9 million number was there was because when I went to the trustee for the family I was trying to work a deal where we had some kind of a basis. When we told the Cummings family we wanted to buy 200 acres for the regional park they said we will sell you the 200 acres but only if we can sell you the entire 800 acre parcel. There was no way we could buy the 800 acres. Then in trying to figure out this kind of arrangement where we could do a public private partnership where we could get the 200 acres given to us for free the trustee said I can take this to the family and I think they will take it. So that is where the \$6.9 million came from. When he took that to the family they didn't take it and they came back with another number.

Richard Alexander: The net of that was we paid \$8.6 million and then we had to buy the 6 acre farm and house in the middle.

Alderman Thiel: I just wanted to know how much the City could have purchased this for. The concern I am having with this project is the cost of the infrastructure and the cost shares. I just wanted this as a basis for a further discussion.

Richard Alexander: In order to get where we are today you would have had to have spent whatever the initial purchase price was then the interest carry, which is significant for the four years that it took to develop the master plan, the parks plan, the experts, the surveys and the engineering. That price over the last four years from whatever we initially paid to \$17 million currently clocking about \$100,000 per month in interest.

Alderman Thiel: The question was what it would have cost the City to have purchased this.

Richard Alexander: I think you could have bought it for the same thing we did which is \$8.6 million dollars.

Mary Bassett, a citizen stated since I have been here I don't know of any developer that has donated this type of acreage to the City of Fayetteville for any development let alone a park. She stated it would be great to have a regional park. I am 100% in support of this project.

Phillip Watson, representative from the Fayetteville Ultimate Club stated we are in need of more sports facilities. We were very excited to hear that there was something coming down the track. He stated this is a park that needs to happen and I really do hope that it does.

Aubrey Shepherd, a citizen asked the Council to please make it five PZD's if it is approved so the rest of the land won't be touched. He went on to discuss the potential environmental problems with the project.

Alderman Rhoads: Is the message that if we approve this to make sure that we have people on the ground to make sure that things are done properly? If that is the message we understand.

Aubrey Shepherd: We don't have enough people to do that today for the parks and development that we have.

Alderman Rhoads: I got the message.

Aubrey Shepherd: It's hard to be sympathetic to someone who pays \$100,000 per month on a debt for a project that they can't be sure they will be able to build anytime soon.

Keith Cooper, a citizen asked where the money is coming from. Are we going to have millage increases or can we do it some other way?

Mayor Coody: We do not plan on any tax increases for this. We have an existing revenue stream from HMR tax for park development and we have other funds like impact fees.

Keith Cooper: For the infrastructure too?

Mayor Coody: Yes. We are not going to go out and in one year build the whole infrastructure for this thing. This is spread out over many phases over many years.

Keith Cooper: My concern is simply if you are having trouble right now staying within the budget on your core services this is going to be something else that is going to come in with infrastructure and that is what I am worried about.

Skip Lacey, a business owner and home builder stated I whole heartedly support the project. I think it is going to be good for the future.

Alderman Thiel: On this cost sheet that we have, does this include the sewer cost? I don't see sewer.

Alison Jumper: Under the City development total the \$744,880, that is the sewer cost for the site.

Alderman Thiel: The City road cost share then, that part is from the bond.

Alison Jumper: No, under the same column, those numbers are going to be paid for from the bond. The \$1.1 million and the \$595,000 are the roads to the water tank and also the Shiloh extension.

Alderman Thiel: So that is the entire cost of the sewer right?

Ron Petrie: That is 50%, which is the City's share.

Alderman Thiel: Even though we have in our mind that nothing is going to be touched on any area except the phase that is being worked on, they are running sewer up the hills and basically the whole hillside is being torn up. Is that the way it's going to be or is it going to be done in phases to where they are only working on that one phase at a time?

Ron Petrie: We really just have a concept PZD. I don't think we can answer that specifically right now until we start looking at the development itself.

Alderman Thiel: That is problematic for us because we are looking at approving something that could have a major affect. The thing that concerns me about the cost share is the road that goes all the way up by the water tanks but then it goes up to the upper part of this project. I don't understand why the City is paying all of that road cost.

Ron Petrie: When we began this process we established a group of staff to begin the discussion with the developers. The map that was given to us to begin with looked completely different from this. We as a staff did the best we could to get this to a state that we could recommend. That particular road is completely City owned property so that is why it is 100% City shown on this drawing.

Alderman Thiel: Is that the only road to their property with the construction on top of the hill?

Ron Petrie: It is not the only road. There is one road that would be a one way in and out on the south side of the sight.

Alderman Thiel: They are paying for all of that I see.

Ron Petrie: Yes Ma'am.

Alderman Thiel: My other concern is the Shiloh extension road. That is in the early phase?

Ron Petrie: A portion of it is.

Alderman Thiel: That is a cost share. There are two roads going into the park. One from Shiloh extension that is going to serve their development totally at this time and the other one is from Cato Springs. I don't want the developers to feel like they should pay for everything but I am looking at the citizens of Fayetteville and what they are going to have to pay for in the long run.

Ron Petrie: This whole discussion on streets is something that you as a Council need to decide on. If you don't agree with these we can take it back to the developer and see if they will agree and see if we can work out some agreement.

City Attorney Kit Williams: The City Council has a series of decisions to make tonight. The only cost share that was in the contract was the cost share for the sewer. The street cost share is something that has been recommended. It is certainly nothing that is included with the annexation decision or the PZD decision. Who pays for those roads is a separate decision.

I have to warn you of potential legal liability to the City if we for legally unjustified reasons reject annexation or approval of this PZD. The location of Southpass was discussed publicly and was clearly known by the City Council when it unanimously passed as Resolution No.138-04 on September 7, 2004. A specific condition of that agreement accepted and approved by the City Council through Resolution No. 138-04 was the annexation of the Southpass site. Therefore the annexation of this portion of Southpass outside the city limits was basically agreed to on September 7, 2004. Refusing to agree to the annexation now could place the City of Fayetteville in a dangerous legal position. Similarly, the agreement states "*Whereas Southpass Development Company, LLC submitted a workable, attractive proposal which was selected by the City's selection committee as the recommended proposal.*" That was part of the agreement. The agreement further requires that the City rezone the property in conformance with the Master Plan. The City is not required to approve a Master Plan that would not be in compliance with the Unified Development Code or that would substantially differ, in an adverse manner, from the workable, attractive proposal selected by the City's selection committee. However if the Master Plan of the PZD is in substantial compliance with the Unified Development Code and largely

conforms to or even improves upon Southpass's original workable attractive proposal I believe the City's refusal to approve such Master Plan or PZD could result in a very large monetary damages against the City.

The Planning Commission studied the PZD for many hours over several meetings before voting almost unanimously to recommend its approval to you. The one Planning Commissioner who voted against the proposed PZD admitted that she had no legal reason to do so but was going to do so anyway. That could be a multimillion dollar mistake for our City Council to make.

Southpass, LLC could well argue that it has reasonably relied upon the City Council's Resolution No. 138-04 and the approved agreement when deciding to invest ten million dollars or so into this project. If the City Council rejects the clear analysis and recommendation of approval of the Southpass PZD by the Fayetteville City Planning Division and the Fayetteville Planning Commission, the City Council would be risking a lawsuit that could result in many millions of dollars in damages assessed against the City's taxpayers.

In the late 1980's the Fayetteville Board of Directors made two such mistakes which eventually cost our taxpayers million dollars. An improvident and legally unjustified rejection of the annexation or the Southpass PZD could cost our taxpayers even more than the Incinerator case and the 1980's Sales Tax Bond case combined.

Somebody argued that the agreement that you approved in 2004 does not require approval of the PZD and if the PZD woefully fell short of our development ordinances I would agree. But careful study by both the Planning Department and the Planning Commission determined that the PZD does comply with the Unified Development Code. Changes of heart by an Alderman and/or political opposition from citizens are insufficient reasons to deny the annexation or the PZD.

Based upon the City Council's resolution and approved agreement the City has already accepted ownership of the landfill on this site. This issue was properly and fully discussed by the City staff and City Council prior to your approval of the resolution and agreement. As was pointed out in 2004 all of the trash in the landfill came from the City of Fayetteville so that the City would probably have been ultimately liable if the other owner could not afford any necessary remediation cost anyway. AEDQ has examined the landfill site and numerous studies of it and expressed its intent to use the Post Closure Trust Fund money for any necessary remediation measures. Regardless the landfill is already owned and is the responsibility of the City. Annexation or approval of the PZD does not affect the landfills ownership.

I am concerned that Southpass could responsibly argue that it has reasonably relied upon the City's initial Request for Proposals to develop the Cummings Farm Site, it was our initial request, the Southpass, LLC selection by the City for this development, the City Council's agreement with Southpass, LLC selection and its *workable attractive proposal*, and the City Council Resolution No. 138-04 of September 7, 2004 and the agreement which it was approved.

They could argue that all these things went into its decision to invest millions of dollars to purchase the property, to design the complex development, engineer water, sewer, and street infrastructure, at least up to the concept plat, and prepare other necessary documents to present the annexation request and PZD to the City.

If the City Council refuses to annex the property or approve the PZD Southpass, LLC could have grounds to sue the City and City Council for the millions it invested in supposed detrimental reliance on the City's good faith and fair dealing during this whole process, which eventually ended up in approval of the agreement. Although this would certainly be legally contested by the City, I believe there is a substantial risk to the City taxpayers of a multimillion dollar judgment against the City of Fayetteville if we reject the annexation or the PZD.

That does not mean you have to approve the cost share for roads that is a wholly separate issue and if you feel like it is not fair to our taxpayers the way this has broken down with the cost share for the roads you certainly don't have to approve them. What I am concerned about is the annexation request and the concept PZD that is before you. It makes me concerned as the City Attorney that we could be facing a very substantial suit and potential liability for our taxpayers.

Alderman Thiel: Thank you for clarifying that however do you think the developers are expecting the cost share to be what has been proposed? Can they sue us? You have said they can't.

City Attorney Kit Williams: I am not concerned about that. The cost share is something that has been worked on over the last few months and it has always been understood that it is only the City Council that has the right to decide about cost shares. Staff has recommended it because they think it would save the City money but if that is not your understanding then you do not have to agree with that. I don't think there would be a successful lawsuit against the City on that. The only cost share that was mentioned in the agreement, that can be relied upon, is the sewer and we must go forward with that. The ones for the roads are up to you all.

Alderman Allen: I didn't know this before tonight. Maybe you had not made a decision that this was your point of view. It makes me wonder why we are even here if we are going to vote on something and then have the City belly up if we don't vote for it. It just doesn't feel right.

City Attorney Kit Williams: On September 25, 2008 I gave you all a memo at that point in time entitled approval and rejection criteria for planned zoning districts. He gave an example of a project in another state that he pointed out in his memo.

Alderman Ferrell: Before you said that if you have an objection with any of this criteria it's one way and since then are you opining differently now?

City Attorney Kit Williams: I am saying if the PZD falls short of our development ordinance you could certainly turn it down. I think you need to show something very clear. Part of that is they have worked with Planning staff for months to try to conform this to the 2025 Plan and the Unified Development Code. Your Planning staff says they have succeeded.

Alderman Ferrell: I have been told back and forth what is binding about a resolution. Why is this binding when other resolutions we pass are not binding.

City Attorney Kit Williams: I hope I have never said that a resolution is not binding. A resolution is always binding. That is how the City Council acts. It is not as strong as an ordinance which is legislation. The City Council resolution passing and approving that agreement is certainly binding.

Mayor Coody: This resolution approved a contract. Once the City Council said we approve this resolution, which approves a contract, and then once the contract is signed, the contract is very legally binding.

City Attorney Kit Williams: The difference is when you have a resolution that approves a contract then we have a third party and we can not go back and change that because the third party, the people we are contracting with has rights.

Alderman Ferrell: I understand the part about the contract. We passed a resolution recently that should have been binding and it wasn't. I didn't hear you opine very much the day that happened when we thought we had a mandate and there wasn't.

City Attorney Kit Williams: That resolution was certainly binding for what it said but the resolution said request and a request is not a mandate.

Alderman Ferrell: Was that resolution to approve the contract or a request?

City Attorney Kit Williams: No, it was an approval of the contract.

Alderman Ferrell: But it was a request to approve wasn't it?

City Attorney Kit Williams: No, it was the Mayor is approving the contract.

Alderman Ferrell: Since you have been City Attorney or before when you were an alderman have you ever seen an instance where the resolution or the contract guaranteed the development or that you had to give an annexation and a PZD as part of the contract?

City Attorney Kit Williams: I have not seen that before that I can remember.

Mayor Coody: Maybe it would help to read the resolution that is in question here.

Alderman Ferrell: I have read it.

Mayor Coody: Is everyone clear on what the resolution says?

Alderman Ferrell: If we pass an annexation ordinance which is the first of these ordinances does that obligate the City of Fayetteville to anything other than the annexation of that property?

City Attorney Kit Williams: That would be treated like any other City property so they are entitled to services. We are obligated just like we would be to any other property within the City.

Alderman Ferrell: Like any other property we would take it as we need it as opposed to going right out there with it.

City Attorney Kit Williams: That is all the annexation would require is that we treat it like any other City property.

Alderman Gray: I really feel like we need this park in our community. Our parks are in need of some shoring up. We have to remember that this is not something we are asking to be done in the next year or two. This is a long range plan which we know is the way we need to develop things in our City, not just what we are going to need in the next year or two. I want to commend these developer's, I think they have done a marvelous job. They have met all the requirements and I don't know how any of us as Council members could not know that we have some obligations once a developer goes through all the hoops that we have had them jump through. Connie has said there may be grants. There are lots of ways to get funding. As a City Council we have to be responsible. We have an obligation to meet our contract. To me it's a waste of time to keep talking about these things where we have a contract from years ago and we have to meet up to that contract. I appreciate the developers and the staff working with the developers to get something that our City needs desperately. I think we need to take the first step and annex this property and move on with it. I will definitely be supporting this project.

Alderman Lucas: Kit you are very emphatic about this contract. You are saying we have to stick by the contract verbatim, yet there is this thing in here about the School Districts and you said they can waive that if they want to. What other things can be waived if they or we decide. What happens to a contract when we start waiving the things in there?

City Attorney Kit Williams: Both sides could agree to waive the cost share for the sewer if neither side wanted to go forward with that. The thing that concerns me more than sticking to the contract word for word, is in Arkansas contracts have an applied covenant of good faith and fair dealing. A contracting party like the City of Fayetteville has an applied obligation not to do anything that would prevent, hinder, or delay performance of the other parties. There is a common way you interpret contracts and duties.

He explained how a court will interpret contracts. He stated both parties are acting as if this contract is going forward.

Alderman Lucas: I have a problem with for instance #8. What if they decided to waive that?

City Attorney Kit Williams: We are not waiving that. That was to our benefit.

Alderman Lucas: We just pick and choose? We don't waive it but what if they decide to waive that or maybe there is another thing they can waive.

Alderman Rhoads: They can waive things that are an obligation of the City but they can't waive their obligations. That is the protection we have.

Alderman Ferrell: In the past you have said that we can't tie the hands of future City Councils. I am assuming that is unless there is a contract since this was done in 2004 that they have tied our hands. So is the exception if you have a contract we could tie up the 2012 City Council?

City Attorney Kit Williams: Sometimes that can happen under certain contracts but normally you can't tie up the budgetary power of the future City Councils or spend money that we don't have yet unless you have a bond issue. That is about the only way you can do it. You don't have to agree to any cost shares for the roads. That is a monetary thing for you to consider.

Alderman Ferrell: There are two before the cost shares. So you are saying that when you told us before we can't tie the hands you are talking about money.

City Attorney Kit Williams: Primarily money but there are times when a contract is going to run for a period of time before you can ever get to the end of it. If we can't enter into those kinds of contracts it would be difficult to have government function. I don't see this as a violation of the rule that you can't tie the hands of the future City Council. This was an agreement we entered into. The problem is they will argue that they have a right to rely upon this contract. What we said that we would do. We can't lead them down the path where they have done all this and spent millions of dollars in reliance and then without a very solid reason that their PZD is in violation that we turn it down. I am afraid if we do that we could be facing some real problems. To me it is a real danger.

Alderman Ferrell: Are you opining to give us your opinion or have you had any vibes about if this doesn't pass it would be litigated.

City Attorney Kit Williams: I heard some rumors to that effect that it was spoken about at the last meeting. I felt I needed to make sure that you understand from my perspective that I was concerned about that.

Alderman Allen: I wondered if the Aldermen whose wards about this have had any meetings or discussions and what was the feedback from them.

Alderman Jordan: There were concerns about the cost. The \$26 million over the 25 year plan.

Alderman Lucas: Yes.

Mayor Coody: So the concern was about the cost share then?

Alderman Lucas: Yes.

Alderman Jordan: I don't recall anyone being in disagreement with the annexation so much but they were very concerned about the cost shares. My position would be that if we are obligated to annex in I will certainly use my option on the cost shares to not approve them.

Alderman Allen: Regarding the annexing that means we have to give them water and sewer if we annex?

Alderman Thiel: No.

Alderman Allen: We have to have fire and police protection?

Mayor Coody: I think it was just like the 1,400 acres we annexed out west. It would be treated the same way.

Alderman Allen: Can you tell me specifically the obligations that we would be under to annex the property.

City Attorney Kit Williams: It would be the same as we do for any property that we annex. He explained the normal obligations when annexing. We will attempt to give them municipal services.

Alderman Lucas: I am in favor of the annexation. I think it should be in Fayetteville. This area is future Fayetteville and so I think this is a good move to annex this in.

Alderman Thiel: I have always supported the annexation of this property for several reasons. The proximity to the University of Arkansas, it is within walking distance, it is a large part of our entry view shed into Fayetteville and for that reason I want to make sure the property is developed under the guidelines of the City. There has been a lot said about it being in Greenland School District. A large portion of what we have annexed on Wedington is in Farmington. We have not discussed that hardly at all. There are a lot of areas within the City limits of Fayetteville that are in Greenland School District. The other thing is the services that are being offered. The City does not have to provide sewer to the residents of the City of Fayetteville because I am one of those and have been for 30 years now. There is no requirement it is whenever it is available. I feel this needs to be annexed so we can control what happens there. I will support that.

Alderman Ferrell: It is good to be in the City limits because that will lead to higher property values which will lead to more taxes.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Cook and Jordan voting no.

Ordinance 5190 as Recorded in the office of the City Clerk

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.***

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated we looked at a project that had to be mutually beneficial for both the applicant and the City. What we utilized to make recommendations to you is our PZD ordinance and our Unified Development Code. We worked for many hours to make a recommendation to you with the City Plan 2025 and our UDC protecting the City's interest in that case. We feel it does meet the City Plan 2025 and this is a project that is extremely consistent with those goals that we set for new development. That is why we are recommending in favor of the project.

Alderman Ferrell: You said it met most of the aspects of the 2025 Plan. The 2025 Plan is a tool is that correct?

Jeremy Pate: That is correct.

Rick Alexander listed all the efforts that they have made so far and he stated I don't know what else we could have done. He also spoke on the effort made through the development of the cost share proposal. He responded to some of Alderman Thiel's previous questions by stating the reason the City is building the road to the water tower is because it is going to be completely the City's. That is part of an over all discussion because the developers are donating the water towers and the land that they sit on which the land is worth \$410,000. So when the City considers the cost share consider the gift of the property that is currently owned by Southpass that those City water towers sit on. We would ask that the City approve the rezoning so that we can get on with our work.

Alderman Cook: As far as the landfill is concerned how do we go forward from here?

Mayor Coody: From my understanding ADEQ is still doing research on this. They are still looking at it. It has some leachate as of course any capped landfill does and they are looking at what kind of a problem it is. They are determining whether it needs to be capped and if so how much of a cap. Since day one they have said we could use the Post Closure Landfill Trust to pay for any remediation work there. I think we are just waiting on them to finish their studies and move forward with this. Is this still going to be one of the first projects that the Landfill Trust Fund will be used for?

Connie Edmonston: Yes, according to Steve Martin who is now the Deputy of ADEQ we are the first City in Arkansas to utilize the Post Closure Grant funding.

Alderman Cook: There has been a lot of comments on whether this is sprawl or not. I would like to hear from staff what their comments were as far as it being sprawl or not.

Jeremy Pate stated the definition will vary based on the community. If this project were a sprawling single family residential subdivision with strip commercial along Cato Springs Road I don't believe I could recommend this project. I truly believe that this project does meet the goals and does not contribute to the type of sprawl that we have in other parts of the city.

Alderman Cook: As far as the cost share on the sewer side, we discussed that being paid for by impact fees.

Ron Petrie: I think so. That is our anticipation at this time. We are looking at a bond for Highway 265 but I think that would be a last resort and we would use impact fees first.

Alderman Cook: As that project develops out we will also collect impact fees from that. On the street side that has been scheduled in our transportation bond program.

Ron Petrie: For future bond issue.

Alderman Cook: Within the development the Parks Department is going to pick up a big chunk of those cost shares.

Ron Petrie: That is correct. The yellow line which shows 100% City would be picked up by the bond. The rest would be picked up by Parks.

Alderman Cook: What was the 100% number?

Ron Petrie: \$476,000.

Alderman Cook: From Parks standpoint my biggest concern is the fundraising portion of that. As I said earlier it's a big leap that the Parks Department has never stepped that far as far as fundraising. I have a few nervous feelings about finding the funds for that. I do not have a problem with the development and the pattern at all.

Mayor Coody: I think once we have a defined project and it's under City control then it's just up to us to get the job done. Then it's easier to go out and ask for funding. If it is not very well defined then it is impossible to find any kind of funding.

Alderman Ferrell: As far as funding sources there is no intention of going to the General Fund if these don't pan out.

Connie Edmonston: Not at this point.

Mayor Coody: I think the bottom line is this is a pay as you go deal.

Alderman Lucas: In the contract it says all cost of extending the sewer to the Community Park. We are going to bring it under I-540 aren't we?

Ron Petrie: Yes. There is an existing conduit under I-540 for a force main to come under. So we are utilizing the existing crossing.

Alderman Lucas: The figures we have, that is all included?

Ron Petrie: Yes Ma'am.

Alderman Thiel spoke on the advantages of this project. She stated I like the way the project came back the second time. There is a lot to be said about the project and I feel like there are a lot of plusses.

Alderman Ferrell: I am going to vote for this but I really don't want to. I feel like I am forced into it by the threat of litigation.

Alderman Allen: I will not vote for this. I said when I ran that I would be the voice of the people that didn't feel that they had a voice. Every person that I have talked to is not in favor of this so I am going to speak for them.

Alderman Jordan: I agree with Alderman Allen. Everyone that has contacted me has been against this project. I also want to point out the fact that had the road impact fees passed we would have got almost \$8.6 million dollars which we will not get.

Mayor Coody clarified with City Attorney Kit Williams the terms of the current contract. He stated so if we were to turn this down that goes back to what you are saying about the contract.

City Attorney Kit Williams: It would concern me.

Alderman Thiel asked Alderman Jordan to clarify his previous comment.

Alderman Jordan: At \$2,000 for the impact fee per house then 4,300 houses would be about \$8.6 million had the road impact fees passed.

Alderman Rhoads: I don't think I have ever heard a threat of litigation from the developers. I have heard our City Attorney who is an elected official do his job and tell us what our obligations and rights are.

Alderman Ferrell: I wasn't referring to the developers I was referring to what our City Attorney said.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Allen and Jordan voting no.

Ordinance 5191 as Recorded in the office of the City Clerk

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.*

Alderman Thiel: This went through the Street Committee and at the time I felt like it was a good thing if the project passed. I support this.

Alderman Rhoads: This went through the Street Committee and that is good enough for me.

Alderman Thiel moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 5-2. Alderman Lucas and Jordan voting no. Alderman Ferrell was absent during the vote.

Resolution 210-08 as Recorded in the office of the City Clerk

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.*

Mayor Coody: Are we discussing the specifics in this cost share or is this just approving a concept of a cost share?

Ron Petrie: Just want to be clear that we are not approving a cost share but we are approving the willingness to cost share. We are setting up a structure that we will bring individual packets back to the Council with the actual cost share.

Mayor Coody: So basically it's our willingness to negotiate with the developers a cost share project.

Ron Petrie: Right. I think it is very important that we all understand up front what is expected of both parties.

Mayor Coody: This does not obligate us to anything.

Ron Petrie: It is not obligating funds. I think you can say it will obligate us in some fashion. It just sets up the structure on how we are going to do this in the future.

City Attorney Kit Williams: I recommend that we table this rather than approving it tonight. Also I think we should divide up the cost share in the future; one with the sewer cost that we do need to agree to and the other one looking at the roads individually and what you want to do with them.

John Nock, developer: I agree with the idea to table it but if there are any specific concerns that we should know or if there are any real issues in particular locations if you could take a minute and tell us that so we can work through those issues.

Alderman Jordan: Why don't we send it to the Street Committee?

Mr. Nock: What was done in the last Street Committee and what did we resolve?

Alderman Jordan: Nothing. No one understood the configurations.

Alderman Rhoads: I would be supportive of that committee looking at it.

Alderman Thiel moved to Table the resolution indefinitely. Alderman Rhoads seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled indefinitely.

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.*

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

City Attorney Kit Williams read the ordinance.

Alderman Rhoads moved to table the ordinance indefinitely. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was tabled indefinitely.

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.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated Mr. Jorgensen is here to answer a question the City Council had previously.

Dave Jorgensen pointed out the layout of the project on a displayed map. He stated we truly have a mixed use project. He stated the question came up at the last meeting about the possibility of building the four single family houses just north of the park. There are four houses north of that and the thought is to try to hide the future apartments. I would like to point out that these are very attractive apartments. We are promising to install or keep what green belt we have on the west side of those apartments. We are going to make a condition of approval that we build a substantial green belt to help in hiding these apartments. He described the other uses on the project.

Alderman Thiel: Did you answer the question about all the single family residential being built before the apartments are started?

Dave Jorgensen: It is very possible that they will be built but at this particular time we are not making a promise to build those four houses prior to the apartments. Although the infrastructure for the apartment complex has to go in in order to build the apartment complex.

Alderman Thiel: Do we have the phases of this somewhere?

Dave Jorgensen: Yes Ma'am. Planning area #1 is the single family residential area. Planning area #2 is the multi-family, area #3 is R-O and area #4 is the commercial area. In order to build the apartment project you have to have the infrastructure to handle that. That goes hand in hand with this infrastructure solution.

Alderman Allen: Did that pretty much cover all the concerns at your ward meeting?

Alderman Thiel: We did not have a ward meeting about this new plan. I have been contacted by some of them but that was back when they were storage units.

Dave Jorgensen: The last ward meeting was a little over a year ago on this subject here.

Jim Luper, a resident of St. Andrews Circle spoke on the density of the project and stated we are against that. He stated we want something similar to what we already have. He spoke on the drainage issues. He also spoke on his lack of trust in the developer. He asked the Council to keep it residential as it is. He also asked what the financial impact would be on the City due to this project.

Mayor Coody: I don't know what that would be. 80% of our property taxes go to the school systems. If we knew the actual assessed value then we could make a determination.

Matthew Petty, a resident of Ralston Avenue: I am in support of this project. I think this does a lot to respect the single family neighborhoods that are next to us.

Dick Hovey, a resident of 1262 River Meadows stated the residential established areas in the vicinity are working fine as they are. He also spoke on his concerns with the traffic in that area. He asked the Council to oppose this development.

Anthony Summlin, a resident of Riverbluff Cove: My main opposition to the issue is due to the density of the development. It does not fit in with the fabric of the community adjacent to it. He asked the Council to evaluate the project on its merits by itself.

Fire Chief Tony Johnson spoke on the traffic issues in this area. He stated it is a major issue and I just wanted to emphasize that.

Alderman Thiel: I do not see this as an infill project because of the road to and from. We have talked to the State about the road and it is going to be a long time before that is improved out there. I still have problems with the density of this and I wish they could reduce the density back down.

Alderman Allen: Could anything be accomplished by tabling this? Are you willing to look into reducing the density?

Dave Jorgensen: We did do a traffic study and they determined that they do not classify this intersection as warranting a traffic light. The owner agrees to pay for a light, or at least give a substantial amount of money, but you have to convince the Highway Department that there is a need for a traffic light. In a couple of years they will revisit the situation. When we do bring the large scale development subdivision through the planning process we have to put in a right and left turn lane at this intersection anyway so we are going to increase the size of it and that will improve the safety at that location. Naturally if you don't have a light I don't see how that is going to help it very much. He addressed the concerns on the density. He pointed out other areas near by that had the same density and stated we have tried to provide a mixed use project to blend in with the 2025 Plan.

Alderman Gray: I have some concerns about the fact that there are homes sitting there that have not been sold. I appreciate Mr. Jorgensen working so hard but at this time I don't believe I can support it.

Alderman Ferrell: If the staff and the Planning Commission recommends approval this doesn't have anything to do with the denial of the former application which was eluded for this property but I believe it deserves a vote. I would like to add that when the Street Committee was going to a bond program and looking at roads we recognized the problem on Highway 16. We recognize it and that is coming in a future bond program.

Alderman Thiel: The next bond issue goes to where?

Ron Petrie: The next one will go to Falcon which is pretty close to this location. We do have a project that will widen it out just beyond Stonebridge and include a signal at Stonebridge that is being funded 50/50. The State's money becomes available in 2009. The future CIP included some funds to help with seed money, to see if can get the next discussions with the State to include that as our next cost share project with the State.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 3-5. Alderman Rhoads, Ferrell and Lucas voting yes. Alderman Gray, Thiel, Cook, Allen and Jordan voting no.

This Ordinance Failed

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.***

Jeremy Pate: Several members of the City Council toured the site and spoke to Mr. Hoskins about some of the concerns. I think our recommendations speak for themselves. We have agreed to change some of the conditions of approval.

Alderman Ferrell: If we are serious about economic development and we want people to invest their dollars I would hope we could be flexible in some ways.

Alderman Ferrell proposed the following amendment: ***The applicant shall 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 project as a full access curb cut resulting in the removal of the concrete portion of the existing median.***

Ron Petrie: The State has agreed to remove the concrete median. The disagreement between the staff and the developer is the removal of the existing driveway on the North end of the property. The proposal is basically that gets addressed when future development comes through.

Alderman Ferrell: There is an existing business and buildings located where the North access is. I don't think there is a lot of traffic there.

A discussion followed on the proposed amendment and the City of Fayetteville's access management policy.

Alderman Cook: I don't understand why closing the North drive is such an issue. As future development goes through I don't see how anything can not be served by that one center drive.

Tracy Hoskins: The issue with the North driveway is that is on a separate parcel of property and there is an overhead door at the end of that building. That is the only driveway that services that property. The middle driveway, the Highway Department has looked at this and they want the middle driveway slid a little bit farther North, which puts it closer to the North driveway.

A discussion followed on the driveways to the project.

Jeff Bates, engineer for the project: Everyone is in agreement on where the middle driveway is going to be. The only problem is whether to close the North driveway now or not. Staff wants to close the driveway because they think it is too close and the developer has to leave it open because there is an existing business there. The developer wants to leave it open until he develops that next section.

Jeremy Pate: The concern is the median is being modified from a right in and right out now to a full access drive so you essentially have two full access, full turning movement drives, side by side.

Jeff Bates: Our argument is you can't close an existing drive on somebody else's property.

Alderman Jordan: Why couldn't we just leave as it is now and if there is any farther development up North then we will move it or close it.

Alderman Lucas: They still have access through the middle entrance for that building?

Tracy Hoskins: Yes.

Alderman Ferrell withdrew his previous amendment.

Alderman Ferrell moved to amend the appeal to state *the North driveway can remain as is until the .73 acre parcel and the .84 acre parcel is redeveloped and then the driveway will be shifted to the North or closed.* **Alderman Rhoads** seconded the motion. Upon roll call the motion passed 5-3. **Alderman Thiel, Cook, and Lucas** voting no.

Alderman Ferrell: I would like to amend conditions of approval number 12 and 13 with the new conditions of approval 12 and 13 and delete conditions of approval number 16 and 18.

Jeremy Pate: That is staff's recommendation, to delete those four conditions of approval and replace them with the two that we have recommended.

Tracy Hoskins: We have had several conversations with the tree administrator about on going preservation or easements. I want to make sure we get clarification on that tonight that the preservation is through the construction period and that the City is not going to require a post construction period preservation easement or area.

Greg Howe, Urban Forrester explained the conditions of approval changes. While working with the developer on this project and trying to get the detention pond, that is on the off site parcel, to be able to save some trees there, we agreed to not keep a preservation easement on the tree preservation area after construction on this site.

Alderman Thiel: Is this an exception to what we have had in the past?

Greg Howe: I don't know with my short history here if I can truthfully answer that question. In this case I would say it is somewhat unique. It would be an exception.

Jeremy Pate: What the tree preservation ordinance requires of the Urban Forrester is to make an educated recommendation to the Planning Commission on each individual project about whether a permanent easement should be established for an area. The challenge with establishing it for every single tree that is approved to be preserved is that in certain instances they may be lower priority trees or they may be trees that the developer is trying to save and may or may not be counted as their preservation but they are doing everything in their power to save.

Kit Williams: Is there going to be tree mitigation if there is not a tree canopy here?

Jeremy Pate: Yes.

Alderman Ferrell moved to amend the appeal to the amended conditions of approval. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Jeremy Pate: There are two other items; the green space variance request needs to be decided. Staff is recommending denial of that portion of the appeal and the wetland determination staff is also recommending denial of that appeal.

Ron Petrie: It has been provided so there is no appeal.

Tracy Hoskins: On the green space we are asking for a slight variance. Mr. Hoskins explained the variance they are asking for.

Jeremy Pate: The applicant is requesting not to provide any of the 15 feet of green space adjacent to the right of way. We are in support generally of the concept of the variance because there is excess right of way, there is more right of way than we would require because the State purchased more than they needed. However we feel that 15 feet of green space between the sidewalk and the parking lot should be provided. A portion of the parking lot needs to move two feet to the West. I don't think the building needs to be moved. I think there are other options to make that occur.

Mayor Coody: You are recommending that we deny this particular appeal.

Jeremy Pate: That is correct. That is the Planning staff and Planning Commissions recommendation. My recommendation to you would be to deny the appeal of the variance in Condition # 1.

Tracy Hoskins explained the appeal they are requesting.

Jeremy Pate: The purpose is to ensure that we get a proper amount of landscaping and irrigation on this project. I think the granting of the variance is appropriate with the condition that we have recommended.

Alderman Thiel moved to deny the appeal of the variance in Condition #1. **Alderman Gray** seconded the motion. Upon roll call the motion passed 6-1. **Alderman Ferrell** voting no. **Alderman Allen** was absent during the vote.

Resolution 211-08 as Recorded in the office of the City Clerk

New Business:

The following Resolution was added to the agenda:

Alderman Jordan moved to add the Fayetteville District Court Record Destruction Resolution to the agenda. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Gray** and **Rhoads** were absent during the vote.

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

Alderman Ferrell: Do you keep microfilm or is this complete destruction of the records?

Dena Stockalper: Complete destruction. We do film some. They have been filmed, the ones that we are destroying.

Alderman Jordan moved to approve the resolution. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Gray** and **Rhoads** were absent during the vote.

Resolution 212-08 as Recorded in the office of the City Clerk

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.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5192 as Recorded in the office of the City Clerk

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.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5193 as Recorded in the office of the City Clerk

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.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5194 as Recorded in the office of the City Clerk

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate explained the change to Chapter 162 and Chapter 163. Staff and the Planning Commission recommend this ordinance amendment to you.

Mayor Coody: This is excellent Jeremy. This is exactly what we need. This fits with the green valley network and everything we are trying to do in town.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5195 as Recorded in the office of the City Clerk

The following Resolution was added to the agenda:

Alderman Cook moved to add the Romine Lawsuit Settlement Resolution to the agenda. Alderman Jordan seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell Recused. Alderman Rhoads were absent during the vote.

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.

City Attorney Kit Williams: The jury ruled against us in the Romine case even though earlier the Supreme Court had ruled that the City believed the line behind her house was private and was reasonably made and in good faith. The jury determined it was a mistake. Even though there were a lot of facts to support the City's position, there were also some facts to support Ms. Romine and the jury went with that. They rendered a verdict against the City in the amount of \$176,011. I looked at many things regarding whether to appeal. We won many victories in this case on every intentional tort that had been alleged against the City. The punitive damage claim and the civil rights claim, all of which could have yielded very substantial damages, if the jury had ruled against them and if we appealed, then certainly all of those would have been up for review also. The appeal would have been very expensive. It was a long trial. We had an unbelievable number of pretrial hearings. My recommendation to you would be that we would not appeal. I have talked to Ms Romine's attorneys and they have agreed that if we pay the judgment that she has against us we will offset the judgment that we received when we went to the Supreme Court for our cost. The total amount of the budget adjustment would be \$173,528.20. A mutual release from both sides would be required otherwise I would not recommend that we make any payments to satisfy the judgment until the 30 days to appeal has run. They have agreed to do a mutual release if we will too and totally end this case.

Alderman Thiel moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 6-0. Alderman Ferrell Recused. Alderman Rhoads were absent during the vote.

Resolution 213-08 as Recorded in the office of the City Clerk

Adjournment: 10:10 PM

Dan Coody, Mayor

Sondra E. Smith, City Clerk/Treasurer

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 2, 2008**

A meeting of the Fayetteville City Council will be held on December 2, 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 November 6, 2008 and the November 18, 2008 City Council meeting minutes.
2. **Bid # 08-67 Roberts-McNutt, Inc:** A resolution awarding Bid # 08-67 and approving a contract with Roberts-McNutt, Inc. in the amount of \$38,827.00 to replace the roof of the ICH Building; and approving a project contingency in the amount of \$3,882.00.

3. **Bid # 08-68 Diamond International:** A resolution awarding Bid # 08-68 and approving the purchase of one (1) dump truck from Diamond International in the amount of \$107,147.00 for use by the Transportation Division.
4. **Bid # 08-69 Stamm Manufacturing:** A resolution awarding Bid # 08-69 and approving the purchase of one (1) aerial platform truck from Stamm Manufacturing in the amount of \$97,336.00 for use by the Transportation/Traffic Division.
5. **Bid # 08-70 Williams Tractor, Inc:** A resolution awarding Bid # 08-70 and approving the purchase of one (1) front-load diesel tractor from Williams Tractor, Inc. in the amount of \$68,894.00 for use at the Noland Wastewater Treatment Plant; and approving a budget adjustment in the amount of \$25,426.00.
6. **AT&T:** A resolution approving the purchase of fifty (50) Pinpoint X GPS Integrated modems and antennae from AT&T through the State of Arkansas purchasing contract in the amount of \$50,420.00; and approving a budget adjustment.
7. **2008 Bulletproof Vest Partnership Grant:** A resolution accepting the 2008 Bulletproof Vest Partnership Grant in the amount of \$16,033.56; and approving a budget adjustment recognizing the grant revenue.
8. **Target Grant:** A resolution authorizing the Fayetteville Police Department to accept a grant from Target in the amount of \$250.00 for the purchase of Community Oriented Policing supplies; and approving a budget adjustment to recognize the grant revenue.
9. **Edward Byrne Memorial Discretionary Grant:** A resolution approving a budget adjustment for the Fayetteville Police Department to accept and recognize reimbursement revenues from a portion of the Edward Byrne Memorial Discretionary Grant in the projected amount of \$52,000.00 for the department's participation in the Northwest Arkansas Sex Offender and Violent Crimes Task Force.
10. **U.S. Department of Justice Community Oriented Policing:** A resolution authorizing the Fayetteville Police Department to accept a Technology Program Grant from the U.S. Department of Justice Community Oriented Policing services in the amount of \$444,268.00; and approving a budget adjustment to recognize the grant revenue.
11. **Act 833 Revenues:** A resolution approving a 2008 Budget adjustment for the Fayetteville Fire Department in the amount of \$42,288.00 to recognize Act 833 revenues for the purchase of protective gear.
12. **McClelland Consulting Engineers, Inc. Task Order # 15:** A resolution approving a notice to proceed on Task Order # 15 with McClelland Consulting Engineers, Inc. in the amount of \$177,600.00 for final plans & specs and bidding associated with the Runway 16 Safety Area Improvements at Drake Field.

13. McClelland Consulting Engineers, Inc Contract: A resolution approving an engineering contract with McClelland Consulting Engineers, Inc. in the amount of \$397,621.00 for design services for water and sewer relocations and concurrent construction of a 36" water transmission main associated with the widening of Highway 265 from Mission to Joyce Boulevard; approving a \$20,000.00 contingency; and approving a budget adjustment in the amount for \$400,000.00.

14. Old Square, Inc: A resolution approving a two-year lease agreement with Old Square, Inc., for the annual rental amount of \$7,800.00 to lease approximately 3,500 square feet for document storage.

B. Unfinished Business:

1. Hiring Freeze: Hiring Freeze Appeals:

One Building Maintenance Worker II – Building Services

2. 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 failed at the November 6, 2008 City Council meeting. This ordinance was reconsidered at the November 18, 2008 City Council meeting. This ordinance was left on the third reading at the November 18, 2008 City Council meeting and then tabled to the December 2, 2008 City Council meeting.*

Left on the Third Reading

3. 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. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting.*

Left on the Second Reading

4. **Amend Chapter 164, ADM 08-3094 (UDC Chapter 164.04 Animals & Fowl):** An ordinance amending the Unified Development Code by repealing and replacing Chapter 164.04: Animals and Fowl, to permit a property owner to keep a maximum of four chickens (hens) within residential districts of the city, subject to the restrictions herein. *This ordinance was left on the First Reading at the November 18, 2008 City Council meeting.*

Left on the First Reading

5. **Proposed 2009 Annual Budget & Work Program:** A resolution adopting the 2009 Annual Budget and Work Program as amended and approved. *This resolution was tabled at the November 18, 2008 City Council meeting to the December 2, 2008 City Council meeting.*
6. **Southpass Development Company, LLC:** A resolution to approve approximately \$744,880.00 as a 50/50 cost share with Southpass Development Company, LLC for the sewer installation costs for the Regional Park and Southpass PZD. *This resolution was tabled at the November 18, 2008 City Council meeting to the December 2, 2008 City Council meeting.*

C. New Business:

1. **Operations Management International Amendment # 16:** A resolution approving Amendment Number 16 to the contract with Operations Management International (OMI) in the amount of \$7,762,190.00 for the operation, maintenance and management of Fayetteville Wastewater Treatment facilities for 2009.
2. **Park West, LLC Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Park West, LLC in the amount of \$2,157,000.00 for the upgrade of the future location of Highway 112 through Phase 1 of the Park West Development from two lanes to a four-lane boulevard.
3. **RZN 08-3131 (Nall):** An ordinance rezoning that property described in rezoning petition RZN 08-3131, for approximately 0.66 acres, located at 1211 West James Street, southwest of Garland and Mount Comfort from RMF-24, Residential Multi-Family, 24 units per acre, to R-O, Residential Office.
4. **C-PZD 08-3121 (Core Pet Wellness):** An ordinance establishing a Commercial Planned Zoning District Titled C-PZD 08-3121 (Core Pet Wellness) located at 2406 North Old Wire Road, containing approximately 0.58 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.
5. **VAC 08-3136 (CMN Business Park II):** An ordinance approving VAC 08-3136 submitted by McClelland Consulting Engineers for property located at CMN Business Park II, Lots 8 and 14, northeast corner of Steele Boulevard and Van Asche Drive to vacate a portion of a utility easement, a total of 0.61 acres.

6. **VAC 08-3130 (Sisemore):** An ordinance approving VAC 08-3130 submitted by Donna Stewart for property located at 1326 South China Berry Lane to vacate a portion of a utility easement on the subject property, a total of 81.6 square feet.
7. **I-PZD 08-3062 (Westside Storage):** An ordinance establishing an Industrial Planned Zoning District Titled I-PZD 08-3062 Westside Storage, located at 1192 North Ruppel Road, containing approximately 0.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.
8. **Villas at Stonebridge Appeal:** An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2170, Villas at Stonebridge, located south of Highway 16 East and east of Goff Farm Road; containing approximately 53.03 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

Announcements:

1. **City Council Tour: December 1, 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

City Council Agenda Items
and
Contracts, Leases or Agreements

12/2/08
City Council Meeting Date
Agenda Items Only

Larry Rennie

Submitted By

Building Services

Division

Operations

Department

Action Required:

Award of bid # 08-67 to Roberts M-McNutt Inc. for the amount of \$38,827.00 and approve a contingency of \$3,882.00 for a total cost of \$42,709.00. To replace the roof of the ICH Building consisting of removal of old roof, trim, gutters and down spouts. Replace with new elastameric membrane, 4" Iso 95 insulation, metal roof edging, flashing, trim, gutters and downspouts. Disposal of all debris and construction waste. Provide 20 year warranty.

\$42,709.00

Cost of this request

\$

296,470.00

Category / Project Budget

Building Improvements

Program Category / Project Name

4470.9470.5400.00

Account Number

\$

172,642.50

Funds Used to Date

Program / Project Category Name

02046-0801

Project Number

\$

99,507.38

Remaining Balance

Sales Tax Capitol

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City
Clerk's Office



Finance and Internal Service Director

Date

Received in
Mayor's Office



Mayor

Date

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

FROM: Gary Dumas – Director of Operations 
Larry Rennie – Building Services Supervisor 

THRU: Dan Coody - Mayor

DATE: 11/03/2008

SUBJECT: ICH Building Re-Roof

Recommendation: Staff recommends City Council accept bid from Roberts-McNutt Inc. for the amount of \$38,827.00 and approve a project contingency of \$3,882.00 for a total cost of \$42,709.00

Background: The ICH (Interim City Hall) building was built in 1982. The roof and associated items are original to the building and have reached the end of their useful life. Several leaks and rusted out gutters necessitates this action.

Benefits: The City will benefit from the added insulation in reduced energy costs.

Budget Impact: This is a budgeted item from the sales tax capitol improvements.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #08-67 AND APPROVING A CONTRACT WITH ROBERTS-MCNUTT, INC. IN THE AMOUNT OF \$38,827.00 TO REPLACE THE ROOF OF THE ICH BUILDING; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$3,882.00.

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 awards Bid #08-67 and approves a contract with Roberts-McNutt, Inc. in the amount of \$38,827.00 to replace the roof of the ICH Building. A copy of the contract, 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 Project Contingency in the amount of \$3,882.00.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

BID: 08-67

10/30/2008

3:00 PM, Local Time

CITY OF FAYETTEVILLE



Bid 08-67, Roof Replacement on ICH Building

BIDDER		Total Bid Amount
1	Franklin & Son, Inc.	\$46,451.00
2	P.I. Roof Maintenance, Inc.	\$44,550.00
3	Quality Roofing Contractors	\$56,600.00
4	Roberts-McNutt, Inc.	\$38,827.00
5	Schefers Roofing Company	\$59,974.00

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

CERTIFIED: P. Vice P. VICE PURCH MGR
WITNESS: [Signature] DATE: 10/30/08

City of Fayetteville
Bid 08-67, Roof Replacement on ICH Building

This contract executed this 17th day of November, 2008, between the City of Fayetteville, Arkansas, and Roberts-McNutt, Inc. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Roberts-McNutt, Inc. at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per bid 08-67 as stated in Roberts-McNutt, Inc. bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid #08-67, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay Roberts-McNutt, Inc based on their bid proposal in an amount not to exceed \$38,827.00. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and Roberts-McNutt, Inc. consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 08-67 with the specifications and conditions typed thereon.
 - B. Roberts-McNutt, Inc. bid proposal.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and Roberts-McNutt, Inc. and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Roberts-McNutt, Inc.
5. Roberts-McNutt, Inc. shall not assign its duties under the terms of this agreement.
6. Roberts-McNutt, Inc. agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Roberts-McNutt, Inc. performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.
7. Roberts-McNutt, Inc. shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be

maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Roberts-McNutt, Inc. shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workmen's Compensation

Statutory Amount

Comprehensive General &
Automobile Insurance

Bodily Injury Liability

\$500,000 for each person injured.
\$1,000,000 for each accident.

Property Damage Liability

\$1,000,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by Roberts-McNutt, Inc.

8. Roberts-McNutt, Inc. to furnish proof of licensure as required by all local and state agencies.
9. This contract may be terminated by the City of Fayetteville or Roberts-McNutt, Inc. with 10 days written notice.
10. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo coping costs pursuant to the FOIA may be assessed for this compliance.

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

WITNESS OUR HANDS THIS _____ DAY OF _____, 2008.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

Attest:

Sondra Smith, City Clerk

Roberts-McNutt Inc.
CONTRACTOR

BY Mary Alice Project Mgr./Estimator
Name & Title

Attest: Company Secretary

Stacy R. Steele

848 Oldwire Rd. Springdale, AR 72764
BUSINESS ADDRESS



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

INVITATION TO BID

INVITATION TO BID: BID 08-67, Roof Replacement on ICH Building

DEADLINE: Wednesday, October 29, 2008 at 3:00 PM, Central Standard Time

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

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

DATE OF ISSUE AND ADVERTISEMENT: Issued 10/03/08 – Advertised 10/03/08 & 10/10/08

INVITATION TO BID

BID 08-67, Roof Replacement on ICH Building

No late bids will be accepted. Bids shall be submitted in sealed envelopes labeled "Bid 08-67, Roof Replacement on ICH Building" with the name and address of the bidder.

All bids shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each bidder is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection.

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

Name of Firm: Roberts-McNutt Inc.

Contact Person: Mike Hill Title: Estimator/Project Mgr.

E-Mail: Mikehill32@hotmail.com Phone: 479-725-1247

Business Address: 848 Old Wire Rd.

City: Springdale State: AR Zip: 72764

Signature: Mike Hill Date: 10-30-08

City of Fayetteville
Bid 08-67, Roof Replacement on ICH Building
Bid Form

PLEASE NOTE: ALL ITEMS MARKED * ARE CONSIDERED MANDATORY REQUIREMENTS FOR CONSIDERATION OF BID. FAILURE TO COMPLETE THESE ITEMS MAY RESULT IN REJECTION OF BID. IN THE MINIMUM SPECIFICATIONS, BLANKS WILL BE PROVIDED FOR EACH VENDOR TO LIST THEIR OWN DIMENSIONS, STANDARDS OR EXPLANATIONS.

Bidder Information:

*CONTRACTORS NAME: Roberts - McNutt Inc.
*CONTRACTORS LICENSE NUMBER: 9161208
*CONTACT NAME: Mike Hill *TITLE: Estimator/Project Mgr.
*BUSINESS ADDRESS: 848 Old Wire Rd.
*CITY: Springdale, *STATE: AR *ZIP: 72764
*PHONE: 479-725-1247 FAX: 479-725-1248
*E-MAIL ADDRESS: mikehill32@hotmail.com

Total Turn-Key Bid Amount: *\$ 38,827.⁰⁰

*Complete amount to complete project based on specified with the exception of damaged decking & wood nailer replacement

NOTE: BID AWARD WILL BE EVALUATED ON TOTAL TURN-KEY BID AMOUNT

LINE A: Price for damaged decking = \$ 3.85 per square foot
LINE B: Price for wood nailer replacement = \$ 1.78 per lineal foot

EXECUTION OF BID - Upon signing this Bid, the bidder certifies that he/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on. Bids must be submitted on this bid form in its entirety AND accompanied by descriptive literature on the products being bid. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein. Unsigned bids will be rejected. Items marked * are mandatory for consideration.

Mike Hill
*AUTHORIZED BY (PRINTED NAME)

Mike Hill
*AUTHORIZED SIGNATURE

Estimator/Project Manager
*TITLE

10 / 30 / 08
*DATE

All bids must be submitted no later than 3:00 p.m., local time, on October 29, 2008 to the City of Fayetteville, Purchasing Office, Room 308, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked "Bid 08-67 Roof Replacement on ICH Building". Each bidder will be required to meet or exceed the specifications attached. Any deviation must be noted with specifications attached to bid. Questions should be directed to Andrea Foren, City of Fayetteville Purchasing Division, at (479) 575-8220 or aforen@ci.fayetteville.ar.us.

BID BOND

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA Hartford, Connecticut 06183

KNOW ALL MEN BY THESE PRESENTS, that we Roberts-McNutt, Inc.

as Principal, hereinafter called the Principal, and Travelers Casualty and Surety Company of America
a corporation duly organized under the laws of the State of Connecticut as Surety, hereinafter called the Surety,
are held and firmly bound unto City of Fayetteville

as Obligor, hereinafter called the Obligor, in the sum of Five Percent of Amount Bid
Dollars (\$ 5%), for the payment of which sum well and truly to be made, the said Principal and the said
Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by
these presents.

WHEREAS, the Principal has submitted a bid for Roofing Replacement (Bid 08-67) on the ICH Building
Fayetteville, AR

NOW, THEREFORE, if the Obligor shall accept the bid of the Principal and the Principal shall enter into a Contract
with the Obligor in accordance with the terms of such bid, and give such bond or bonds as may be specified in the
bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for
the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the
Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligor the difference
not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the
Obligor may in good faith contract with another party to perform the Work covered by said bid, then this obligation
shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 30th day of October , 2008

Shirley R. Steele
(Witness)

Roberts-McNutt, Inc.

(Principal)

By: Michael H. Hie

(Title) Estimator/Project Mgr.

Mary K. Swan
(Witness)
Mary K. Swan

Travelers Casualty and Surety Company of America

(Surety)

(Seal)

By: John Herety

John Herety

(Title) Attorney-in-Fact



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Surety Bond No. Bid Bond

Principal: Roberts-McNutt, Inc.

OR

Project Description: Roofing Replacement (Bid 08-67) on the ICH Building
Fayetteville, AR

Obligee: City of Fayetteville

KNOW ALL MEN BY THESE PRESENTS: That Seaboard Surety Company is a corporation duly organized under the laws of the State of New York, that St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **John Garety** of the City of Little Rock, State of AR, their true and lawful Attorney(s)-In-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this **11th** day of **August, 2006**.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut

City of Hartford ss.

By: George W. Thompson
George W. Thompson, Senior Vice President

On this the **11th** day of **August, 2006**, before me personally appeared **George W. Thompson**, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June, 2011**.



Marie C. Tetreault
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kori Johanson, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 30th day of October, 2008.


Kori M. Johanson, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at stpaultravelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.



**Quality You Can Trust Since 1886...
from North America's Largest Roofing Manufacturer**

October 30, 2008

Roberts-McNutt, Inc.
848 Old Wire Road
Springdale, AR 72764
(479) 725-1247

**Subject: Contractor Certification
ICH Building--City of Fayetteville**

To Whom It May Concern:

This is to confirm that Roberts-McNutt, Inc. of Springdale, AR is a GAF Materials Corporation Master Roofing Contractor for Single Ply, TOPCOAT Restoration, RUBEROID® and GAFGLAS® Roofing Systems. Roberts-McNutt, Inc. is eligible to obtain a GAF Materials Corporation Diamond Pledge (NDL) guarantee for up to 20 years provided that all current GAF application and specification requirements are met and procedures followed.

If you have any questions please call 1-800-766-3411. Thank you for choosing GAF Materials Corporation.

Sincerely,

Mark Lenzer
Director, Certification Programs
GAF Materials Corporation



848 Old Wire Rd.
Springdale, AR 72764
Ph: 479-725-1247
Fax: 479-725-1248

October 30, 2008

Re: Bidder Qualifications / Building Owner Project References

1. Project: Regina R. Young CPA Office (Fayetteville, AR)
Contact: Ken Young PH. 479.444.8820
2. Project: Ozark Cleaners (Fayetteville, AR)
Contact: Ken Sanders PH. 479.442.2361
3. Barnes & Noble Booksellers (Fayetteville, AR)
Contact: Christine Pennington PH. 479.443.8002

Bid 08-67, Addendum 1



Date: Monday, October 13, 2008

To: All Prospective Vendors

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

RE: Bid 08-67, Roof Replacement on ICH Building

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

- **Bid 08-67, has the following modifications and clarifications:**

1.) The deadline for this bid has been extended. All bids shall be received before **Wednesday, October 29, 2008 at 3:00 PM**, Central Standard Time to the City of Fayetteville, City Hall, Purchasing Division, 113 West Mountain Street Room 306, Fayetteville, AR 72701.

a. Please note: This change has been made to the bid documents prior to distribution.

Acknowledge Addendum #1:

Printed Name: Michael Hill

Signature: *Michael Hill*

Title: Estimator/project Date: 10-29-08
mgr.

Company: Roberts-McNutt Inc.

Bid 08-67, Addendum 2



Date: Thursday, October 16, 2008

To: All Prospective Vendors

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

RE: Bid 08-67, Roof Replacement on ICH Building

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

• **Bid 08-67, has the following modifications and clarifications:**

1.) The following attachments are hereby deleted from the bid specifications:

- a. Attachment C – Section 07526 – Modified Bitumen Sheet Roofing
- b. Attachment D – Section 07530 – Adhered Membrane Roofing
- c. Attachment F – Section 07631 – Gutters and Downspouts
- d. Attachment G – Section 07900 - Sealants

2.) Section B – Scope of Work & Specifications, Item 3:

- a. REPLACE with "Provide a twenty (20) year color fade warranty, or more, whichever is greater according to the manufacturer's specification.

3.) Attachment B – Section 07500 – Membrane Roofing, 1.01 – Summary, Line 10:

- a. ADD "and including gutters, down spouts, and parapet wall cap.

4.) Attachment E – Section 07600 – Sheet Metal Flashing & Trim, 1.20 – Related Sections:

- a. REMOVE A, B, C & D
- b. ADD A: Section 07500 Membrane Roofing (Attachment) B as a related section

Acknowledge Addendum #1:

Printed Name: Michael Hill

Signature: Michael Hill

Title: Estimator/Project Mgr. Date: 10-29-08

Company: Roberts-McNutt, Inc.

Bid 08-67, Addendum 3



Date: Friday, October 24, 2008

To: All Prospective Vendors

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

RE: Bid 08-67, Roof Replacement on ICH Building

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

• **Bid 08-67, has the following modifications and clarifications:**

- 1.) The deadline for this bid has been extended. All bids shall be received before **Thursday, October 30, 2008 at 3:00 PM**, Central Standard Time to the City of Fayetteville, City Hall, Purchasing Division, 113 West Mountain Street Room 306, Fayetteville, AR 72701.
- 2.) Roof shall have a twenty (20) year warranty.
- 3.) ISO shall be two pieces of two inch (for a total of 4"). The two separate pieces shall be staggered.
- 4.) Please fill out the name of your company representative as well as the date and time they met with the City staff"

a. Name: Michael Hill

b. Date of roof inspection with City Staff: 10-23-08 w/ Paul Geurin

Acknowledge Addendum #3:

Printed Name: Michael Hill

Signature: Michael Hill

Title: Estimator/Project Mgr. Date: 10-29-08

Company: Roberts-McNutt Inc.

Bid 08-67, Addendum 4



Date: Monday, October 27, 2008

To: All Prospective Vendors

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

RE: Bid 08-67, Roof Replacement on ICH Building

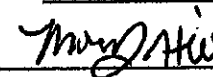
This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached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

- **Bid 08-67, has the following modifications and clarifications:**

- 1.) The attached item (total of 2 additional pages) has been approved as an equal for this project.

Acknowledge Addendum #4:

Printed Name: Michael Hill

Signature: 

Title: Estimator / Project mgr Date: 10-29-08

Company: Roberts-McNutt Inc.

Bid 08-67, Addendum 5



Date: Monday, October 27, 2008

To: All Prospective Vendors

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

RE: Bid 08-67, Roof Replacement on ICH Building

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

- **Bid 08-67, has the following modifications and clarifications:**

- 1.) The information provided in Addendum 4 is hereby omitted from this bid. This specification was intended to be included in reference to Bid 08-65.

Acknowledge Addendum #5:

Printed Name: Michael Hill

Signature: Mr. Hill

Title: Estimator/Project Mgr. Date: 10-29-08

Company: Roberts-McNutt Inc.

City of Fayetteville Staff Review Form

A. 3
Bid # 08-68 Diamond International
Page 1 of 6City Council Agenda Items
and
Contracts, Leases or Agreements

12/2/2008

City Council Meeting Date
Agenda Items Only

Dennis Pratt

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid #08-68 to Diamond International in the amount of \$107,147 for the purchase of one dump truck for use by Transportation Division.

\$ 107,147.00

Cost of this request

\$ 1,062,362.00

Category / Project Budget

Heavy Utility Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 922,533.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02079.2008

Project Number

\$ 139,829.00

Remaining Balance

Shop

Fund Name

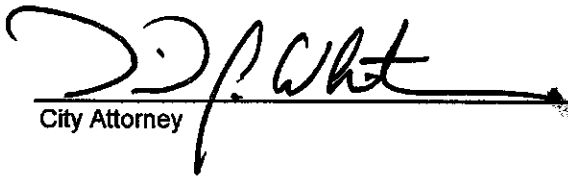
Budgeted Item ☒Budget Adjustment Attached ☐

Department Director

11-14-08

Date

Previous Ordinance or Resolution #



City Attorney

11/18/08

Date

Original Contract Date:

Original Contract Number:



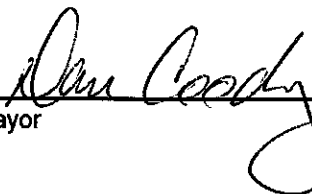
Finance and Internal Service Director

11-19-08

Date

Received in City
Clerk's Office

11-14-08



Mayor

11/19/08

Date

Received in
Mayor's Office

Comments:



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



and International

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL
THRU: GARY DUMAS, DIRECTOR OF OPERATIONS
FROM: DENNIS PRATT, FLEET OPERATIONS SUPT. *B. D. Olser
for D. Pratt*
DATE: November 13, 2008
SUBJECT: Purchase of one dump truck

RECOMMENDATION: That City Council approve the purchase of one dump truck for Transportation Division in the amount of \$107,147.

BACKGROUND: Bid #08-68 was opened on October 29, 2008 for one dump truck for assignment to the Transportation Division. Nine bid responses were received. A detailed tabulation sheet is attached.

This unit is a replacement for #730, a 1997 Ford F800 dump truck/Highway spreader truck that is due for replacement in 2008.

The low bid from Diamond International, Option 1, does meet specs.

I recommend acceptance of the bid, option 1 from Diamond International in the amount of \$107,147.

Funds for this purchase are available in Fleet project #02079 – Heavy Utility Vehicles.

This purchase was approved by the Equipment Committee on November 13, 2008.

CC: Gary Dumas

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #08-68 AND APPROVING THE PURCHASE OF ONE (1) DUMP TRUCK FROM DIAMOND INTERNATIONAL IN THE AMOUNT OF \$107,147.00 FOR USE BY THE TRANSPORTATION DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #08-68 and approving the purchase of one (1) Dump Truck from Diamond International in the amount of \$107,147.00 for use by the Transportation Division.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

BID: 08-68
 10/29/2008
 2:00 PM
 CITY OF FAYETTEVILLE



Bid 08-68, Dump Truck

BIDDER	Manufacturer	Model	Total Price
1 Diamond International of Lowell - OPT 1			
Item 1	International	7600 SBA 6x4	\$90,500.00
Item 2	Hilbitt	Mongoose XL	\$16,647.00
TOTAL			\$107,147.00
2 Diamond International of Lowell - OPT 2			
Item 1	International	7600 SBA 6x4	\$90,500.00
Item 2	Davis Body	EFMT 12-13	\$17,975.00
TOTAL			\$108,475.00
3 Mack Truck Sales of Tulsa, Inc.			
Item 1	Mack	GU813 Granite	\$100,506.10
Item 2	Davis	EFMT 12-13	\$18,400.00
TOTAL			\$118,906.10
4 MHC Kenworth/Volvo			
Item 1	Kenworth	T800	\$108,151.00
Item 2	Ox Bodies Inc	13' Stampede	\$15,045.00
TOTAL			\$123,196.00
5 Peterbilt of Fort Smith - OPT 1			
Item 1	Peterbilt	365	\$104,293.00
Item 2	Hilbitt	Mongoose XL	\$16,647.00
TOTAL			\$120,940.00
6 Peterbilt of Fort Smith - OPT 2			
Item 1	Peterbilt	365	\$104,293.00
Item 2	Ox	Stampede HD	\$15,390.00
TOTAL			\$119,683.00
7 Shipley Motor Equipment Company - OPT 1			
Item 1	Mack	GU813	\$102,394.60
Item 2	Ox	Stampede	\$15,060.00
TOTAL			\$117,454.60
8 Shipley Motor Equipment Company - OPT 2			
Item 1	Mack	GU713	\$98,778.04
Item 2	Ox	Stampede	\$15,060.00
TOTAL			\$113,838.04
9 Truck Centers of Arkansas			
Item 1	Sterling	LT9500	\$94,513.00
Item 2	Ox	Stampede	\$15,585.00
TOTAL			\$110,098.00

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

CERTIFIED:

P. VICE PURCH MGR

WITNESS

DATE

P. Vice

John Doe

11/4/08



Equipment Committee Correspondence

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

FROM: Dennis Pratt, Fleet Operations Supt

DATE: Nov. 7, 2008

SUBJECT: Award of Bid 08-68

Bid #08-68 was opened on October 29, 2008 for one dump truck for assignment to the Transportation Division. Nine bid responses were received. A detailed tabulation sheet is attached.

This unit is a replacement for #730, a 1997 Ford F800 dump truck/Highway spreader truck that is due for replacement in 2008.

The low bid from Diamond International, Option 1, does meet specs.

I recommend acceptance of the bid, option 1 from Diamond International in the amount of \$107,147.

Funds for this purchase are available in Fleet project #02079 – Heavy Utility Vehicles.

Cc:
Gary Dumas

approved.
B Olsen

City Of Fayetteville

(Not a Purchase Order)

Vendor #		14039		Vendor Name: DIAMOND INTERNATIONAL		Requisition No.		Date: 11/12/2008	
Address:				Fob Point:		P.O Number		Expected Delivery Date:	
City:				State:		Mail Yes: No: XX			
Requester Margaret Hattabaugh				Zip Code		Taxable Yes: No: XX			
Item Description		Quantity		Unit of Issue		Ship to code: 050		Division Head Approval Yes: No: XX	
		1		EA		Requester's Employee # 2256		Quotes Attached Yes: No: XX	
1 INTERNATIONAL 7600 SBA DUMP						Account Numbers 9700.1920.5802.00		Extension: 485	
2 TRUCK WITH HILBILT MONGOOSE				EA				Project/Subproject # 02079.2008	
3 BODY, PER BID #08-68, TO BE UNIT				EA				Inventory #	
4 #761, FIXED ASSET #700761.				EA				Fixed Asset #	
5				EA					
6				EA					
7				EA					
8				EA					
9				EA					
10				EA					
Shipping/Handling				Lot					

Subtotal: 107,147.00

Tax: EXEMPT

Total: 107,147.00

Special Instructions:

Approvals:

Mayor: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Department Director: _____

Budget Manager: _____

Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

City of Fayetteville Staff Review Form

A. 4
 Bid # 08-69
 Stamm Manufacturing
 Page 1 of 6

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

12/2/2008

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid #08-69 to Stamm Manufacturing in the amount of \$97,336 for the purchase of one Aerial Platform Truck for use by Transportation Traffic Division.

\$ 97,336.00

Cost of this request

\$ 546,618.00

Category / Project Budget

Light/Medium Utilty Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 396,167.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02078.2008

Project Number

\$ 150,451.00

Remaining Balance

Shop

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature]

Department Director

11-14-08

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]

City Attorney

11/18/08

Date

Received in City
 Clerk's Office



11-14-08

[Signature]

Finance and Internal Service Director

11-18-08

Date

Received in
 Mayor's Office



[Signature]

Mayor

11/18/08

Date

Comments:



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



08-69
Manufacturing
of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DENNIS PRATT, FLEET OPERATIONS SUPT. *B. Olson*

DATE: November 13, 2008 *for D. Pratt*

SUBJECT: Purchase of one Aerial Platform Truck

RECOMMENDATION: That City Council approve the purchase of one aerial platform truck for Traffic Division in the amount of \$97,336.

BACKGROUND: Bid #08-69 was opened on October 15, 2008 for one aerial platform truck for assignment to the Transportation Traffic Division. Four bid responses were received. A detailed tabulation sheet is attached.

This unit is a replacement for #327, a 2001 Ford F550 Utility truck with 124,000 miles that is due for replacement in 2008.

The two lowest bids from Landers McLarty Ford do not meet specifications as the Platform is not side mounted to the boom. The next lowest bid from Stamm Manufacturing does meet specs.

I recommend acceptance of the bid, option 1 from Stamm Manufacturing in the amount of \$97,336.

Funds for this purchase are available in Fleet project #02078 – Light / Medium Utility Vehicles.

This purchase was approved by the Equipment Committee on November 13, 2008.

CC: Gary Dumas

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #08-69 AND APPROVING THE PURCHASE OF ONE (1) AERIAL PLATFORM TRUCK FROM STAMM MANUFACTURING IN THE AMOUNT OF \$97,336.00 FOR USE BY THE TRANSPORTATION/TRAFFIC DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #08-69 and approving the purchase of one (1) Aerial Platform Truck from Stamm Manufacturing in the amount of \$97,336.00 for use by the Transportation/Traffic Division.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

BID: 08-69
10/15/2008
2:00 PM
CITY OF FAYETTEVILLE



Bid 08-69, Aerial Platform Truck

BIDDER	Manufacturer	Model	Total Price
1 Landers McLarty Ford - OPT 1 Item 1 Item 2	Ford Versalift	2009 F550 Chassis VST-39-TN	\$34,187.89 \$52,586.00 TOTAL \$86,772.89
2 Landers McLarty Ford - OPT 2 Item 1 Item 2	Ford Reading Service Body U108AHH / Duralift & Outriggers	2009 F550 DPM-40DP	\$34,187.89 \$53,988.99 TOTAL \$88,176.88
3 Stamm Manufacturing - OPT 1 Item 1 Item 2	Ford Stamm	2009 F550 ATR45N	\$33,686.00 \$63,650.00 TOTAL \$97,336.00
4 Stamm Manufacturing - OPT 2 Item 1 Item 2	Ford Stamm	2009 F550 ATR 45I	\$33,686.00 \$72,400.00 TOTAL \$106,086.00

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

CERTIFIED: P. Vice
P. VICE PURCH MGR

Jim Star
WITNESS

10/15/08
DATE



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

A. 4
Bid # 08-69
Stamm Manufacturing
Page 5 of 6

Equipment Committee Correspondence

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

FROM: Dennis Pratt, Fleet Operations Supt

DATE: Nov. 7, 2008

SUBJECT: Award of Bid 08-69

Bid #08-69 was opened on October 15, 2008 for one aerial platform truck for assignment to the Transportation Traffic Division. Four bid responses were received. A detailed tabulation sheet is attached.

This unit is a replacement for #327, a 2001 Ford F550 Utility truck with 124,000 miles that is due for replacement in 2008.

The two lowest bids from Landers McLarty Ford do not meet specifications as the Platform is not side mounted to the boom. The next lowest bid from Stamm Manufacturing does meet specs.

I recommend acceptance of the bid, option 1 from Stamm Manufacturing in the amount of \$97,336.

Funds for this purchase are available in Fleet project #02078 – Light / Medium Utility Vehicles.

Cc:
Gary Dumas

approved
B. Oles

City Of Fayetteville

(Not a Purchase Order)

Vendor #		Vendor Name: STAMM MANUFACTURING		Requisition No.		Date: 11/12/2008	
Address:		Fob Point:		P.O Number		Expected Delivery Date:	
City:		State:		Mail Yes: <u> </u> No: <u>XX</u>			
Requester Margaret Hattabaugh		Requester's Employee # 2256		Ship to code: 050		Quotes Attached Yes: <u> </u> No: <u> </u>	
Item Description		Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #
1	2009 FORD F550 WITH STAMM	1	EA	\$97,336.00	\$97,336.00	9700.1920.5802.00	02078.2008
2	ATR45N AERIAL PLATFORM PER		EA		\$0.00		
3	BID #08-69. TO BE UNIT #369,		EA		\$0.00		
4	FIXED ASSET #700369		EA		\$0.00		
5			EA		\$0.00		
6			EA		\$0.00		
7			EA		\$0.00		
8			EA		\$0.00		
9			EA		\$0.00		
10			EA		\$0.00		
	Shipping/Handling		Lot		\$0.00		
Special Instructions:					Subtotal: 97,336.00		
					Tax: EXEMPT		
					Total: 97,336.00		

Approvals: _____
 Mayor: _____
 Finance & Internal Services Director: _____
 Dispatch Manager: _____
 Department Director: _____
 Budget Manager: _____
 Utilities Manager: _____
 Purchasing Manager: _____
 IT Manager: _____

City of Fayetteville Staff Review Form

A. 5
 Bid # 08-70 Williams Tractor, Inc.
 Page 1 of 8

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

12/2/2008

City Council Meeting Date
 Agenda Items Only

Dennis Pratt

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid #08-70 to Williams Tractor in the amount of \$68,894 for the purchase of a tractor for use by the East side Wastewater Treatment Plant, and approval of the Budget Adjustment to move funds to the Fleet Project #02083 - Tractors/Mowers.

\$ 68,894.00

Cost of this request

\$ 110,000.00

Category / Project Budget

Tractors/Mowers

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 57,131.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02083.2007

Project Number

\$ 52,869.00

Remaining Balance

Shop

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

Gay D. 11.14.08

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

D.J. White 11/18/08

City Attorney

Date

Received in City
 Clerk's Office



11-14-08

Paul A. Bush

Finance and Internal Service Director

11-19-08

Date

Received in
 Mayor's Office



Sam Coody 11/14/08

Mayor

Date

Comments:



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



ms Tractor, Inc.

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DENNIS PRATT, FLEET OPERATIONS SUPT. *D. Pratt*
for D. Pratt

DATE: November 13, 2008

SUBJECT: Purchase of one tractor

RECOMMENDATION: That City Council approve the purchase of one tractor for use by the Wastewater Treatment Plant, East side in the amount of \$68,894, and approve a Budget Adjustment to move funds from one Fleet project to another.

BACKGROUND: Bid #08-70 was opened on November 7, 2008 for one front load diesel tractor for assignment to the Wastewater Treatment Plant, East side. Three bid responses were received. A detailed tabulation sheet is attached.

This unit is a replacement for #556, a 1997 Ford New Holland Tractor that was due for replacement in 2006.

The low bid from Williams Tractor, Option 2, does not meet specs. The second lowest bid from Williams Tractor, Option 1, does meet the specs.

I recommend acceptance of the bid from Williams Tractor, Option 1 in the amount of \$68,894.

The majority of the funds for this purchase are available in Fleet project #02083 – Tractors/Mowers. A Budget Adjustment is attached to transfer the balance needed of \$17,000 from the Backhoes/Loaders project #02076 to the Tractor/Mower project #02083.

This purchase was approved by the Equipment Committee on November 13, 2008.

CC: Gary Dumas

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #08-70 AND APPROVING THE PURCHASE OF ONE (1) FRONT-LOAD DIESEL TRACTOR FROM WILLIAMS TRACTOR, INC. IN THE AMOUNT OF \$68,894.00 FOR USE AT THE NOLAND WASTEWATER TREATMENT PLANT; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$25,426.00.

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 awards Bid #08-70 and approves the purchase of one (1) front-load diesel tractor from Williams Tractor, Inc. in the amount of \$68,894.00 for use at the Noland Wastewater Treatment Plant.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$25,426.00.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 5
Bid # 08-70 Williams Tractor, Inc.
Page 4 of 8

Budget Year 2008	Department: Operations Division: Fleet Operations Program: Capital Expenditures	Date Requested 11/7/2008	Adjustment Number
--------------------------------	--	--	-------------------

Project or Item Added/Increased:

Increase project #02083 - Tractors/Mowers by \$17,000 to provide the balance needed to purchase the replacement tractor for East side Waste water treatment plant.

Project or Item Deleted/Reduced:

Decrease project #02076 - Backhoes/Loaders by \$17,000 to provide the balance needed to purchase the replacement tractor.

Justification of this Increase:

Fleet underestimated the purchase price for the replacement of unit #556.

Justification of this Decrease:

Extra funds are available in this project #02076 because five units came in at less than the budgeted amount. There are sufficient funds available to meet City objectives.

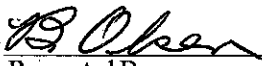
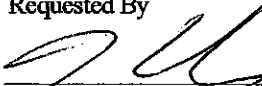
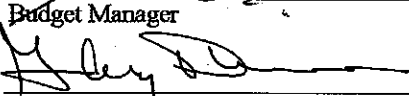
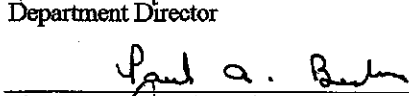
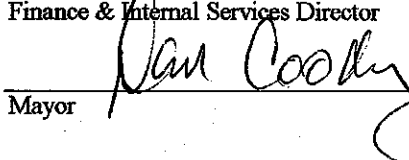
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	9700	1920	5802	00	17,000	02083	2007
Vehicles and equipment	9700	1920	5802	00	8,426	02083	2007

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	9700	1920	5802	00	17,000	02076	2008
Vehicles and equipment	9700	1920	5802	00	8,426	02083	2008

Approval Signatures

	11-13-08	
Requested By	Date	
	11-13-08	
Budget Manager	Date	
	11-14-08	
Department Director	Date	
	11-19-08	
Finance & Internal Services Director	Date	
	11-19-08	
Mayor	Date	

Budget Office Use Only

Type: A B C D E

Posted to General Ledger

	Initial	Date
--	---------	------

Posted to Project Accounting

	Initial	Date
--	---------	------

Entered in Category Log

	Initial	Date
--	---------	------

BID: 08-70
11/7/2008
2:00 PM
CITY OF FAYETTEVILLE



Bid 08-70, Front Load 4WD Diesel Tractor

BIDDER	Manufacturer	Model	Price Each	Optional Trade-In Allowance	Total Bid Price
1 Countryside Farm & Lawn	John Deere	7130 Tractor w/ 740 with 740 Loader	\$65,394.00	\$18,100.00	\$47,294.00
2 Williams Tractor, Inc. - OPT 1	New Holland	T6030 Plus with 840TL Loader	\$68,894.00	\$32,900.00	\$35,994.00 MA
3 Williams Tractor, Inc. - OPT 2	New Holland	T6030 Delta with 840TL Loader	\$65,894.00	\$32,900.00	\$32,994.00

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

CERTIFIED:

P. Vice
P. VICE - PURCH MGR

WITNESS

A. Green 11/7/08
DATE



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

A. S.
B. D. 70 Williams Tractor, Inc.
Page 6 of 8

Equipment Committee Correspondence

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

FROM: Dennis Pratt, Fleet Operations Supt

DATE: Nov. 7, 2008

SUBJECT: Award of Bid 08-70

Bid #08-70 was opened on November 7, 2008 for one front load diesel tractor for assignment to the Waste Water Treatment Plant, East side. Three bid responses were received. A detailed tabulation sheet is attached.

This unit is a replacement for #556, a 1997 Ford New Holland Tractor that was due for replacement in 2006.

The low bid from Williams Tractor, Option 2, does not meet specs. The second lowest bid from Williams Tractor, Option 1, does meet the specs.

I recommend acceptance of the bid from Williams Tractor, Option 1 in the amount of \$68,894.00 less trade-in allowance of \$32,900 for a total cost to the City of \$35,994.00

Although the \$68,894 is more than the amount budgeted - \$60,000 for this purchase is available in Fleet project #02083 - Tractors/Mowers. A Budget Adjustment to cover the difference will be prepared to move funds from the Backhoes/Loaders project #02076 which had several items come in lower than the amount budgeted.

Cc:
Gary Dumas

Approved
B. Olser

City Of Fayetteville

(Not a Purchase Order)

Vendor #		11133		Vendor Name:		WILLIAMS TRACTOR		Requisition No.		Date:	
Address:				Fob Point:				P.O Number		Expected Delivery Date:	
City:				State:				Mail Yes: No: XX			
Requester				Requester's Employee #		2256		Taxable Yes: No: XX			
Margaret Hattabaugh				Ship to code:		050		Division Head Approval		Quotes Attached Yes: No:	
Item Description		Quantity		Unit of Issue		Unit Cost		Extended Cost		Account Numbers	
1 NEW HOLLAND T6030 PLUS		1		EA		\$68,894.00		\$68,894.00		9700.1920.5802.00	
2 TRACTOR WITH 840TL LOADER				EA				\$0.00			
3 PER BID #08-70. TO BE UNIT #5012				EA				\$0.00			
4 FIXED ASSET #705012				EA				\$0.00			
5 LESS TRADE IN		1		EA		-\$32,900.00		-\$32,900.00		9700.0970.6881.02	
6				EA				\$0.00			
7				EA				\$0.00			
8				EA				\$0.00			
9				EA				\$0.00			
10				EA				\$0.00			
Shipping/Handling				Lot				\$0.00			
Special Instructions:										Subtotal: 35,994.00	
										Tax: EXEMPT	
Approvals:										Total: 35,994.00	
Mayor: _____										Purchasing Manager: _____	
Finance & Internal Services Director: _____										IT Manager: _____	
Dispatch Manager: _____										Utilities Manager: _____	

City of Fayetteville Staff Review Form

A. 6
AT&T
Page 1 of 8

City Council Agenda Items and Contracts, Leases or Agreements

12/2/2008

City Council Meeting Date
Agenda Items Only

Tony Johnson
Greg Tabor
Submitted By

Fire
Police
Division

Fire
Police
Department

Action Required:

City Council approve the purchase of fifty (50) Pinpoint X GPS intergrated modems and antennas via the State of Arkansas Purchasing Contract, fifty (50) security appliances and approve a budget adjustment.

\$ 50,420.00
Cost of this request
1010-2940-5210.00
1010-3020-5210.00
Account Number
08075-1
08073-1
Project Number

\$ 50,420.00
Category / Project Budget
\$ -
Funds Used to Date
\$ 50,420.00
Remaining Balance

Hardware for Mobile Computers
Program Category / Project Name
Equipment
Program / Project Category Name
General
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

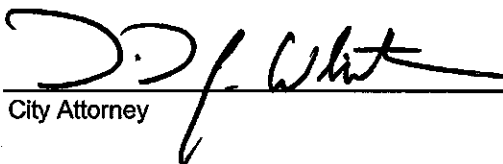

Department Director

11-14-08

11-14-08
Date

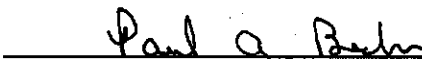
Previous Ordinance or Resolution #

Original Contract Date:


City Attorney

11/18/08
Date

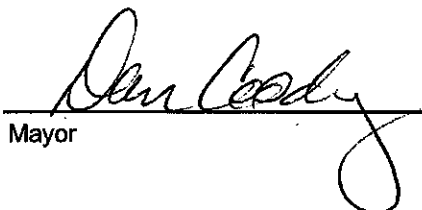
Original Contract Number:


Finance and Internal Service Director

11-19-08
Date

Received in City
Clerk's Office




Mayor

11/19/08
Date

Received in
Mayor's Office



Comments:



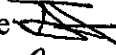
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

A. 6
AT&T
Page 2 of 8

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police 
Tony Johnson, Fire Chief 

DATE: November 14, 2008

RE: Public Safety Mobile Data Infrastructure Replacement

Recommendation:

It is recommended City Council approve the purchase of fifty (50) Pinpoint X GPS integrated modems and antennas via the State of Arkansas Purchasing Contract, fifty (50) security appliances and approve a budget adjustment.

Background:

The Police Department deployed laptop computers in police vehicles in 1998. The initial use of the computers was for report taking, call dispatching and interface with the State and National Crime Information Center computers to retrieve vehicle, driver and criminal history information. The Fire Department deployed laptop computers in 2007 for access to Computer Aided Dispatch (CAD), mapping and pre-fire plans.

Since that time, the in-car computers have also become a vital part of Electronic Ticketing, Accident Reports, Automatic Vehicle Location (AVL) as well as access to the Police and Fire Department's Records Management Servers. The Fire Department plans on adding MSP Fire Records software in the near future.

The infrastructure to transmit this data of Radio Frequency (RF) is old, has coverage problems and has limited bandwidth. Some of the data needing to be transmitted to and from the vehicles (ie, high resolution mugshots, pre-fire plan diagrams, lineups, electronic briefing and digital video) are very large and cannot be moved across the current system. Coverage problems or more than one program attempting to transmit information at the same time causes delays of up to several minutes in one or both programs. These limitations and coverage problems of the current system have also rendered the AVL portion of both Police and Fire Mobile software completely unreliable.

Another major issue is computer maintenance. A software update as minor as adding a new officers name and badge number to the Electronic Ticketing software requires IT Personnel to physically access each and every computer in the fleet. This process can sometimes take over a full day to complete. Currently, officers and firefighters must drive the vehicle experiencing computer problems or needing software updates to the Police Department for troubleshooting or software maintenance. This work sometimes requires the unit to be temporarily taken out of service.

Discussion:

Aircard technology is broadband and will allow larger pieces of data to be transmitted as well as transmitted simultaneously. The AVL portion of our mobile software has been tested with these modems and is much more reliable under this platform. Aircards will also allow Information Technology personnel remote access to the computers for software updates, maintenance, troubleshooting. Remote access will allow IT staff to fix most problems and perform maintenance without physically touching each and every computer, requiring a police officer or firefighter to drive the vehicle across town or taking the vehicle out of service. This remote access will be available 24 hours a day, seven days a week and can be performed from off site.

The most current release of the New World Mobile Software requires broadband infrastructure to operate.

These modems will be integrated with AT&T broadband cellular service which we have tested for coverage and also has the lowest monthly operating cost for unlimited data transfer. For these modems to be integrated with AT&T service, the provider is requiring the hardware be bought through them at the State of Arkansas Purchasing Contract price.

The security appliance will be a router which creates a secure tunnel for information flow to and from the vehicles and meets the National Crime Information Center standards.

Budget Impact:

Total cost of this hardware purchase is \$50,420, and is funded within the Public Safety Operating Budgets. The monthly service has been included in both the Police and Fire Department's 2009 Operating Budgets.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF FIFTY (50) PINPOINT X GPS INTEGRATED MODEMS AND ANTENNAE FROM AT&T THROUGH THE STATE OF ARKANSAS PURCHASING CONTRACT IN THE AMOUNT OF \$50,420.00; AND APPROVING A BUDGET ADJUSTMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of Fifty (50) Pinpoint X GPS Integrated modems and antennae from AT&T through the State of Arkansas Purchasing Contract in the amount of \$50,420.00.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$50,439.00.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 6
AT&T
Page 5 of 8

Budget Year 2008	Department: <u>Police / Fire</u> Division: <u>Police / Fire</u> Program:	Date Requested 11/14/2008	Adjustment Number
--------------------------------	---	---	--------------------------

Project or Item Added/Increased: Funds to purchase 50 Pinpoint X modems, 50 Soekris Net 5501 security appliance and 50 antenna to provide the infrastructure for the AT&T Air Cards. The Pinpoint X modems are included on State of Arkansas purchasing contract ID#190291	Project or Item Deleted/Reduced: None
--	---

Justification of this Increase: Air cards will allow stable connectivity for Police and Fire vehicles allowing them to receive digital information from dispatch and the Arkansas Crime Information Center, upload electronic tickets and receive remote technical assistance from our Information Technology group.	Justification of this Decrease: Software Maintenance for Advance Public Safety was less than budgeted since the project was delayed. ACT 833 funds provided additional funds in uniforms to cover bunker gear replacements.
--	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Minor equipment	1010	2940	5210	00	30,263	08075	1
Minor equipment	1010	3020	5210	00	20,176	08073	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Software maintenance	1010	2900	5416	00	10,263		
Uniforms/personal equip	1010	3020	5302	00	30,000		
Minor equipment	1010	3020	5210	00	10,176		

Approval Signatures <table style="width:100%;"> <tr> <td style="width:30%;">Requested By</td> <td style="width:30%;"></td> <td style="width:40%;">Date</td> </tr> <tr> <td>Budget Manager</td> <td></td> <td>11-14-08</td> </tr> <tr> <td>Department Director</td> <td></td> <td>11-14-08</td> </tr> <tr> <td>Finance & Internal Services Director</td> <td></td> <td>11-18-08</td> </tr> <tr> <td>Mayor</td> <td></td> <td></td> </tr> </table>	Requested By		Date	Budget Manager		11-14-08	Department Director		11-14-08	Finance & Internal Services Director		11-18-08	Mayor			Budget Office Use Only Type: A B C <u>D</u> E <table style="width:100%;"> <tr> <td>Posted to General Ledger</td> <td>Initial</td> <td>Date</td> </tr> <tr> <td>Posted to Project Accounting</td> <td>Initial</td> <td>Date</td> </tr> <tr> <td>Entered in Category Log</td> <td>Initial</td> <td>Date</td> </tr> </table>	Posted to General Ledger	Initial	Date	Posted to Project Accounting	Initial	Date	Entered in Category Log	Initial	Date
Requested By		Date																							
Budget Manager		11-14-08																							
Department Director		11-14-08																							
Finance & Internal Services Director		11-18-08																							
Mayor																									
Posted to General Ledger	Initial	Date																							
Posted to Project Accounting	Initial	Date																							
Entered in Category Log	Initial	Date																							

City of Fayetteville

October 30, 2008

Quantity	Description	Price Per Unit	Total
50	Pinpoint X	\$584.16	\$29,208.00
50	Trimode Antenna	\$83.86	\$4,193.00
Total			\$33,401.00

HOPKINS, MARY ANN (ATTSWBT)

From: MAGGI, MICK (ATTSWBT)
Sent: Wednesday, November 12, 2008 3:24 PM
To: HOPKINS, MARY ANN (ATTSWBT)
Subject: Fw: 2006 CMSA State of Arkansas ID 190291

Contract ID

From: LAMB, TODD (ATTSI)
To: MAGGI, MICK (ATTSWBT)
Sent: Wed Nov 12 15:13:27 2008
Subject: 2006 CMSA State of Arkansas ID 190291

Todd Lamb
(501) 231-8875

City Of Fayetteville - Purchase Order (PO) Request (Not a Purchase Order)										Requisition No.:		Date: 11/14/2008	
<i>All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x2566 with questions) All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us</i>										P.O Number:		Expected Delivery Date: 12/31/2008	
Vendor #: 6733				Vendor Name: AT&T				Mail Yes: ☒ No: ☒					
Address:				Fob Point:				Taxable Yes: ☒ No: ☐		Quotes Attached Yes: ☐ No: ☐			
City:		State:		Zip Code:		Ship to code:		Division Head Approval:					
Requester: ELIZABETH MANN				Requester's Employee #: 2251				Extension: 366					
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #				
1	Pinpoint X modem	30	EA	584.16	\$17,524.80	1010.2940.5210.00	08075.1						
2	Pinpoint X modem	20	EA	584.16	\$11,683.20	1010.3020.5210.00	08073.1						
3	Antenna	30	EA	92.00	\$2,760.00	1010.2940.5210.00	08075.1						
4	Antenna	20	EA	92.00	\$1,840.00	1010.3020.5210.00	08073.1						
5					\$0.00								
6					\$0.00								
7					\$0.00								
8					\$0.00								
9					\$0.00								
10					\$0.00								
*	Shipping/Handling		Lot		\$0.00								
Special Instructions:													
State contract ID#190291													
Subtotal: \$33,808.00 Tax: \$3,127.24 Total: \$36,935.24 Purchasing Manager: _____ IT Manager: _____ Other: _____													
Approvals: Mayor: _____ Finance & Internal Services Director: _____ Dispatch Manager: _____ Department Director: _____ Budget Manager: _____ Utilities Manager: _____													

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

12/2/2008

City Council Meeting Date

Greg Tabor
Submitted By

Patrol
Division

Police
Department

Action Required:

Acceptance of the 2008 Bulletproof Vest Partnership Grant award in the amount of \$16,033.56.

\$ 16,033.56

Cost of this request

\$ 32,067.11

Category / Project Budget

Bulletproof Vest Partnership Prg

Program Category / Project Name

1010-2940-5302.00

Account Number

\$ -

Funds Used to Date

Grant

Program / Project Category Name

07042-301

Project Number

\$ 32,067.11

Remaining Balance

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

[Signature]
Department Director

11-14-08
Date

Previous Ordinance or Resolution #

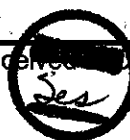
Original Contract Date:

Original Contract Number:

[Signature]
City Attorney

11/17/08
Date

Received City Clerk's Office



11-14-08

Paul A. Becher
Finance and Internal Service Director

11-17-08
Date

Received in Mayor's Office



[Signature]
Mayor

11/18/08
Date

Comments:



Departmental Correspondence

To: Dan Coody, Mayor and City Council
From: Greg Tabor, Police Chief 
Date: November 15, 2008
Re: 2008 Bulletproof Vest Partnership Grant Acceptance

Recommendation

Staff recommends acceptance of the 2008 Bulletproof Vest Partnership Grant award for the purchase of twenty (20) body armor vests for our patrol officers and eleven (11) tactical armor vests for our Emergency Response Team and attached budget adjustment. Furthermore, staff requests authorization for Judy Cohea to be the primary point of contact for the purpose of requesting online reimbursements of payment and various assurances and certifications as required by the grant guidelines.

Background

The Bulletproof Vest Partnership (BVP), created by the Bulletproof Vest Partnership Grant Act of 1998 is a unique U.S. Department of Justice initiative designed to provide a critical resource to state and local law enforcement. The Fayetteville Police Department has previously obtained grant funding in excess of \$60,000 for the purchase of 68 bulletproof vests through this partnership. The BVP program provides a critical component to the continuing health and welfare of our Police Officers.

Discussion

This grant award, in the total project amount of \$32,067.12, requires 50% grant matching funds from the City to purchase all vests projected within the two year grant period. Funding by BVP will provide reimbursement of 50% (or \$16,033.56) of the City's expenses for the purchase of up to twenty (20) body armor vests for our patrol officers and eleven (11) tactical armor vests for our Emergency Response Team (ERT). Currently, all Fayetteville Police Officers have state-of-the-art body armor provided to them through grant and City funding.

The body armor vests are planned for new employees and routine replacement of out of warranty vests. The tactical armor vests will be purchased to replace all ERT members vests which will reach the end of their life cycle in 2009. All state-of-the-art body armor is custom made to the exact specifications of the wearer and can take up to ten weeks for delivery. To ensure all new officers have our required level of protection, we must remain proactive on our body armor purchases.

Budget Impact

This grant provides a reimbursement of 50% of expenses associated with the purchase of bullet proof vests within the grant period. This grant period is from April 1, 2008 through March 31, 2010. During this grant period the City will have \$16,034 available for reimbursement of our expenses on bullet proof vests.

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE 2008 BULLETPROOF VEST PARTNERSHIP GRANT IN THE AMOUNT OF \$16,033.56; 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 Bulletproof Vest Partnership Grant in the amount of \$16,033.56.

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 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



[NIJ Standards](#) [Glossary](#) [Yellow Pages](#)

Section Status > Application History > Application Details

OMB #1121-0235
 (Expires: 10/31/2006)

1. Registration

1.1 [Contact Information](#)

1.2 [Change Password](#)

2. Application

2.1 [Pre Application](#)

2.2 [Manage Application](#)

2.3 [Review Application](#)

2.4 [Submit Application](#)

3. Receipts

3.1 [Manage Receipts](#)

3.2 [Receipt Reports](#)

4. Payment

4.1 [Bank Information](#)

4.2 [Print Bank Form](#)

4.3 [Request Payment](#)

4.4 [Payment History](#)

5. Status

5.1 [Current Status](#)

5.2 [LEA Status](#)

5.3 [Application History](#)

Application Profile

Jurisdiction's Vest Replacement Cycle: 5 Years
 Unspent BVP Funds Obligated for Vest Purchases: \$0.00
Emergency Replacement Needs: 0

Application Details

NIJ#	Quantity	Unit Price	Extended Cost	Tax Shipping and Handling	Total Cost
XT3A-2	20	\$700.00	\$14,000.00	\$0.00	\$14,000.00
PT-300	11	\$1,503.40	\$16,537.40	\$1,529.71	\$18,067.11
Grand Totals	31		\$30,537.40	\$1,529.71	\$32,067.11

Award Summary for FY2008 Regular Solicitation

Funds Type	Eligible Amount	Award	Date Approved	Status
Regular Fund	\$32,067.11	\$16,033.56	10/28/08	Approved By BVP
Grand Totals:	\$32,067.11	\$16,033.56		

[Return](#)



BVP HELP DESK
 (Toll-Free 1-877-758-3787)
 (Toll 1-301-595-4595)

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

A. 7
2008 Bulletproof Vest
Partnership Grant
Page 6 of 6

Budget Year 2008	Department: Police Division: Police Program: Patrol	Date Requested 12/2/2008	Adjustment Number
--------------------------------	--	--	--------------------------

Project or Item Added/Increased: Bulletproof Vest Partnership Grant	Project or Item Deleted/Reduced: None
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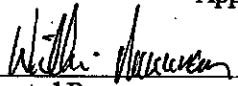
Justification of this Increase: Acceptance of 2008 Bulletproof Vest Partnership Grant award.	Justification of this Decrease:
--	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Uniforms/personal equip	1010	2940	5302	00	16,034	07042	301

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Federal grants-Capital	1010	0001	4309	00	16,034	07042	301

Approval Signatures		Budget Office Use Only	
	15 Nov 08	Type:	A B C <u>D</u> E
Requested By	Date		
	11/15/08	Posted to General Ledger	Initial Date
Budget Manager	Date		
	11/19/08	Posted to Project Accounting	Initial Date
Department Director	Date		
Finance & Internal Services Director	Date	Entered in Category Log	Initial Date
Mayor	Date		

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

December 2, 2008
City Council Meeting Date

Greg Tabor
Submitted By

Support Services
Division

Police
Department

Action Required:

Recognition and approval of a grant received from Target by the Fayetteville Police Department in the total amount of \$250.00.

\$ 250.00

Cost of this request

\$ 500.00

Category / Project Budget

Police Department Donations

Program Category / Project Name

1010-2900-5201.00

Account Number

\$ -

Funds Used to Date

Donations

Program / Project Category Name

03044-4

Project Number

\$ 500.00

Remaining Balance

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

[Signature]
Department Director

11-14-08
Date

Previous Ordinance or Resolution #

Original Contract Date:

[Signature]
City Attorney

11/17/08
Date

Original Contract Number:

Paul A. Bahr
Finance and Internal Service Director

11-18-08
Date

Received in City Clerk's Office

11-14-08

[Signature]
Mayor

11/18/08
Date

Received in Mayor's Office

ENTERED
11/18/08
[Signature]

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: November 11th, 2008

SUBJECT: Target Law Enforcement Grant

Recommendation: Council approves the receipt of grant funds in the amount of \$250.00 from Target for the purchase of Community Oriented Policing supplies.

Background: This is the second year we have applied for and been awarded the Target Law Enforcement Grant for Community Policing.

Discussion: Originally the grant was to be used for the purchase of a higher quality camera, however the grant was \$250.00 and not \$1,500.00, so the purchase of a this camera is not possible. I have been in contact with Target and the funds can be used for Community Policing supplies.

Budget Impact: There will not be any on-going expenses associated with these purchases.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE POLICE DEPARTMENT TO ACCEPT A GRANT FROM TARGET IN THE AMOUNT OF \$250.00 FOR THE PURCHASE OF COMMUNITY ORIENTED POLICING SUPPLIES; AND APPROVING A BUDGET ADJUSTMENT TO RECOGNIZE 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 grant from Target in the amount of \$250.00 for the purchase of Community Oriented Policing supplies.

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

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

- REMOVE DOCUMENT ALONG THIS PERFORATION

 Target P.O. Box 1296 Minneapolis, MN 55440-1296	Wells Fargo Bank, N.A. 404 West Broadway Lewisburg, MT 59057	DATE 09/17/08	93318 529 40900009642	CHECK NO. 437378
PAY TO THE ORDER OF FAYETTEVILLE POLICE DEPT 100 A WEST ROCK ST FAYETTEVILLE AR 72701			NET AMOUNT 250.00	

0000437376 1092905168 4990009642

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

A. 8
Target Grant
Page 5 of 6

Budget Year 2008	Department: Police Division: Police Program: Support Services	Date Requested 12/2/2008	Adjustment Number
--------------------------------	--	--	--------------------------

Project or Item Added/Increased: Grant from Target	Project or Item Deleted/Reduced: Recognize grant revenue from Target
--	--

Justification of this Increase: Grant funds to be used for any crime prevention / investigation purposes as determined by the Fayetteville Police Department	Justification of this Decrease: Check made payable to Fayetteville Police Department
--	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Crime prevent/investigate	1010 2900 5201 00	250	03044 1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
Donations - Police Dept	1010 0001 4808 02	250	03044 1

Approval Signatures

Requested By		Date	15 Nov 08
Budget Manager		Date	11-18-08
Department Director		Date	11-14-08
Finance & Internal Services Director		Date	
Mayor		Date	

Budget Office Use Only

Type: A B C D E

Posted to General Ledger	Initial	Date
Posted to Project Accounting	Initial	Date
Entered in Category Log	Initial	Date

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

A. 9
Edward Byrne Memorial
Discretionary Grant
Page 1 of 10

December 2, 2008
City Council Meeting Date

Judy Cohea
Submitted By

Support Services
Division

Police
Department

Action Required:

Recognition and approval of Edward Byrne Memorial Discretionary Grant funding for Fayetteville Police Department's participation in the Northwest Arkansas Sex Offender and Violent Crime Task Force in the amount of \$52,000.00.

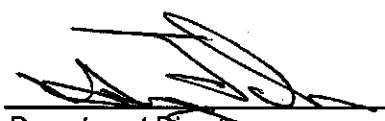
\$ - Cost of this request 1010-2940-5104.00/5213.04/5304.00 Account Number 08049-1 Project Number	\$ 52,000.00 Category / Project Budget \$ 11,245.72 Funds Used to Date \$ 40,754.28 Remaining Balance	NWA Sex Offender/Violent Crimes Program Category / Project Name Grant Program / Project Category Name General Fund Name
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Budgeted Item

☐

Budget Adjustment Attached

☒ X

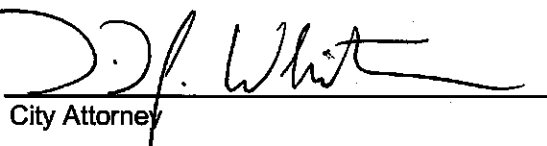

Department Director

11-14-08
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

11/19/08
Date

Received in City Clerk's Office



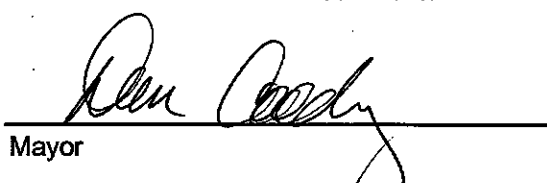
11-14-08


Finance and Internal Service Director

11-19-08
Date

Received in Mayor's Office




Mayor

11/19/08
Date

Comments:



Departmental Correspondence

TO: Mayor Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police 

DATE: November 14, 2008

SUBJECT: Northwest Arkansas Sex Offender and Violent Crimes Task Force

Recommendation: The City Council accepts the reimbursement of expenses associated with Fayetteville Police Department's participation in the Northwest Arkansas Sex Offender and Violent Crimes Task Force in the projected amount of \$52,000. These funds provide for overtime, fuel, and travel reimbursement for officer(s) working within this task force. Approve a budget adjustment increasing federal grant revenue and overtime, fuel, and travel expenses for our officer(s).

Discussion: Benton County has taken the role as Lead Agency for this grant. Fayetteville Police Department is a subrecipient. Fayetteville Police requests reimbursement for qualifying overtime hours, along with fuel and travel expenses through Benton County. Benton County is responsible to meet all reporting requirements and draw funds from this grant.

Background: All law enforcement agencies within Benton, Carroll, Madison and Washington Counties, along with the US Marshals Service, jointly participated in submitting a grant application to the Edward Byrne Memorial Discretionary Grant Program for the creation of the Northwest Arkansas Sex Offender and Violent Crimes Task Force. This Task Force was awarded a two year grant in the amount of \$543,000. The purpose of this task force is to pursue and arrest persons who have outstanding state and federal warrants pending against them. The participating agencies determine the outstanding warrants to be worked by the task force, organize apprehension teams, and make the arrest. Each officer participating in an apprehension team is sworn into the US Marshal Service allowing for the enforcement of said warrants across jurisdictional boundaries.

Budget Impact: All overtime, fuel, and travel generated by this project will be reimbursed. A budget adjustment in the amount of \$52,000.00 is attached to recognize both the projected expense and revenue.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT FOR THE FAYETTEVILLE POLICE DEPARTMENT TO ACCEPT AND RECOGNIZE REIMBURSEMENT REVENUES FROM A PORTION OF THE EDWARD BYRNE MEMORIAL DISCRETIONARY GRANT IN THE PROJECTED AMOUNT OF \$52,000.00 FOR THE DEPARTMENT'S PARTICIPATION IN THE NORTHWEST ARKANSAS SEX OFFENDER AND VIOLENT CRIMES TASK FORCE.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment for the Fayetteville Police Department to accept and recognize reimbursement revenues from a portion of the Edward Byrne Memorial Discretionary Grant in the projected amount of \$52,000.00, for the Department's participation in the Northwest Arkansas Sex Offender and Violent Crimes Task Force.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

UNITED STATES MARSHALS SERVICE

WESTERN DISTRICT OF ARKANSAS FAYETTEVILLE DIVISION



MEMORANDUM OF UNDERSTANDING NORTHWEST ARKANSAS SEX OFFENDER AND VIOLENT CRIME TASK FORCE

Fayetteville Police Department

DISTRICT SEX OFFENDER, VIOLENT CRIME AND FUGITIVE TASK FORCE
MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into by the attached participating member agencies and the United States Marshals Service (USMS),
Western District of Arkansas.

PURPOSE:

The purpose of the MOU is to establish a full-time sex offender, violent crime and fugitive task force. For purposes of the MOU, a full-time fugitive task force is defined as a multi-agency apprehension effort of sex offender and violent criminal fugitive investigations consisting of members from the participating agencies and the USMS, Western District of Arkansas, to apprehend individuals wanted on state and federal warrants.

The policy, program involvement, and direction of the task force will be the joint responsibility of the member agencies and the USMS, Western District of Arkansas. Representatives from the participating agencies will meet and confer on matters as necessary.

MISSION:

The primary mission of the task force is to pursue and arrest, in a joint coordinated manner, persons who have un-executed state and federal warrants lodged against them. The intent of the joint effort will be to remove from the streets, local, state and federal fugitives, thereby improving public safety.

The participating agencies will determine the outstanding warrants to be worked by the task force, the frequency with which apprehension teams will organize, and the duration of the mission for each apprehension team. These decisions will be made consistent with the availability of agency resources, availability of appropriate state and federal warrant cases for the task force, and contingent upon whether joint task force effort is the most efficient and effective method to investigate and execute the warrant. Targeted crimes will primarily include sex offenders, violent crimes against persons, weapons offenses, felony drug offenses and crimes committed by subjects who have a criminal history involving violent crimes, felony drug offenses, and/or weapons offenses.

SUPERVISION:

Operational supervision of the fugitive task force will be the responsibility of the USMS Criminal Investigator Deputy United States Marshal designated as Coordinator of the task force. The coordinator will recommend federal warrant cases to be worked by the task force, confer with the coordinator/supervisor from all the other

participating agencies concerning recommended state warrant cases to be worked by the task force, ensure equal case load assignment and proper staffing of apprehension teams, and coordinate day-to-day efforts of the apprehension teams.

Supervision of the personnel assigned to the task force apprehension team(s) will be the responsibility of the supervisors from each participating agency. Responsibility for the conduct of the task force members will remain with the respective agency heads. The local ranking coordinator/supervisor will, for administrative purposes, report directly to his/her commanding officer. The USMS Coordinator will report directly to the Supervisory Deputy United States Marshal.

Operational problems will be mutually addressed and resolved by the assigned coordinators, under the guidance of the operations supervisor(s). Any problems that cannot be resolved to the mutual satisfaction of the supervisors should be progressively raised to the next level of supervision within the respective agency. It is agreed the resolution of operational problems at the lowest possible level is in the best interest of the task forces.

PERSONNEL:

Each participating agency agrees to provide, in a liaison capacity, at least one (1) coordinator/supervisor to recommend cases for the task force. When apprehension teams are formed, each participating agency agrees to provide at least one (1) law enforcement agent during operation of any apprehension team.

EQUIPMENT:

When apprehension teams are formed, each agency will, if possible, furnish required vehicles and radio equipment capable of transmitting and receiving messages on their local and/or state police radio network. Each agency will be responsible for the expenses incurred in the use of its respective vehicles and radios.

RECORDS AND REPORTS:

All task force warrants, investigative and arrest reports will be maintained by the agency responsible for the investigation. All warrants designated for task force assistance will be entered into the USMS Warrant Information Network (WIN) for tracking and disposition status. Upon any designated warrant's closure, the respective agency for such warrant shall promptly notify and advise the USMS Task Force Coordinator of the warrant's changed status. This will enable the WIN entry to be modified.

APPREHENSION TEAMS:

Periodically, the coordinators from all participating agencies will decide which state and federal cases should become task force cases and when to activate apprehension

teams. The coordinators/supervisors from the participating agencies will identify personnel to staff the apprehension team(s).

Apprehension team members will be employees from the participating agencies who will be dedicated, during activation of a particular apprehension team, to the investigation and the execution of the outstanding state and federal warrant(s). Each agency will be reimbursed for overtime payments to their designated task force representative upon submission of appropriate documents to the Board. Overtime must be approved by the supervising US Marshal Service official. Overtime payment and regular salary compensation will be paid in accordance with each agency's policies. Apprehension team members from local, state, or county law enforcement agencies should be officers who have received a Special Deputy U.S. Marshal appointment, which will be in force only while that individual is assigned to an apprehension team and performing task force duties. All cases will be jointly investigated whenever possible during activation of an apprehension team. Teams will consist of personnel from different agencies whenever possible.

PROSECUTION:

An arrest based on a warrant will be prosecuted in the state or federal court that issued the warrant. When there is an arrest of a fugitive on whom there is an outstanding warrant in both the state and federal systems, a decision will be made on whether the (initial) prosecution of the case will be on the state or federal level. The decision will be made considering which level of prosecution best serves the overall objectives of the task force. In all cases, notification will be made to the concerned prosecutor.

INFORMANTS:

Funds for informants, relating to the execution of state and federal warrants, will be supplied by the agency that has warrant jurisdiction, according to that agency's standard operating procedures. Agencies will be reimbursed by the Board upon proper submission of appropriate documents. Payment to informants must be authorized by the supervising US Marshal Service official. All payments to informants must be witnessed by two sworn officers.

USE OF FIREARMS:

Each member of the task force will comply with his or her agency's guidelines concerning the use of firearms and deadly force. In the event of a shooting incident, the incident will be investigated by the appropriate agency(s).

ASSISTANCE FROM LOCAL LAW ENFORCEMENT AGENCIES

When arrest attempts are to be made, task force personnel should consider requesting a marked unit and uniformed officer to assist them, however, they may exercise their discretion based on relevant circumstances, including availability of the

local support, time required to obtain local support, the location of the fugitive, and other operational considerations.

HOSTAGE AND BARRICADE SITUATIONS

If there is reliable information indicating that an armed subject has made a credible threat to resist arrest with violence, and if the operational situation allows, the supervisor or senior task force member on the scene shall call for an appropriate city, county, state or federal tactical unit. If there is credible information indicating that a subject is holding a hostage, the supervisor or senior task force member on a scene shall also call for an appropriate city, county, state or federal tactical unit. When the tactical unit arrives, the tactical commander will assume command and control of the situation.

NEWS MEDIA

Media inquiries will be referred to the United States Marshal/designee. A press release may be issued and press conference held, upon agreement by participating agency heads. All press releases will exclusively make reference to the task force.

RELEASE OF LIABILITY:

Each agency shall be responsible for the acts or omissions of its employees. Participating agencies or their employees shall not be considered as the agents of any other participating agency. Nothing herein waives or limits sovereign immunity under federal or state statutory or constitutional law. The participating agencies agree to hold harmless the United States from any claim, cause of action, or judgment resulting from the negligent acts of their employees.

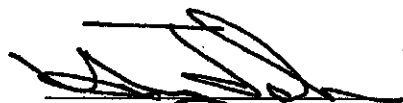
DURATION:

This MOU is intended to be indefinite. Agencies may withdraw their participation at any time after a thirty-day written notice to all parties signing this document. Each member agency head/designee will sign the last page of this document along with the United States Marshal/designee Western District of Arkansas and the United States Attorney/designee, Western District of Arkansas.

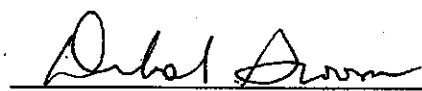
This document consisting of five (5) pages is agreed to this twenty-fifth day of
October 2007.


United States Marshal/designee

Western District of Arkansas


Sheriff/Chief or designee

Fayetteville PD County/City


United States Attorney/designee

Western District of Arkansas

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

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Edward Byrne Memorial
Discretionary Grant
Page 10 of 10

Budget Year 2008	Department: Police Division: Police Program: Patrol	Date Requested 12/2/2008	Adjustment Number
--------------------------------	--	--	--------------------------

Project or Item Added/Increased: Expenses associated with the Northwest Arkansas Sex Offender and Violent Crime Task Force Grant	Project or Item Deleted/Reduced: None
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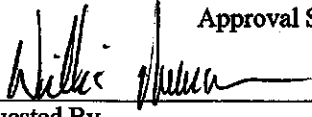
Justification of this Increase: Grant funding from the Edward Byrne Memorial Discretionary Grant for a multi-jurisdictional task force within Benton, Carroll, Madison, Washington Counties and the US Marshals Service targeting fugitives of sex offenses and violent crimes	Justification of this Decrease:
--	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Overtime-uniformed	1010	2940	5104	00	36,000	08049	1
Fuel	1010	2940	5213	04	13,000	08049	1
Travel & training	1010	2940	5304	00	3,000	08049	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Federal Grant-Operational	1010	0001	4309	01	52,000	08049	1

Approval Signatures	
Requested By 	Date 11-14-08
Budget Manager 	Date 11-15-08
Department Director 	Date 11-14-08
Finance & Internal Services Director 	Date 11-18-08
Mayor 	Date 11/19/08

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 Staff Review Form

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U. S. Department of Justice
Community Oriented Policing
Page 1 of 10

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

12/2/2008

City Council Meeting Date
Agenda Items Only

Greg Tabor
Submitted By

Police
Division

Police
Department

Action Required:

Acceptance of grant award from the Department of Justice Community Oriented Policing Services for a "Technology Program" grant in the amount of \$444,268.00. This grant does not require local matching funds.

\$ 444,268.00
Cost of this request

\$ -
Category / Project Budget

COPS Technology Program
Program Category / Project Name

Account Number

\$ -
Funds Used to Date

Grant
Program / Project Category Name

Project Number

\$ -
Remaining Balance

Capital Improvements Fund
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

[Signature]
Department Director

11-14-08
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

11/18/08
Date

Original Contract Date:

Original Contract Number:

Paul A. Beeler
Finance and Internal Service Director

11-18-08
Date

Received in City
Clerk's Office

11-14-08 GW

ENTERED

[Signature]
Mayor

11/18/08
Date

Received in
Mayor's Office

ENTERED
11/18/08
PA

Comments:



Departmental Correspondence

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police 

DATE: November 14, 2008

SUBJECT: Accept COPS Technology Grant Award

Recommendation:

City Council accept Department of Justice Community Oriented Policing Services grant in the amount of \$444,268. This grant does not require local matching funds.

Background:

The City of Fayetteville has operated a Motorola 800 MHz system since 1985. In 2000 this system was upgraded to a Smartnet II single site system. Additional repeaters were also added during the upgrade to deal with the increased number of users on the system. This upgrade was necessary because our equipment had become obsolete and was no longer supported by Motorola. The system was also relocated to Mt. Sequoyah to improve radio coverage and the Mt. Robinson site then became a backup for the radio system. RCC Consultants, Inc., the consultant on this project anticipated this system should give the city 5-7 years of reliable service.

Discussion:

In 2006 we requested funding from the 2007 Commerce Justice State (Science) Appropriations Bill for the purchase, installation and implementation of a simulcast system and have done so for 2008 and 2009. As projected by RCC, the current system is no longer reliable and needs to be updated.

There are serious coverage issues in the City to the west and the north. This is caused by our terrain and by new annexations that have occurred during the last eight years. Public Safety personnel in the Fayetteville area routinely experience difficulty communicating with each other due to poor radio coverage. An example of this difficulty is in June an officer dealing with a suicidal female was trying to communicate clearance for the ambulance to enter the scene and was unable to get out on her radio.

We also need to improve our interoperability so we can communicate with other agencies in this area. In one particular incident, officers assigned to the NWA Violent Crime Sex Offender Task Force were involved in an operation with officers from several agencies in Benton County and Washington County. The task force was attempting to locate unregistered sex offenders in both counties. During this operation, pursuit of one of these sex offenders took place across jurisdictional boundaries and officers were unable to communicate with each other due to interoperability issues.

In 2010 a large number of mobile and portable radios will no longer be supported by Motorola and can only be fixed if parts are available. We have looked at the options available to us in this area and determined the only real option was to join the Arkansas Wireless Information Network. This is an integrated statewide voice and data communications infrastructure for all public safety and public services agencies.

The purchase of this system translates into tangible benefits for the City and the AWIN system because of its response to its citizens: greater productivity, greater security and greater reliability. It provides emergency operations more control over information they need to do their job, improving their effectiveness.

Budget Impact:

This radio project was estimated at \$6.5 million dollars in 2007. The project includes purchase, implementation, installation of a three site simulcast digital radio system which offers full compliance with Project 25 standards, the interoperability standard for digital two-way wireless products. This system would allow us connectivity to the AWIN system. Accepting this grant and continuing to apply of additional funding will off set some of the cost of this project.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE POLICE DEPARTMENT TO ACCEPT A TECHNOLOGY PROGRAM GRANT FROM THE U.S. DEPARTMENT OF JUSTICE COMMUNITY ORIENTED POLICING SERVICES IN THE AMOUNT OF \$444,268.00; AND APPROVING A BUDGET ADJUSTMENT TO RECOGNIZE 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 Technology Program Grant from the U.S. Department of Justice Community Oriented Policing Services in the amount of \$444,268.00.

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

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



U. S. Department of Justice
Community Oriented Policing Services
Grants Administration Division (GAD)
Law Enforcement Technology

Treasury Account Symbol (TAS) 15X0406

Grant #: 2008CKWX0306

ORI #: AR07201

Applicant Organization's Legal Name: Fayetteville, City of

OLEP Vendor #: 716018462

Law Enforcement Executive: Chief of Police Greg Tabor

Address: 100-A West Rock St

City, State, Zip Code: Fayetteville, AR 72701

Telephone: (479) 587-3500

Fax: (479) 587-3522

Government Executive: Mayor Dan Coody

Address: 113 West Mountain Street

City, State, Zip Code: Fayetteville, AR 72701

Telephone: (479) 575-8300

Fax: (479) 575-8257

Award Start Date: 12/26/2007

Award End Date: 12/26/2010

Award Amount: \$ 444,268.00

Carl R. Peed, Director

AUG 28 2008

Date

Signature of Law Enforcement Official with the
Authority to Accept this Grant Award

Typed Name and Title of Law Enforcement
Official

Date

Signature of Government Official with the Authority to
Accept this Grant Award

Typed Name and Title of Government Official

Date

False statements or claims made in connection with COPS grants may result in fines, imprisonment, debarment from
participating in federal grants or contracts, and/or any remedy available by law to the Federal Government.

Award ID: 85942

U. S. Department of Justice
Office of Community Oriented Policing Services
Technology Program Grant Terms and Conditions

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U. S. Department of Justice
Community Oriented Policing
Page 6 of 10

By signing the Award Document to accept this Technology Program grant, your agency agrees to abide by the following grant conditions:

1. The grantee agrees to comply with the terms, conditions and regulations as found in the COPS 2008 Technology Program Grant Owner's Manual; the COPS statute (42 U.S.C. §. 3796dd); 28 C.F.R. Part 66 (OMB Circular A-102) or 28 C.F.R. Part 70 (OMB Circular A-110) as applicable (governing administrative requirements for grants and cooperative agreements); 2 C.F.R. Part 225 (OMB Circular A-87), 2 C.F.R. 220 (OMB Circular A-21), 2 C.F.R. Part 230 (OMB Circular A-122) and 48 C.F.R. Part 31.000, et seq. (FAR 31.2) as applicable (governing cost principles); OMB Circular A-133 (governing audits); these award conditions; other representations made in the grant application for the Technology Program; and with all applicable program requirements, laws, orders, regulations, or circulars.
2. The grantee acknowledges its agreement to comply with the Assurances and Certifications forms that were submitted as part of its Technology Program application.
3. The funding under this project is for the payment of approved costs for the continued development of technologies and automated systems to assist state, local, and tribal law enforcement agencies in investigating, responding to, and preventing crime. The allowable costs for which your agency's grant has been approved are limited to those listed on the Financial Clearance Memorandum, which is included in your agency's award packet.
4. Travel costs for transportation, lodging and subsistence, and related items are allowable under the Technology Program with prior approval from the COPS Office. Payment for allowable travel costs will be in accordance with 2 C.F.R. Part 225 (OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments), 2 C.F.R. 220 (OMB Circular A-21, Cost Principles for Educational Institutions), 2 C.F.R. Part 230 (OMB Circular A-122, Cost Principles for Non-Profit Organizations), and 48 C.F.R. Part 31.000, et seq. (FAR-31.2, Cost Principles for Commercial Organizations), as applicable.
5. The grantee acknowledges that when procuring hardware, software, or professional services for an information-sharing initiative, a standards-based approach should be used. Specifically, information-sharing initiatives should be compatible with the Global Justice XML Data Model (GJXDM)/National Information Exchange Model (NIEM), as guidelines. In addition, when procuring equipment for communication system development and expansion, a standards-based approach should be used to begin migration to multi-jurisdictional and multi-disciplinary interoperability. Specifically, all new digital voice systems should be compliant with the Project 25 (P25) suite of standards.
6. State, local, and tribal governments must use Technology Program grant funds to supplement, and not supplant, state, local, or Bureau of Indian Affairs funds that are already committed or otherwise would have been committed for grant purposes (hiring, training, purchases, and/or activities) during the grant period. In other words, grantees may not use COPS funds to supplant (replace) state, local, or Bureau of Indian Affairs funds that would have been dedicated to the COPS-funded item(s) in the absence of the COPS grant.
7. Your agency may request an extension of the grant award period to receive additional time to implement your grant program. Such extensions do not provide additional funding. Only those grantees that can provide a reasonable justification for delays will be granted no-cost extensions. Extension requests must be received prior to the end date of the award, as extension requests received after an award has expired will be approved only under very limited circumstances.
8. The grantee must promptly notify the COPS Office in writing of any changes to the award budget, and must obtain written approval from COPS for any changes in excess of ten percent of the total award amount before incurring the proposed costs.
9. The COPS Office may conduct monitoring or sponsor national evaluations of the COPS Technology Program. The grantee agrees to cooperate with the monitors and evaluators.
10. To assist the COPS Office in the monitoring of your award, your agency will be responsible for submitting periodic programmatic progress reports and quarterly financial reports.
11. The COPS Office performs various functions to ensure compliance with all grant requirements, to assess the implementation of community policing in awarded jurisdictions, and to provide technical assistance to grantees. Grant monitoring activities are routine during the grant period and may occur up to three years following the official closure of the grant award. These functions, and others, often require the production of grant-related documentation and other materials. As a COPS Technology Program grantee, you agree to cooperate with any such requests for information.
12. Grantees that have 50 or more employees and a single award for \$500,000 or more must submit an acceptable Equal Employment Opportunity Plan (EEOP) or EEOP short form, if required to submit an EEOP under 28 C.F.R. 42.302, that is approved by the Office of Justice Programs, Office of Civil Rights, within 60 days of the award start date.
13. Grantees using Technology Program funds to operate an interjurisdictional criminal intelligence system must comply with operating principles of 28 C.F.R. Part 23. The grantee acknowledges that it has completed, signed and submitted with its grant award the relevant Special Condition certifying its compliance with 28 C.F.R. Part 23.
14. Grantees who have been awarded funding for the procurement of an item (or group of items) or service in excess of \$100,000 and who plan to use a non-competitive procurement process must provide a written sole source justification to the COPS Office for approval prior to obligating, expending, or drawing down grant funds for that item.
15. The grantee agrees to submit one copy of all reports and proposed publications resulting from this grant 20 days prior to public release. Any publications (including written, software, visual, or sound, but excluding press releases, newsletters, and issue analyses), whether published at the recipient's or government's expense, shall contain the following statement: "This project was supported by Grant # _____, awarded by the U.S. Department of Justice, Office of Community Oriented Policing Services. The opinions contained herein are those of the author(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice. References to specific companies, products, or services should not be considered an endorsement by the author(s) or the U.S. Department of Justice. Rather, the references are illustrations to supplement discussion of the issues."
16. The grantee agrees to complete and keep on file, as appropriate, a Bureau of Citizenship and Immigration Services Employment Eligibility Verification Form (I-9). This form is to be used by recipients of federal funds to verify that persons are eligible to work in the United States.
17. To facilitate communication among local and state governmental agencies regarding various information technology projects, the grantee agrees to notify the appropriate State Information Technology Point of Contact of the receipt of this grant award. For a list of State Information Technology Points of Contact, visit http://it.ojp.gov/topic.jsp?topic_id=31.
18. The grantee agrees to comply with 28 C.F.R. Part 61 (Procedures for Implementing the National Environmental Policy Act).
19. False statements or claims made in connection with COPS grants may result in fines, imprisonment, or debarment from participating in federal grants or contracts, and/or any other remedy available by law.



U. S. Department of Justice
Community Oriented Policing Services

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U. S. Department of Justice
Community Oriented Policing
Page 7 of 10

Grants Administration Division (GAD)
Law Enforcement Technology

1100 Vermont Avenue, NW
Washington, DC 20530

Memorandum

To: Chief of Police Greg Tabor
Fayetteville, City of

From: Andrew A. Dorr, Assistant Director for Grants Administration
Tammy Richardson, Grant Program Specialist
Budget Prepared By: Judy Smith, Grant Program Specialist

Re: Law Enforcement Technology Financial Clearance Memo
A financial analysis of budgeted costs has been completed. Costs under this award appear reasonable, allowable, and consistent with existing guidelines. Exceptions / Adjustments are noted below.

OJP Vendor #: 716018462

ORI #: AR07201

Grant #: 2008CKWX0306

<u>Budget Category</u>	<u>Proposed Budget</u>	<u>Approved Budget</u>	<u>Adjustments</u>	<u>Disallowed/Adjusted - Reasons/Comments</u>
Equipment	\$444,268.00	\$444,268.00	\$0.00	
Direct Costs:	\$444,268.00	\$444,268.00	\$0.00	
Grand Total	\$444,268.00	\$444,268.00	\$0.00	
Grand Total:				
		Federal Share:	\$ 444,268.00	
		Applicant Share:	\$ 0.00	

Cleared Date: 8/11/2008

Overall Comments:

All costs listed in this budget were programmatically approved based on the final budget detail worksheet submitted by your agency to the COPS Office. Maintenance agreements (if applicable) must be purchased within the three year grant period. Prior to the obligation, expenditure or drawdown of grant funds for non-competitive contracts in excess of \$100,000, grantee must submit a sole source justification to the COPS Office for review and approval. Prior to the obligation, expenditure, or drawdown of grant funds for consultant fees in excess of \$550 per day when the consultant is hired through a noncompetitive bidding process, approval must be obtained from the COPS Office. If the vendor number on this form differs from the EIN number included in your application, then for administrative purposes only, we are assigning a different vendor number to your agency. The reason for this administrative change is that your original EIN number has been assigned to another agency. If this applies to your agency, please use the new vendor number on all financial documents related to this grant award. The vendor number should not be used for IRS purposes and only applies to this grant.

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

A, 10
U. S. Department of Justice
Community Oriented Policing

Page 8 of 10

Budget Year 2008	Department: Sales Tax Capital Improvements Division: Program:	Date Requested 11/14/2008	Adjustment Number
--------------------------------	--	---	--------------------------

Project or Item Added/Increased: Arkansas Wireless Information Network (AWIN) Communication System	Project or Item Deleted/Reduced: None
---	---

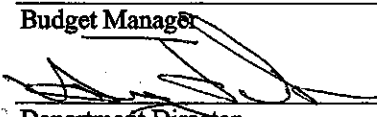
Justification of this Increase: Acceptance of non-matching grant award from the Department of Justice's Community Oriented Policing Services for upgrade of our citywide communication system to the AWIN	Justification of this Decrease:
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Minor equipment	4470	9470	5210	00	444,268	08076	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Federal grants-Capital	4470	0947	4309	00	444,268	08076	1

Approval Signatures		Budget Office Use Only				
Requested By	Date	Type:	A	B	C	D E
Budget Manager	Date	Posted to General Ledger			Initial	Date
 Department Director	Date	Posted to Project Accounting			Initial	Date
Finance & Internal Services Director	Date	Entered in Category Log			Initial	Date
Mayor	Date					

City of Fayetteville Staff Review Form

A. 11
Act 833 Revenues
Page 1 of 6

City Council Agenda Items and Contracts, Leases or Agreements

December 2, 2008

City Council Meeting Date
Agenda Items Only

Tony Johnson

Submitted By

Fire

Division

Fire

Department

Action Required:

Council approval of a 2008 budget adjustment for the Fire Dept in the amount of \$42,288. This adjustment is to increase the department's ACT 833 revenue account and increase the Uniform account.

\$ 42,288.00

Cost of this request

1010.0001.4308.00

1010.3020.5302.00

Account Number

03047.1

Project Number

\$ 11,700.00

Category / Project Budget

\$ 11,700.00

Funds Used to Date

\$ -

Remaining Balance

Act 833 Rev / Maintenance

Program Category / Project Name

Fire Operations

Program / Project Category Name

General Fund

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

X



Department Director

11/14/2008

Date

Previous Ordinance or Resolution #

Original Contract Date:



City Attorney

11/18/08
Date

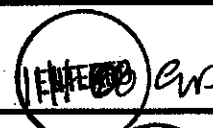
Original Contract Number:



Finance and Internal Service Director

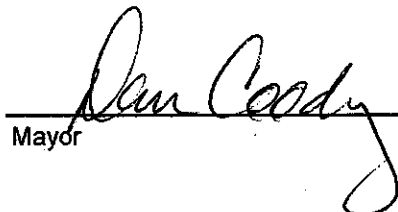
11-19-08
Date

Received in City
Clerk's Office



Received in
Mayor's Office





Mayor

11/19/08
Date

Comments:



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701
Phone (479) 575-8365 Fax (479) 575-0471
www.accessfayetteville.org

City Council Meeting of December 2, 2008

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Tony Johnson, Fire Chief

Date: November 13, 2008

Subject: Resolution approving a budget adjustment to recognize ACT 833 Revenues

RECOMMENDATION

The Fire Department recommends approval of a budget adjustment to increase the ACT 833 revenue budget as well as the Fire Operations Uniforms expense budget.

BACKGROUND

The Fire Protection Services Program (ACT 833 of 1991) provides additional funds to fire departments to enhance their operational budgets. This program is administered through the Arkansas Department of Emergency Management. These funds are restricted to certain programs such as grant matches, major and minor apparatus repairs, computer equipment, and protective equipment.

DISCUSSION

With the recognition of this budget adjustment, the department will be able to supplement its uniform budget for protective gear. The expenses that this adjustment will cover are eligible for ACT 833 funding.

BUDGET IMPACT

There is an increase of both a revenue and expense account of \$42,288.

RESOLUTION NO. _____

**A RESOLUTION APPROVING A 2008 BUDGET ADJUSTMENT
FOR THE FAYETTEVILLE FIRE DEPARTMENT IN THE
AMOUNT OF \$42,288.00 TO RECOGNIZE ACT 833 REVENUES
FOR THE PURCHASE OF PROTECTIVE GEAR.**

**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 2008 budget adjustment for the Fayetteville Fire Department in the amount of \$42,288.00 to recognize Act 833 revenues for the purchase of protective gear.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 11
Act 833 Revenues
Page 4 of 6

Budget Year 2008	Department: Fire Division: Fire Program: Operations	Date Requested 11/14/2008	Adjustment Number
----------------------------	--	-------------------------------------	-------------------

Project or Item Added/Increased: \$42,000 in both ACT 833 revenue and Fire Operations Uniforms accounts to cover a PPE purchase.	Project or Item Deleted/Reduced: None
--	---

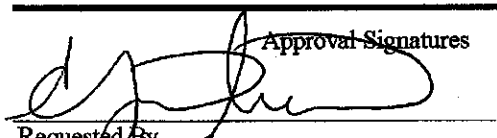
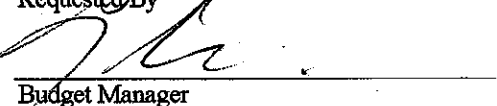
Justification of this Increase: ACT 833 turnback funds are received every quarter to help enhance the Fire Department operational budget.	Justification of this Decrease:
---	---------------------------------

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number
Uniforms/personal equip	1010	3020	5302	00	42,288	03047.1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Fire Act 833	1010	0001	4308	00	42,288	03047.1

Approval Signatures		Budget Office Use Only	
Requested By 	Date 11/14/08	Type: A B C <u>D</u> E	
Budget Manager 	Date 11-19-08	Posted to General Ledger	Initial Date
Department Director 	Date 11-14-08	Posted to Project Accounting	Initial Date
Finance & Internal Services Director Paul A. Berlin	Date 11-19-08	Entered in Category Log	Initial Date
Mayor	Date		

INVOICE

Wayest Safety Inc

Branch: 01 Tulsa Location

PO Box 12740

Oklahoma City, OK 73157



INVOICE	
1016420	
Invoice Date	Page
11/6/2008 14:16:11	1 of 1
ORDER NUMBER	
1013235	

405-942-7101

Bill To:

Fayetteville Fire Department

Attn: Scott Jones

303 West Center Street

Fayetteville, AR 72701

Ship To:

Fayetteville Fire Department

Attn: Scott Jones

303 West Center Street

Fayetteville, AR 72701

US

****DIRECT SHIPMENT****

Customer ID: 3084

PO Number					Terms Description	Net Due Date	Disc Due Date	Discount Amount
CREDIT CARD - SCOTT JONES					Net 30	12/06/08	12/06/08	0.00
Order Date		Pick Ticket No		Primary Salesrep Name			Taker	
10/3/2008 10:57:40		1019546		Clay Carter			CLAY	
Quantities					Item ID Item Description	Pricing UOM	Unit Price	Extended Price
Ordered	Shipped	Remaining	UOM Unit Size	Disp.		Unit Size		

Carrier: Bestway

Tracking #:

22.0000	22.0000	0.0000	EA	1.0	BPR-3212 TAILS BRONZE Morning Pride Bunker Coat Per Customer Specifications	EA	1,018.0500	22,397.10
22.0000	22.0000	0.0000	EA	1.0	BPR-3212 PANTS BRONZE Morning Pride Bunker Pants Per Customer Specifications	EA	741.3500	16,309.70

Total Lines: 2

SUB-TOTAL: 38,706.80
WASHINGTON COUNTY, AR: 483.83
Fayetteville, AR: 774.13
Arkansas State Tax: 2,322.41
CASH RECEIPTS: 42,287.17
AMOUNT DUE: 0.00

REPRINT

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

A. 12
McClelland Consulting Engineers,
Inc. Task Order # 15
Page 1 of 18

126
~~10/7/2008~~

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required:

Action Required: Approve a Notice to Proceed on Task Order #15 from McClelland Consulting Engineers, Inc. Contact: Wayne Jones, P.E., PO Box 1229, Fayetteville AR 72702-1229, 479-443-2377, Fax 479-443-9241, in the amount of \$177,600 for final plans & specs, bidding associated with the Runway 16 Safety Area Improvements project.

\$ 177,600.00

Cost of this request

\$ -

Budget

Correct RW16 RSA

Program Category / Project Name

5550.3960.5314.00

Account Number

\$ -

Funds Used to Date

Avi/ED Imp

Program / Project Category Name

07039 2

Project Number

\$ -

Remaining Balance

Airport

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

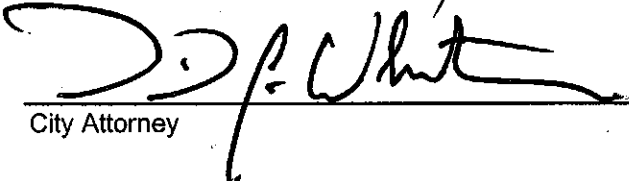
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Department Director

11/13/08
Date

Previous Ordinance or Resolution # 182-06

Original Contract Date: 10/07/08


City Attorney

11/14/08
Date

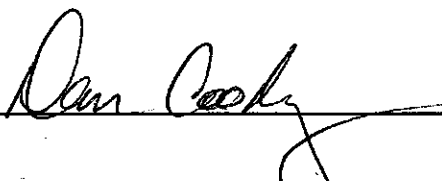
Original Contract Number: _____


Finance and Internal Service Director

11-17-08
Date

Received in City Clerk's Office




Mayor

11/18/08
Date

Received in Mayor's Office



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

City Council Meeting of:
Agenda Item Number:

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: October 29, 2008

SUBJECT: Approval to proceed with Runway 16 Safety Area Improvement Project.

RECOMMENDATION: Approve Notice to Proceed to McClelland Consulting Engineers with Final Design and Bidding Services for the Runway 16 Runway Safety Area Improvement Project.

BACKGROUND: The Fayetteville City Council approved Task Order #15 with McClelland Consulting Engineers for Final Design and Bidding Services associated with the Runway 16 Runway Safety Area Improvement Project with a caveat that no work begin until a Federal Grant was awarded. The project removes Highway 71 from the Safety Area by rerouting the road to the West on land currently owned by the City of Fayetteville. In addition, three small parcels will be purchased in the project to complete the right-of-way for the road. The \$3.662 Million project is necessary to improve the safety of the aircraft using the airport as well as those citizens passing nearby. The project is a high priority for the FAA. The project is scheduled for funding in the Airport Improvement Program (AIP) grant program and is supported by FAA managers as an essential safety improvement project. In order to be ready to award the first construction and land acquisition phases we must have final plans and specifications and good bids for the entire project by May 1, 2009. Task Order #15 accomplishes the steps necessary to be ready May 1, 2009. Critical to this timing is the availability of funds; our project must be ready to proceed or funding may be delayed by FAA and redirected for other FAA priority projects.

In conversation with our FAA Program Manager, Don Harris, the US Congress passed a Continuing Resolution (CR) but only funded it to a 33% level for Entitlement Funding at this time. Task Order #15 is funded with Entitlement Funding which is in the FAA budget so the money is ours as soon as it is authorized by the Congress which is expected in March. The category of funding "Non-Primary Entitlement Funding" is the category that allows \$150,000.00 annually to airports that qualify in this category. Fayetteville Executive Airport, Drake Field qualifies. Task Order #15 uses 2008 leftover Entitlement Funding combined with our 2009 Entitlement to fund the design phase of the project. We need to proceed with the project in order to be ready for the 2009 Discretionary Funding that will actually fund the construction. The Discretionary Funding for project construction is in the FAA budget and is expected to be fully funded in March along with the remainder of the Entitlement Funding.

All FAA Airport Improvement Program (AIP) funding is paid on a reimbursable basis. With full appropriation and authorization of the FAA program, we generally receive our reimbursement electronically in 24 hours from the date of our payment to the contractor. In this instance, it could be up to 3 months prior to receiving our reimbursement. The first funding line of

approximately \$50,000.00 will fund the work through January so we could need to pay approximately \$50,000.00 additionally without reimbursement until March 6th which is the drop dead date for FAA funding to be approved either by an additional CR or final Congressional action on the Transportation Bill. The current CR which funds all of the FAA including Air Traffic Control, the AIP, Administration, and Regulatory Agencies, only funds the FAA through March 6, 2009.

BUDGET IMPACT: We have cash available in the Airport Fund to fund this project and to wait for reimbursement. Depending on how long it takes to receive reimbursement, it could reduce our interest earnings on our investments managed by the Accounting Department. At 3% interest for three months, our interest foregone for this delay could be \$375.00.

Attachments: Staff Review Form

RESOLUTION NO. _____

A RESOLUTION APPROVING A NOTICE TO PROCEED ON TASK ORDER #15 WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$177,600.00 FOR FINAL PLANS & SPECS AND BIDDING ASSOCIATED WITH THE RUNWAY 16 SAFETY AREA IMPROVEMENTS AT DRAKE FIELD.

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 Notice To Proceed on Task Order #15 with McClelland Consulting Engineers, Inc. in the amount of \$177,600.00 for final plans & specs, and bidding associated with the Runway 16 Safety Area Improvements at Drake Field.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

RESOLUTION NO. 182-08

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

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

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

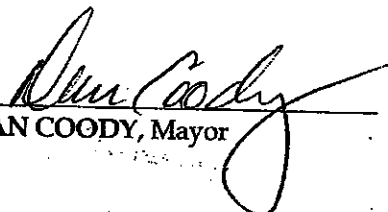
Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby authorizes the Airport Staff to apply for and accept a grant from the Federal Aviation Administration with a matching grant from the Arkansas Department of Aeronautics to cover the cost of said improvements.

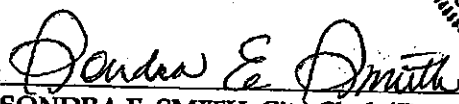
Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of \$177,600.00 to recognize the grant revenue.

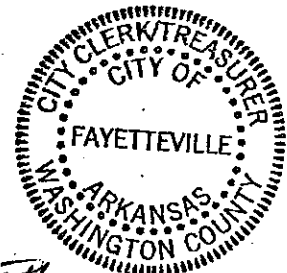
PASSED and APPROVED this 7th day of October, 2008.

APPROVED:

ATTEST:

By: 
DAN COODY, Mayor

By: 
SONDRA E. SMITH, City Clerk/Treasurer



City of Fayetteville, Arkansas
Budget Adjustment Form

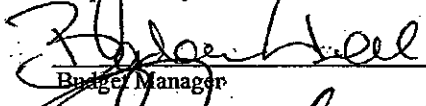
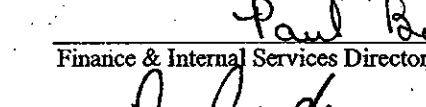
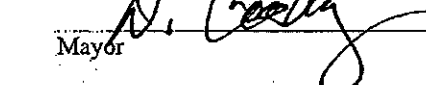
Budget Year 2008	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested 10/7/2008	Adjustment Number
----------------------------	--	------------------------------------	-------------------

Project or Item Added/Increased: \$177,600 in the Professional Services account	Project or Item Deleted/Reduced: Increase Use of Fund Balance revenue account \$177,600
---	---

Justification of this Increase: Will provide for final plans & specifications, bidding services, and grant coordination with the FAA for a project to correct the Runway 16 Safety Area deficiency.	Justification of this Decrease: Use of the airport's fund balance will be offset by future grant revenues from the DOT/FAA and Arkansas Department of Aeronautics. The project is 100% reimbursable under current grant programs.
--	--

Increase Expense Budget (Decrease Revenue Budget)							
Account Name	Account Number				Amount	Project Number	
Professional services	5550	3960	5314	00	177,600	07039	2

Decrease Expense Budget (Increase Revenue Budget)							
Account Name	Account Number				Amount	Project Number	
Air Grant 37 Use of fund balance	5550	0955	6800	37 99	177,600	07039	2

Approval Signatures		Budget Office Use Only	
Requested By 	Date 9/19/08	Type: A B C D E	
Budget Manager 	Date 9/23/08	Posted to General Ledger	Initial _____ Date _____
Department Director 	Date 9/15/08	Posted to Project Accounting	Initial _____ Date _____
Finance & Internal Services Director 	Date 9-23-08	Entered in Category Log	Initial _____ Date _____
Mayor 	Date 9/24/08		

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

STATE OF ARKANSAS

COUNTY OF WASHINGTON

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

SECTION I - PROJECT DESCRIPTION

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

SECTION II - PROJECT SCHEDULE

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

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

SECTION III - SCOPE OF SERVICES

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

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

City to discuss the project.

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

SECTION IV - FEES AND PAYMENTS

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

A. Geotechnical Investigation:	Estimated to be	\$ <u>7,500.</u>
B. Wetland Permit and Relocation Plans:	Estimated to be	\$ <u>11,800.</u>
C. FEMA Permits & Flood Plain Plans	Estimated to be	\$ <u>18,500.</u>
D. Preliminary Engineering Design & Cost Estimates:	a lump sum of	\$ <u>68,500.</u>
E. Right of Way Plans:	Estimated to be	\$ <u>6,850.</u>
F. Detailed Plans & Specs:	a lump sum of	\$ <u>56,500.</u>
G. Bidding Service:	Estimated to be	\$ <u>5,800.</u>
H. Reimbursement Expenses:	Estimated to be	\$ <u>2,150.</u>

Total Not to Exceed \$ 177,600.

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

SECTION V - BASIC AGREEMENT IN EFFECT:

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

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

FOR THE CITY OF FAYETTEVILLE:



By: _____

Mayor

Attest: _____

Date: _____

10/13/08

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: _____

President

Attest: _____

Vice President

Date: _____

9-18-08

APPENDIX B

Hourly Rates for Personnel Drake Field, Fayetteville Municipal Airport

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

* Subject to Annual Adjustment Mid-Year.

APPENDIX "A"
BASIS FOR PAYMENTS TO THE ENGINEER
TASK ORDER NO. 6
RUNWAY 16 SAFETY AREA IMPROVEMENTS
FAYETTEVILLE MUNICIPAL AIRPORT

CLASSIFICATION		PROJECT DIRECTION	PROJECT MANAGER	PROJECT ENGINEER	PROJECT ENGINEERING TECHNICIAN	CADD OPER. 1	CADD OPER. 2	CADD OPER. 3	LICENSED SURVEYOR	SURVEY CREW	CLERK	INSPECTOR	MILEAGE	DIRECT EXPENSE	EXTENDED TOTAL
LINE	TASK DESCRIPTION														
A	GEOTECHNICAL INVESTIGATION	1		2										\$7,118.00	\$7,118.00
B	WETLAND PERMITS AND RELOCATION PLANS														
	WETLAND & RELOCATION AREA SURVEYS	1	4	1	4	4			2	8			40	\$2,100.00	\$4,844.00
	DEVELOP RELOCATION PLANS AND DETAILS	1	8	16	4	4	16	0	2	8	2	0	88	\$3,950.00	\$11,800.00
C	FEMA PLANS & PERMITS														
	OBTAIN FEMA HYDROLOGIC DATA	1	2	2											\$871.00
	PERFORM HYDROLOGICAL CALCULATIONS	1	4	8											\$3,792.00
	PREPARE REVISED MAPPING	1	2	8	18	4	16	0	0	0	2	0	0	\$12,000.00	\$16,000.00
D	PRELIMINARY DESIGN ENGINEERING														
	DRAWING ORGANIZATION	1	2	2											
	QUANTITY SHEETS	1	4	4	20										\$373.00
	TYPICAL DETAIL SHEET	1	2	2	6	8	20								\$2,403.00
	PLAN & PROFILE PLAN SHEETS	1	2	8	60										\$8,761.00
	DETAILS SHEETS	1	2	8	10	8	20								\$2,678.00
	EROSION CONTROL PLAN SHEETS	1	1	8	10	8	20								\$2,678.00
	CONSTRUCTION PHASING PLAN SHEETS	1	4	16	4	10	20								\$2,653.00
	CROSS SECTION SHEETS	1	2	8	32	2	10								\$5,367.00
	DRAINAGE CALCULATIONS	1	4	10	40										\$4,588.00
	WATER AND SEWER PLAN & PROFILE SHEETS	1	2	12	20	10	30								\$5,477.00
	WATER AND SEWER DETAIL SHEETS	1	4	20	4	16									\$1,843.00
	QUANTITIES	1	4	20	60						80				\$8,427.00
	SPECIFICATIONS	1	2	2	10						3				\$1,735.00
	UPDATE COST ESTIMATE	1	2	2	10										\$2,338.00
	IN-HOUSE QA REVIEWS	1	2	2	10										\$2,428.00
	OWNER & AHTD REVIEWS	1	2	2	10										\$1,157.00
	MEETINGS WITH OTHER	1	4	4	144	72	168	0	0	0	83	0	0	\$7.00	\$68,680.00
	SUBTOTAL PRELIMINARY DESIGN	16	48	144	264	72	168	0	0	0	83	0	0	\$7.00	\$68,680.00
E	RIGHT-OF-WAY PLANS SHEETS	1	1	2	10				42	10				\$44.00	\$5,860.00
F	FINAL DESIGN ENGINEERING														
	COVER SHEET	1	1	2	18										\$355.00
	QUANTITY SHEETS	1	4	4	20										\$1,813.00
	TYPICAL DETAIL SHEET	1	2	2	6	8	20								\$1,283.00
	PLAN & PROFILE PLAN SHEETS	1	2	8	10	8	20								\$2,678.00
	DETAILS SHEETS	1	2	8	10	8	20								\$1,813.00
	EROSION CONTROL PLAN SHEETS	1	1	8	10	8	20								\$1,764.00
	CONSTRUCTION PHASING PLAN SHEETS	1	4	16	4	10	20								\$1,053.00
	CROSS SECTION SHEETS	1	2	8	32	2	10								\$3,211.00
	DRAINAGE CALCULATIONS	1	4	10	40										\$3,678.00
	WATER AND SEWER PLAN & PROFILE SHEETS	1	2	12	20	10	30								\$2,403.00
	WATER AND SEWER DETAIL SHEETS	1	4	20	4	16									\$2,871.00
	QUANTITIES	1	4	20	60						40				\$7,507.00
	SPECIFICATIONS	1	2	2	10						4				\$4,061.00
	UPDATE COST ESTIMATE	1	2	2	10										\$2,033.00
	IN-HOUSE QA REVIEWS	1	2	2	10										\$3,238.00
	OWNER & AHTD REVIEWS	1	2	2	10										\$1,008.00
	MEETINGS WITH OWNER	1	4	8	4						2			\$46.00	\$1,588.00
	FINAL REVIEW CHANGES	1	2	2	10										\$3,917.00
	FINAL AHTD REVIEW AND CHANGES	1	4	8	4	20	4	12			2			\$41.00	\$3,540.00
	FINAL IN-HOUSE QA REVIEWS	1	4	8	4										\$1,047.00
	SUBTOTAL DETAILED DESIGN	14	48	120	236	34	128	0	0	0	60	0	0	\$46.00	\$86,800.00
G	BIDDING SERVICES	0	8	30	8	0	0	0	0	0	10	0	12	\$0.00	\$6,000.00
H	REIMBURSEMENT EXPENSES														
	ARK Dept of Health Review Fee														\$500.00
	Reproduction Costs														\$800.00
	Corps of Engineers Wetlands Fee														\$500.00
	ADSC SWPPP Plan Fee														\$350.00
	SUBTOTAL REIMBURSEMENT EXPENSES														\$2,150.00
	GRAND TOTAL ENGINEERING SERVICES	30	105	236	311	108	212	0	42	10	143	0	12	\$2,237.00	\$177,000.00

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

10/7/2008

City Council Meeting Date

Changed Task Order
Number from #5 to #15
McClelland Consulting Engineers

Ray M. Boudreaux
Submitted By

Aviation & Economic Development
Division

General Government
Department

Action Required:

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

\$ 5,600.00

Cost of this request

\$ -

Budget

Correct RW16 RSA

Program Category / Project Name

5550.3960.5314.00

Account Number

\$ -

Funds Used to Date

Avi/ED Imp

Program / Project Category Name

NEW PROJECT

Project Number

\$ -

Remaining Balance

Airport

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

X

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City Clerk's Office

ENTERED

9-30-08

Finance and Internal Service Director

Date

Received in Mayor's Office

ENTERED

9/30/08

Mayor

Date

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

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

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

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

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

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

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

Attachments: Staff Review Form
Contract

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

RESOLUTION NO. _____

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

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

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

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

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

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



1810 N. College Avenue
P.O. Box 1229
Fayetteville, Arkansas 72703 / 72702-1229
PHONE: 479-443-2377
FAX: 479-443-9241

September 18, 2008

RECEIVED
SEP 18 2008
AIRPORT

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

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

Dear Mr. Boudreaux:

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

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

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "R. Wayne Jones".

R. Wayne Jones, P.E.
Vice President

Enclosure: Task Order No 5 (3 copies)

Lisa Branson - Fwd: Attached Image

From: Peggy Bell
To: Nicholson, James
Date: 9/25/2008 3:48 PM
Subject: Fwd: Attached Image
CC: Branson, Lisa
Attachments: Attached Image

James,

I have circled all the places where Task order #5 is mentioned. On the Staff Review Form and the Memo, you will have to key the changes to Task order #15. On the blank Resolution, the City Attorney's office will need to make the change (at your request). On the McClelland letter and documents, strike out the #5, write in #15, and initial. The City Clerk's office would like to have all corrected by tomorrow, but ask Lisa if you have any problems with that.

Please let me know if you need anything else. I will check on the progress tomorrow here at City Hall.

Thanks,
Peggy

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

A. 13
McClelland Consulting
Engineers, Inc Contract
Page 1 of 44

2-Dec-08
City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Imp Project
Division

Water/Wastewater
Department

Action Required:

Approval of an Engineering contract with McClelland Consulting Engineers in the amount of \$397,621, for Engineering design services for water and sewer relocations and concurrent construction of a 36" water transmission main associated with Highway 265 Widening from Mission to Joyce Boulevard, approve a 5% contingency of \$20,000, and approve a budget adjustment.

\$ 417,621
Cost of this request

\$ -
Category / Project Budget

Wastewater System Imp Project
Program Category / Project Name

4520.9520.5315.00
Account Number

\$ -
Funds Used to Date

Water and Wastewater
Program / Project Category Name

02133-0392
Project Number

\$ -
Remaining Balance

Water/Sewer
Fund Name

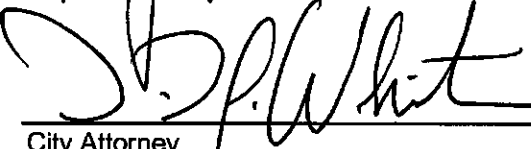
Budgeted Item ☐

Budget Adjustment Attached ☒

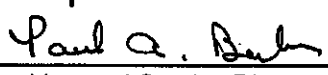

Department Director 14 Nov 08
Date

Previous Ordinance or Resolution # _____

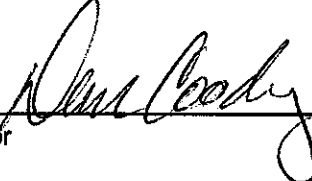
Original Contract Date: _____


City Attorney 11/18/08
Date

Original Contract Number: _____


Finance and Internal Service Director 11-19-08
Date

Received in City Clerk's Office
11-14-08 CWO


Mayor 11/19/08
Date

Received in Mayor's Office
ENTERED
11/19/08
JH

Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water and Wastewater Director

Date: 10 November 2008

Subject: Approval of an Engineering contract with McClelland Consulting Engineers in the amount of \$397,621, for Engineering design services for water and sewer relocations and concurrent construction of a 36" water transmission main associated with Highway 265 Widening from Mission to Joyce Boulevard, approve a 5% contingency of \$20,000, and approve a budget adjustment.

RECOMMENDATION

City Administration recommends approval of an Engineering contract with McClelland Consulting Engineers in the amount of \$397,621, for Engineering design services for water and sewer relocations and concurrent construction of a 36" water transmission main associated with Highway 265 widening from Mission to Joyce Boulevard, approve a 5% contingency of \$20,000, and approve a budget adjustment.

BACKGROUND

The project involves two simultaneous and collocated functions. The first is relocating water and sewer lines as a result of the combined Arkansas Highway Department (AHTD) and City widening of Crossover Road (Hwy 265) between Mission and Joyce. The second is installing a 36" and 24" transmission main along Crossover to connect to the existing 24" main on Crossover at Mission and the existing 36" main on Old Wire Road. This is the second phase of the transmission main replacement, completing the eastern portion of the loop that was initially constructed when the southern section of Crossover Road between Mission and Huntsville was widened by the AHTD.

DISCUSSION

The scope of work for this project consists primarily of

- Field surveys to confirm rights-of-ways and utility locations
- project cost estimating with AHTD and Fayetteville shares predicted
- right-of-way requirement identification and easement document development
- final engineering design

This contract does not include construction phase services. That will either be accomplished by amendment to this contract or using in-house staff.

BUDGET IMPACT

This project will be funded using a Water and Sewer revenue bond, expected to be executed in early 2009. Funding for the design is available from funds remaining in the following projects as each was completed below budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN ENGINEERING CONTRACT WITH McCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$397,621.00 FOR DESIGN SERVICES FOR WATER AND SEWER RELOCATIONS AND CONCURRENT CONSTRUCTION OF A 36" WATER TRANSMISSION MAIN ASSOCIATED WITH THE WIDENING OF HIGHWAY 265 FROM MISSION TO JOYCE BOULEVARD; APPROVING A \$20,000.00 CONTINGENCY; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$400,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves an Engineering Contract with McClelland Consulting Engineers, Inc. in the amount of \$397,621.00 for design services for water and sewer relocations and concurrent construction of a 36" water transmission main associated with the widening of Highway 265 from Mission to Joyce Boulevard. A copy of the contract, 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 contingency in the amount of \$20,000.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of \$400,000.00.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 13
McClelland Consulting
Engineers, Inc. Contract
Page 4 of 44

Budget Year 2008	Department: Operations Division: Water & Sewer Maintenance Program: Capital Water Mains	Date Requested 14 Nov 08	Adjustment Number
--------------------------------	--	--	--------------------------

Project or Item Added/Increased: Highway 265 Water and Sewer Relocation and 36" Water Transmission Line increased by \$400,000.	Project or Item Deleted/Reduced: Highway 62 Water Line Relocations reduced by \$35,575.00. The project is complete and these budgeted funds were not used. Farmington Sewer Rehabilitation reduced by \$364,425. Per follow-on decisions, this project was funded from the overall sanitary sewer rehabilitation project. Therefore, these funds are no longer required.
---	--

Justification of this Increase: Project is to be funded by Revenue bonds. This action shall take place in 2009. At that time, the water and sewer fund shall be reimbursed for the engineering expenses covered by this budget adjustment.	Justification of this Decrease: Highway 62 Water Line Relocations are complete and these budgeted funds were not used. Farmington Sewer Rehabilitation project was funded from the overall sanitary sewer rehabilitation project. Therefore, these funds are no longer required.
--	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Water line improvements	5400	5600	5808	00	400,000	08072	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Water line improvements	5400	5600	5808	00	35,575	04034	1
Sewer improvements	5400	5700	5815	00	364,425	04042	1

Approval Signatures <table style="width:100%;"> <tr> <td style="width:70%;">Requested By</td> <td style="width:30%;">Date</td> </tr> <tr> <td></td> <td align="center">11-14-08</td> </tr> <tr> <td>Budget Manager</td> <td>Date</td> </tr> <tr> <td></td> <td align="center">14 Nov 08</td> </tr> <tr> <td>Department Director</td> <td>Date</td> </tr> <tr> <td>Finance & Internal Services Director</td> <td>Date</td> </tr> <tr> <td>Mayor</td> <td>Date</td> </tr> </table>	Requested By	Date		11-14-08	Budget Manager	Date		14 Nov 08	Department Director	Date	Finance & Internal Services Director	Date	Mayor	Date	Budget Office Use Only Type: A B C <u>D</u> E <table style="width:100%;"> <tr> <td style="width:70%;">Posted to General Ledger</td> <td style="width:15%;">Initial</td> <td style="width:15%;">Date</td> </tr> <tr> <td>Posted to Project Accounting</td> <td>Initial</td> <td>Date</td> </tr> <tr> <td>Entered in Category Log</td> <td>Initial</td> <td>Date</td> </tr> </table>	Posted to General Ledger	Initial	Date	Posted to Project Accounting	Initial	Date	Entered in Category Log	Initial	Date
Requested By	Date																							
	11-14-08																							
Budget Manager	Date																							
	14 Nov 08																							
Department Director	Date																							
Finance & Internal Services Director	Date																							
Mayor	Date																							
Posted to General Ledger	Initial	Date																						
Posted to Project Accounting	Initial	Date																						
Entered in Category Log	Initial	Date																						

October 8, 2008

Mr. Shannon Jones, P.E.
Engineering Department
City of Fayetteville
113 W Mountain St.
Fayetteville, AR 72701

Re: Highway 265/Township Road Water & Sewer Replacement

Dear Mr. Jones:

Enclosed please find three copies of a proposed Engineering Agreement for the referenced project, with a Storm Water Pollution Prevention Plan included in the scope of work. Also enclosed are three cost estimates. These are based on using the Fayetteville water and sewer atlas information and on using the current copy of the AHTD Highway 265 right of way plans. These cost estimates are somewhat updated from the preliminary estimate for the whole project, as previously submitted on September 9, 2008.

Table No. 1 is a cost estimate for a new 36-inch and 24-inch main along Highway 265, plus the necessary utility relocation work to accommodate the Highway 265 project. Table No. 2 is a cost estimate for the 36-inch main along Township Street between Old Wire Road and Highway 265. These two tables result in a construction, only, cost estimate total of \$7,549,300. This is higher than the previous estimate because I overlooked an empty casing for a future sewer crossing near Kaylor Drive on the previous estimate.

Table No. 3 is a cost estimate for replacing the existing water and sewer facilities with an equivalent sized system. It generally consists of a 12-inch water main along the east side of Highway 265, plus a segment of 36-inch water main just south of Joyce Boulevard, to replace the existing 36-inch diagonal crossing. Other items include:

1. New water and sewer highway crossings, to replace existing crossings.
2. Two completely new 8-inch water main crossings at Weston Place and Par Court, to interconnect to dead end mains at these street intersections at Highway 265. These crossings would be considered "improvements," and would not be eligible for AHTD reimbursement.
3. Extensions of existing empty casings near the Old Wire Road Lift Station and near Kaylor Drive. These are for future sewer crossings.
4. Extensions of casings on the existing gravity sewer and force main that cross the Old Wire Road/Highway 265 intersection on a diagonal.
5. Rerouting and reconnecting water mains in the Joyce Boulevard vicinity.
6. Extending the existing 52-inch casing on the 36-inch water main along Joyce Boulevard.

Table No. 3 lists these equivalent system quantities that are expected to be eligible for reimbursement and those expected to be ineligible. Eligible items include replacements for all items on easements, outside the existing right of way, and these items in the right of way that existed prior to the highway construction. These items include the old 36-inch diagonal crossing south of Joyce, the 18 gravity sewer diagonal crossing at Old Wire Road, and the Old Wire Road Lift Station chain link fence. Ineligible items include replacing the highway crossings completed after the highway right of way was established, as well as the two 8-inch "improvement" crossings listed above.

Based on my understanding of the current quantities and utility locations, we estimate that \$2,542,855 will be eligible for AHTD reimbursement, as listed at the bottom of Table No. 3. This value can be deducted from the \$4,993,400 listed in Table No. 1. to illustrate the cost of constructing the 36"/24" main along Highway 265, as compared to the equivalent system 12" main. Consequently, of the total estimated construction cost as listed in Table No. 1 and No. 2 of \$7,549,300 the City should expect to pay \$5,006,445 and \$2,542,855 should be reimbursed by the Highway Department. These costs do not include contingencies, engineering, easements or administrative expenses.

Please let me know if there are questions on these items.

Very Truly Yours,
McClelland Consulting Engineers, Inc.



Robert W. White, P.E.
Vice-President/Partner

Encl: Engineering Agreement
Cost Estimates

TABLE NO. 1
PRELIMINARY COST ESTIMATE
36"/24" WATER MAIN ALONG HIGHWAY 265
OCTOBER 7, 2008

Item	Estimated Quantity	Units	Estimated Unit Price	Extended
36-Inch Water Main	9,585	FT	\$200	\$1,917,000
24-Inch Water Main	1,810	FT	\$120	\$217,200
12-Inch Water Main	330	FT	\$75	\$24,750
8-Inch Water Main	1,580	FT	\$40	\$63,200
6-Inch Water Main	100	FT	\$35	\$3,500
2-Inch Water Main	2,560	FT	\$25	\$64,000
1-Inch Service Line	380	FT	\$15	\$5,700
36-Inch Butterfly Valve	15	EA	\$24,000	\$360,000
24-Inch Butterfly Valve	2	EA	\$8,000	\$16,000
8-Inch Gate Valve	22	EA	\$1,500	\$33,000
6-Inch Gate Valve	10	EA	\$1,200	\$12,000
2-Inch Gate Valve	10	EA	\$800	\$8,000
36-Inch Connection	2	EA	\$20,000	\$40,000
24-Inch Connection	1	EA	\$10,000	\$10,000
8-Inch Connection	2	EA	\$1,500	\$3,000
2-Inch Connection	1	EA	\$600	\$600
36" X 8" Tapping Sleeve and Valve	1	EA	\$14,000	\$14,000
12" x 12" Tapping Sleeve and Valve	2	EA	\$12,000	\$24,000
8" x 8" Tapping Sleeve and Valve	6	EA	\$4,000	\$24,000
6" x 6" Tapping Sleeve and Valve	2	EA	\$3,500	\$7,000
Abandon Valve	30	EA	\$200	\$6,000
Ductile Iron Fittings	81,000	LB	\$7	\$567,000
3-Way Fire Hydrant	19	EA	\$2,800	\$53,200
Remove Fire Hydrant	14	EA	\$1,000	\$14,000
2-Inch Blowoff	5	EA	\$700	\$3,500
Remove Air Release Valve	1	EA	\$600	\$600
6-Inch Air Release Valve Assembly	3	EA	\$8,000	\$24,000
New Water Meter Setting	19	EA	\$800	\$15,200
Remove Water Meter Setting	19	EA	\$150	\$2,850
Cut and Cap 12" Main	3	EA	\$1,000	\$3,000
Cut and Cap 8" Main	6	EA	\$900	\$5,400
Cut and Cap 6" Main	2	EA	\$800	\$1,600
Cut and Cap 2 1/4" Main	1	EA	\$500	\$500
52-Inch Direct Bury Casing	150	FT	\$700	\$105,000
48-Inch Bored Casing	340	FT	\$850	\$289,000
48-Inch Direct Bury Casing	200	FT	\$350	\$70,000
36-Inch Direct Bury Casing	305	FT	\$300	\$91,500
30-Inch Direct Bury Casing	170	FT	\$250	\$42,500
24-Inch Bored Casing	155	FT	\$600	\$93,000
16-Inch Bored Casing	820	EA	\$450	\$369,000

TABLE NO. 1 (cont.)
36"/24" WATER MAIN ALONG HIGHWAY 265

16-Inch Direct Bury Casing	20	FT	\$100	\$2,000
12-Inch Gravity Sewer	210	FT	\$50	\$10,500
Sewer Manhole	3	EA	\$2,800	\$8,400
12" x 4" Sewer Wye	1	EA	\$300	\$300
4-Inch Sewer Service	20	FT	\$20	\$400
Fill Abandoned 36" w/Grout	970	FT	\$70	\$67,900
Asphalt Surface Restoration	1,100	SY	\$65	\$71,500
Concrete Street and Driveway Restoration	200	SY	\$70	\$14,000
Sidewalk Restoration	20	SY	\$50	\$1,000
Curb Restoration	150	FT	\$22	\$3,300
Granular Fill	2,300	TN	\$21	\$48,300
Rock Excavation	1,400	CY	\$90	\$126,000
Chain Link Fence Replacement	100	FT	\$20	\$2,000
Erosion Control	1	EA	\$20,000	\$20,000
Trench Safety	1	EA	\$14,000	\$14,000
			Construction Subtotal	\$4,993,400

TABLE NO. 2
PRELIMINARY COST ESTIMATE
TOWNSHIP STREET 36-INCH WATER MAIN
OCTOBER 7, 2008

Item	Estimated Quantity	Units	Estimated Unit Price	Extended
36-Inch Water Main	5,220	FT	\$200	\$1,044,000
8-Inch Water Main	60	FT	\$40	\$2,400
6-Inch Water Main	200	FT	\$35	\$7,000
36-Inch Butterfly Valve	6	EA	\$24,000	\$144,000
6-Inch Gate Valve	7	EA	\$1,200	\$8,400
36-Inch Connection	1	EA	\$20,000	\$20,000
6-Inch Connection	1	EA	\$1,400	\$1,400
8" x 8" Tapping Sleeve and Valve	1	EA	\$4,000	\$4,000
6" x 6" Tapping Sleeve and Valve	1	EA	\$3,500	\$3,500
Ductile Iron Fittings	24,000	LB	\$7	\$168,000
3-Way Fire Hydrant	6	EA	\$2,800	\$16,800
Remove Blowoff	1	EA	\$600	\$600
48-Inch Bored Casing	150	FT	\$850	\$127,500
48-Inch Direct Bury Casing	160	FT	\$350	\$56,000
Asphalt Surface Restoration	200	SY	\$65	\$13,000
Concrete Street and Driveway Restoration	7,500	SY	\$70	\$525,000
Sidewalk Restoration	70	SY	\$50	\$3,500
Curb Restoration	4,800	FT	\$22	\$105,600
Granular Fill	11,200	TN	\$21	\$235,200
Rock Excavation	600	CY	\$90	\$54,000
Erosion Control	1	EA	\$10,000	\$10,000
Trench Safety	1	EA	\$6,000	\$6,000
Construction Subtotal				\$2,555,900

TABLE NO. 3
PRELIMINARY COST ESTIMATE
ESTIMATED HIGHWAY DEPARTMENT REIMBURSEMENT
HIGHWAY 265 EQUIVALENT SYSTEM REPLACEMENT
OCTOBER 7, 2008

Item	Estimated Unit Price	Units	AHTD ELIGIBLE FOR REIMBURSEMENT		AHTD INELIGIBLE FOR REIMBURSEMENT	
			Estimated Quantity	Extended	Estimated Quantity	Extended
36-Inch Water Main	\$200	FT	1,160	\$232,000	0	\$0
12-Inch Water Main	\$75	FT	10,345	\$775,875	130	\$9,750
8-Inch Water Main	\$40	FT	750	\$30,000	730	\$29,200
6-Inch Water Main	\$35	FT	200	\$7,000	0	\$0
2-Inch Water Main	\$25	FT	40	\$1,000	0	\$0
1-Inch Service Line	\$15	FT	380	\$5,700	0	\$0
36-Inch Butterfly Valve	\$24,000	EA	5	\$120,000	0	\$0
12-Inch Butterfly Valve	\$2,800	EA	10	\$28,000	2	\$5,600
8-Inch Gate Valve	\$1,500	EA	6	\$9,000	5	\$7,500
6-Inch Gate Valve	\$1,200	EA	18	\$21,600	0	\$0
2-Inch Gate Valve	\$800	EA	1	\$800	0	\$0
36-Inch Connection	\$20,000	EA	2	\$40,000	0	\$0
8-Inch Connection	\$1,500	EA	1	\$1,500	2	\$3,000
2-Inch Connection	\$600	EA	1	\$600	0	\$0
36" x 8" Tapping Sleeve and Valve	\$14,000	EA	1	\$14,000	0	\$0
12" x 12" Tapping Sleeve and Valve	\$12,000	EA	1	\$12,000	1	\$12,000
8" x 8" Tapping Sleeve and Valve	\$4,000	EA	5	\$20,000	1	\$4,000
6" x 6" Tapping Sleeve and Valve	\$3,500	EA	2	\$7,000	0	\$0
Abandon Valve	\$200	EA	29	\$5,800	1	\$200
Ductile Iron Fittings	\$7	LB	23,000	\$161,000	700	\$4,900
3-Way Fire Hydrant	\$2,800	EA	19	\$53,200	0	\$0
Remove Fire Hydrant	\$1,000	EA	14	\$14,000	0	\$0
Remove Air Release Valve	\$600	EA	1	\$600	0	\$0
2-Inch Air Release Valve Assembly	\$4,000	EA	3	\$12,000	0	\$0
New Water Meter Setting	\$800	EA	19	\$15,200	0	\$0
Remove Water Meter Setting	\$150	EA	19	\$2,850	0	\$0
Cut and Cap 12" Main	\$1,000	EA	2	\$2,000	1	\$1,000
Cut and Cap 8" Main	\$900	EA	6	\$5,400	0	\$0
Cut and Cap 6" Main	\$800	EA	2	\$1,600	0	\$0
Cut and Cap 2 1/4" Main	\$500	EA	1	\$500	0	\$0
52-Inch Direct Bury Casing	\$700	FT	150	\$105,000	0	\$0
48-Inch Bored Casing	\$850	FT	150	\$127,500	80	\$68,000
48-Inch Direct Bury Casing	\$350	FT	270	\$94,500	30	\$10,500
36-Inch Direct Bury Casing	\$300	FT	295	\$88,500	10	\$3,000
30-Inch Direct Bury Casing	\$250	FT	170	\$42,500	0	\$0
24-Inch Bored Casing	\$600	FT	185	\$111,000	80	\$48,000

TABLE NO. 3 (cont.)
HIGHWAY 265 EQUIVALENT SYSTEM REPLACEMENT

16-Inch Bored Casing	\$450	EA	280	\$126,000	540	\$243,000
16-Inch Direct Bury Casing	\$100	FT	20	\$2,000	0	\$0
12-Inch Gravity Sewer	\$50	FT	130	\$6,500	80	\$4,000
Sewer Manhole	\$2,800	EA	3	\$8,400	0	\$0
12" x 4" Sewer Wye	\$300	EA	1	\$300	0	\$0
4-Inch Sewer Service	\$20	FT	20	\$400	0	\$0
Fill Abandoned 36" w/Grout	\$70	FT	970	\$67,900	0	\$0
Asphalt Surface Restoration	\$65	SY	640	\$41,600	100	\$6,500
Concrete Street & Driveway Restoration	\$70	SY	100	\$7,000	40	\$2,800
Sidewalk Restoration	\$50	SY	10	\$500	5	\$250
Curb Restoration	\$22	FT	140	\$3,080	10	\$220
Granular Fill	\$21	TN	950	\$19,950	200	\$4,200
Rock Excavation	\$90	CY	600	\$54,000	45	\$4,050
Chain Link Fence Replacement	\$20	FT	100	\$2,000	0	\$0
Erosion Control	\$20,000	EA	1	\$20,000	1	\$1,500
Trench Safety	\$14,000	EA	1	\$14,000	1	\$1,000
Construction Subtotals				<u>\$2,542,855</u>		<u>\$474,170</u>

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
MCCLELLAND CONSULTING ENGINEERS, INC.

THIS AGREEMENT is made as of _____, 2008, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and McClelland Consulting Engineers, Inc. with offices located in Fayetteville, AR (hereinafter called MCE).

CITY OF FAYETTEVILLE requires professional engineering services in connection with the design and construction observation services for water and sewer system improvements along Arkansas Highway 265 between Highway 45 (Mission Boulevard) and Joyce Boulevard, as further defined by AHTD Job 040517, in order to facilitate the widening of said Highway 265 by the Arkansas Highway and Transportation Department, as well as water system improvements along the Township Street corridor, generally from Highway 265 to Old Wire Road (The "Project"), and as further described in Appendix A. Therefore, CITY OF FAYETTEVILLE and MCE in consideration of their mutual covenants agree as follows:

MCE shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of MCE's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field. If Construction Phase Services are to be provided by MCE under this Agreement, the construction shall be executed under the observation of a professional engineer registered in the State of Arkansas in accordance with Arkansas Code Amended §22-9-101.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of MCE. Assignments may include services described hereafter as Basic Services or as Additional Services of MCE.

- 1.2 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF MCE

- 2.1.1 Perform professional design services in connection with the Project as hereinafter stated, which shall include normal civil, structural, and surveying services.
- 2.1.1.1 The Scope of Services to be furnished by MCE during the Preliminary and Final Design Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement. Preliminary and Final Design Phase Services shall include Design Surveys and Bidding Phase Services.
- 2.1.1.2 The Scope of Services to be furnished by MCE for property mapping, easement mapping and easement preparation is included in Section 2.2 hereafter and in Appendix A attached hereto and made a part of this Agreement.
- 2.1.1.3 The Scope of Services to be furnished by MCE for Storm Water Pollution Prevention Plan Services will be negotiated in full and added by an amendment to this Agreement.
- 2.1.1.4 The Scope of Services to be furnished by MCE during the Construction Phase will be negotiated in full and added by an amendment to this Agreement.
- 2.1.2 Execution of this agreement will authorize the Engineer to proceed with the services as described herein.

2.2 Design Services

- 2.2.1 MCE will perform engineering and related services in order to prepare Preliminary Drawings, Final Drawings, Project Specifications, Bidding assistance, AHTD Coordination, and related services as described in Appendix A.
- 2.2.1.1 Text documents shall be provided to CITY OF FAYETTEVILLE in Microsoft® Word version 2000 or later software. Contract drawings shall be prepared using standard borders, sheet sizes, title blocks and CADD standards provided by CITY OF FAYETTEVILLE. MCE may use its normal software for the preparation of drawings but the final product shall be provided to CITY OF FAYETTEVILLE in Autodesk AutoCAD version 2004 or later.
- 2.2.1.2 Develop and include in Appendix A of this Agreement for approval by CITY OF FAYETTEVILLE, a project design schedule in which MCE shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by MCE in the completion of this design. This Schedule shall include reasonable allowances for review and approval times required by CITY OF FAYETTEVILLE, performance of services by CITY OF FAYETTEVILLE's consultants, and review and approval times required by public authorities having jurisdiction over the Project. This Schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by CITY OF FAYETTEVILLE, or for delays or other causes beyond MCE's reasonable control. The progress design schedule shall consist of a tabular list of milestones for each phase of services.
- 2.2.1.3 When requested by the CITY OF FAYETTEVILLE's City Engineer, prepare for and attend Water and Sewer Committee meetings and a City Council meeting to provide support for the project.

- 2.2.2 Provide through contract amendments services or data such as geotechnical investigations, core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests, and inspections of samples, materials, and equipment as necessary for authorized Project services including appropriate professional interpretations of all the foregoing; property, boundary, easement, right-of-way, topographic, and utility surveys; noting zoning and deed restrictions.
- 2.2.2.1 Fully disclose all subcontract agreements including the name and address of the subconsultant, the scope of services to be provided and the value of the subcontract agreement.
- 2.2.2.2 Incorporate into all subcontract agreements for planning and design engineering services the applicable milestone dates from the Submittal Schedule and the CITY OF FAYETTEVILLE and require all MCE subconsultants to be bound by the Submittal Schedule.
- 2.2.3 Design shall be reviewed by CITY OF FAYETTEVILLE, or such parties as CITY OF FAYETTEVILLE shall designate, at completion of preliminary (30% complete) and final (90% complete) plans. Interim reviews may be performed at the request of MCE or the CITY OF FAYETTEVILLE in order to facilitate completion of the project.
- 2.2.3.1 Final Design shall be reviewed by the CITY OF FAYETTEVILLE, the Arkansas Highway and Transportation Department and the Arkansas Department of Health. Design documents shall be modified/updated by MCE as necessary for approval by all parties. Creek crossing plans shall be submitted to the Corps of Engineers for their approval.
- 2.2.3.2 MCE shall assist the CITY OF FAYETTEVILLE in the process of advertising the project for bids, receiving bids, and preparing a Bid Tabulation.

2.2.3.3 MCE shall assist the CITY OF FAYETTEVILLE concerning coordination with the Arkansas Highway and Transportation Department, including calculations of estimated reimbursement percentages, attendance of AHTD coordination meetings and preparation of draft documents required by AHTD related to the project design.

2.3 Property Mapping and Easement Services

2.3.1 MCE will perform property mapping, easement mapping and easement preparation services as described in Appendix A.

2.3.1.1 MCE shall rely on AHTD property maps and right-of-way maps concerning AHTD's right-of-way acquisition. MCE shall rely on CITY OF FAYETTEVILLE atlas maps and easement acquisition personnel for information on existing easements. Based on these data MCE shall prepare property maps and easement maps, determine the extent of required new easements, verify the current ownership of property where new easement are required, and prepare required easement documents in accordance with CITY OF FAYETTEVILLE easement criteria. MCE shall revise easements where AHTD right-of-way limits change or where the requirements by the CITY OF FAYETTEVILLE are revised, at the expense of the CITY OF FAYETTEVILLE. Any errors detected in easement documents prepared by MCE shall be revised by MCE at MCE's expense.

2.4 Storm Water Pollution Prevention Plan Phase

2.4.1 MCE shall complete a Storm Water Pollution Prevention Plan based on the final system design and in accordance with applicable ADEQ criteria for approval by the CITY OF FAYETTEVILLE and implementation by the construction contractor.

2.5 Construction Phase

- 2.5.1 The scope of Construction Phase Services will be described in detail in a future amendment to this Agreement.

SECTION 3 - ADDITIONAL SERVICES OF MCE

3.1 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by MCE, MCE shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Financial Consultation

Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.

3.1.2 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.1.3 Furnishing renderings or models of the Project for CITY OF FAYETTEVILLE's use.

3.1.4 Miscellaneous Studies

Investigations involving detailed consideration of operations, maintenance, and overhead expenses, and the preparation of rate schedules, earnings, and expense statements; feasibility studies; appraisals and valuations; detailed quantity surveys of material, equipment, and labor; and audits or inventories required in connection with construction performed by CITY OF FAYETTEVILLE.

3.1.5 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.1.6 Extra Services

3.1.6.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.2 Contingent Additional Services

3.2.1 If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond MCE's control, MCE shall notify CITY OF FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described in 3.2 are not required, CITY OF FAYETTEVILLE shall give prompt written notice to MCE. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, MCE shall have no obligation to provide those services.

3.2.2 Making revisions in Drawings, Specifications, or other documents when such revisions are:

3.2.2.1 Required because of inconsistent approvals or instructions previously given by CITY OF FAYETTEVILLE, including revisions made necessary by adjustments in CITY OF FAYETTEVILLE's program or Project Budget.

3.2.2.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.

SECTION 4 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of MCE:

4.1 Provide AHTD's plans for MCE's use.

4.2 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

- 4.3 Assist MCE by placing at MCE's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- 4.4 Guarantee access to and make all provisions for MCE to enter upon public and private property as required for MCE to perform its services under this Agreement.
- 4.5 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by MCE and render in writing decisions pertaining thereto.
- 4.6 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 4.7 Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 4.8 Give prompt written notice to MCE whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.
- 4.9 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees.
- 4.10 Pay for placement of legal notices and advertisements in newspapers or other publications required by program requirements.
- 4.11 Furnish, or direct MCE to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.

- 4.12 If CITY OF FAYETTEVILLE's standard bidding requirements, Agreement forms and General Conditions are to be used, CITY OF FAYETTEVILLE shall provide copies of such documents for MCE's use in coordinating the Contract Drawings and Specifications.
- 4.13 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to MCE in a timely manner.

SECTION 5 - PERIOD OF SERVICE

- 5.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 5.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. MCE will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

SECTION 6 - PAYMENTS TO MCE

- 6.1 Compensation

For the Scope of Services described herein, CITY OF FAYETTEVILLE shall pay MCE an amount Not to Exceed the sum amount of **\$397,621.00** United States Dollars (US **\$397,621.00**) in accordance with the provisions described in the following paragraphs. The profit included in this Not to Exceed amount shall be \$42,602.18.

- 6.1.1 Design Surveys, Preliminary and Final Design and Bidding Services

For design surveys, preliminary design, final design and bidding services to be performed by MCE, CITY OF FAYETTEVILLE shall pay MCE for time spent on the project at the rates shown in attached Appendix B-1 for each classification of MCE personnel, and for reimbursable expenses. The rates shown in Appendix B-1 will be increased annually with the first increase effective on or about March 1, 2009.

6.1.2 Property Surveys and Property Acquisition Documents

For Property Surveys, Property and Easement Mapping, and Property Acquisition Documents, CITY OF FAYETTEVILLE shall pay MCE for time spent on the project at the rates shown in attached Appendix B-2 for each classification of MCE personnel, and for reimbursable expenses. The rates shown in Appendix B-2 will be increased annually with the first increase effective on or about March 1, 2009.

6.1.3 Storm Water Pollution Prevention Plan

For Storm Water Pollution Prevention Plan services, CITY OF FAYETTEVILLE shall pay MCE for time spent on the project at the rates shown in attached Appendix B-3 for each classification of MCE personnel, and for reimbursable expenses. The rates shown in Appendix B-3 will be increased annually with the first increase effective on or about March 1, 2009.

6.1.4 Construction Phase Services

For the Construction Phase Services described herein, CITY OF FAYETTEVILLE shall pay MCE an amount to be negotiated at a later date.

6.1.5 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to MCE shall be negotiated at the time Additional Services are authorized.

6.2 Statements

Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate consistent with MCE's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by MCE and approved by CITY OF FAYETTEVILLE.

6.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of MCE's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise MCE in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

6.4 Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, MCE shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by MCE to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against MCE or his sureties under this Agreement or applicable performance and payment bonds, if any.

6.5 Fee Changes

Subject to the City Council approval, adjustment of the Not to Exceed amount may be made should MCE establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

7.1.1 During the course of performance of these services, MCE will maintain (in United States Dollars) the following minimum insurance coverages:

Type of Coverage	Limits of Liability
Workers' Compensation	Statutory
Employers' Liability	\$500,000 Each Accident
Commercial General Liability	
Bodily Injury and	\$1,000,000 Combined Single Limit
Property Damage	
Automobile Liability:	
Bodily Injury and	\$1,000,000 Combined Single Limit
Property Damage	
Professional Liability Insurance	\$1,000,000 Each Claim

MCE will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

7.1.2 Construction Contractors shall be required to provide (or CITY OF FAYETTEVILLE may provide) Owner's Protective Liability Insurance naming CITY OF FAYETTEVILLE as a Named Insured to endorse CITY OF FAYETTEVILLE. Construction Contractors shall be required to provide certificates evidencing such insurance to CITY OF FAYETTEVILLE and MCE.

7.1.3 CITY OF FAYETTEVILLE and MCE waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of MCE's services. A provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE, and all construction Contractors shall be required to provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and MCE for damage or liability covered by any construction Contractor's policy of insurance.

7.2 Professional Responsibility

7.2.1 MCE will exercise reasonable skill, care, and diligence in the performance of MCE's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. MCE agrees not to seek or accept any compensation or reimbursements from the City of Fayetteville for engineering work it performs to correct any errors, omissions or other deficiencies caused by MCE's failure to meet customarily accepted professional engineering practices. CITY OF FAYETTEVILLE retains all other remedies to recover for its damages caused by any negligence of MCE.

7.2.2 In addition MCE will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by MCE's Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 7.1.1.

7.3 Cost Opinions and Projections

Cost opinions and projections prepared by MCE relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on MCE's experience, qualifications, and judgment as a design professional. Since MCE has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, MCE does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by MCE.

7.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of MCE's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President or any Vice President of MCE.

7.5 Termination

7.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

7.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.1.2 An opportunity for consultation with the terminating party prior to termination.

7.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that MCE is given:

7.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.2.2 An opportunity for consultation with the terminating party prior to termination.

7.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

7.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

7.5.3.2 Any payment due to MCE at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of MCE's default.

- 7.5.4 If termination for default is effected by MCE, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to MCE for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by MCE relating to commitments which had become firm prior to the termination.
- 7.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, MCE shall:
- 7.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),
- 7.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by MCE in performing this Agreement, whether completed or in process.
- 7.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- 7.5.7 If, after termination for failure of MCE to fulfill contractual obligations, it is determined that MCE had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.5.4 of this clause.

7.6 Delays

In the event the services of MCE are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond MCE's reasonable control, MCE shall be entitled to additional compensation and time for reasonable costs incurred by MCE in temporarily closing down or delaying the Project.

7.7 Rights and Benefits

MCE's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

7.8 Dispute Resolution

7.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and MCE which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or MCE in the performance of this Agreement, and disputes concerning payment.

7.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 7.8.3 and 7.8.4 have been complied with.

7.8.3 Notice of Dispute

7.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

- 7.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give MCE written Notice at the address listed in Paragraph 7.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.
- 7.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and MCE shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of MCE and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.
- 7.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to MCE for services rendered by MCE.
- 7.10 Publications

Recognizing the importance of professional development on the part of MCE's employees and the importance of MCE's public relations, MCE may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to MCE's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to MCE. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of MCE's activities pertaining to any such publication shall be for MCE's account.

7.11 Indemnification

7.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and MCE from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

7.12 Computer Models

MCE may use or modify MCE's proprietary computer models in service of CITY OF FAYETTEVILLE under this Agreement, or MCE may develop computer models during MCE's service to CITY OF FAYETTEVILLE under this Agreement. Such use, modification, or development by MCE does not constitute a license to CITY OF FAYETTEVILLE to use or modify MCE's computer models. Said proprietary computer models shall remain the sole property of the MCE. CITY OF FAYETTEVILLE and MCE will enter into a separate license agreement if CITY OF FAYETTEVILLE wishes to use MCE's computer models.

7.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. MCE may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by MCE as part of the Services shall become the property of CITY OF FAYETTEVILLE when MCE has been compensated for all Services rendered, provided, however, that MCE shall have the unrestricted right to their use. MCE shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of MCE.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. MCE makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the

event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

7.14 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

City of Fayetteville Attn: David Jurgens, PE
113 W. Mountain
Fayetteville, AR 72701

MCE's address:

McClelland Consulting Engineers, Inc. Attn: Branch Manager
1810 North College Avenue
Fayetteville, AR 72703

7.15 Successor and Assigns

CITY OF FAYETTEVILLE and MCE each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor MCE shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.16 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

7.17 Entire Agreement

This Agreement represents the entire Agreement between MCE and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to MCE a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether

or not signed by MCE, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 8 - SPECIAL CONDITIONS

8.1 Additional Responsibilities of MCE:

8.1.1 MCE shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by MCE's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

8.1.2 MCE's obligations under this clause are in addition to MCE's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against MCE for faulty materials, equipment, or work.

8.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and MCE arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

8.3 Audit: Access to Records

8.3.1 MCE shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. MCE shall also maintain the financial information and data used by MCE in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. The United States Department of Labor, CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the

purpose of inspection, audit and copying during normal business hours. MCE will provide proper facilities for such access and inspection.

8.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

8.3.3 This right of access clause (with respect to financial records) applies to:

8.3.3.1 Negotiated prime agreements:

8.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

8.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

8.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of MCE;

8.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

8.3.3.3.3 If the subagreement is terminated for default or for convenience.

8.4 Covenant Against Contingent Fees

MCE warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or continent

fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by MCE for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.5 Gratuities

8.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that MCE or any of MCE's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, or the AHTD in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to MCE terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

8.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against MCE as it could pursue in the event of a breach of the Agreement by MCE. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs MCE incurs in providing any such gratuities to any such officer or employee.

8.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF

FAYETTEVILLE, MCE 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.

8.7 Debarment And Suspension

I certify that to the best of my knowledge and belief that the company that I represent and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement 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 government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.

**DEBARMENT CERTIFICATION
AUTHORIZED REPRESENTATIVE**

COMPANY NAME: McClelland Consulting Engineers, Inc.

SIGNATURE:  DATE: 10-8-08

PRINTED NAME: Daniel Barnes TITLE: President

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and
McClelland Consulting Engineers, Inc., by its authorized officer have made and executed this Agreement
as of the day and year first above written.

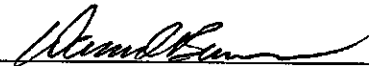
CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

McClelland Consulting Engineers, Inc.

By: 

Title: President

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

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

APPENDIX A – SCOPE OF SERVICES

2.1 General

Generally, the scope of services includes design surveys along the Highway 265 corridor from the vicinity of the north side of Mission Boulevard to the vicinity of the north side of Joyce Boulevard, as defined by AHTD's Job No. 040517 for widening this segment of Highway 265. Surveys will be limited to those areas where existing and new water and sewer facilities must be coordinated with the AHTD highway improvement plans. In addition, design surveys shall be completed along a corridor between Highway 265 and Old Wire Road, along the Township Street corridor, or a parallel corridor, that will allow a 36-inch water main to be routed from Highway 265 to Old Wire Road in the Township Street vicinity. Preliminary and Final Design services related to water and sewer improvements within the limits outlined above shall be completed. The design work shall cover a 36-inch water main from the existing original 36-inch main in the vicinity of the Highway 265/Joyce Boulevard intersection, along the east side of the new Highway 265 right of way to the vicinity of Township Street, then west to interconnect with the existing 36-inch main in Old Wire Road. From the Highway 265/Township intersection vicinity, a 24-inch main shall be routed along the east side of the new Highway 265 right of way to the end of an existing 24-inch water main located approximately 960 feet north of the Highway 265/Highway 45 (Mission Boulevard) intersection. Design services shall also include necessary water and sewer interconnections and replacements, water meter replacements, and related work as necessary to accommodate the 36-inch and 24-inch water main design as well as the AHTD Highway 265 Job No. 040517 widening plans. Approximately 17,130 feet of 36-inch and 24-inch water main is anticipated.

2.2 Design Surveys, Preliminary Design, Final Design and Bidding Services

2.2.1 Design Surveys

MCE will complete design surveys as necessary to located existing water and sewer facilities and to located other existing utilities that are marked by One-Call services in areas required to accommodate the AHTD widening plans and the 36-inch water main design from Highway 265 to Old Wire Road. Design surveys shall also cover the areas along the new Highway 265 right of way where required for the design of the new water and sewer facilities. Areas where there are no water and sewer conflicts and no new water and sewer facilities are required will not be surveyed. This includes a significant portion of the west side of the Highway 265 project. MCE shall rely on the Fayetteville water and sewer atlas information for general utility locations and on Fayetteville's personnel marking water and sewer facilities during the one call process for design survey locations.

2.2.2 Preliminary Design

Preliminary plans shall be submitted to the City of Fayetteville for the purpose of confirming the final design scope of work, including the extent of new water and sewer mains, the location of interconnections, coordination issues with the highway plans, preliminary easement requirements, anticipated right of way conflicts, and a preliminary estimate of construction costs. The preliminary plans shall include illustrating the proposed work on the Highway Department plans, with minimal profile information.

2.2.3 Final Design

Based on review comments from Preliminary Design, the Final Design and Project Specifications shall be completed, including plans, profiles, details, AHTD coordination issues, final estimated construction cost, easement requirements, and related documents as necessary to obtain approvals by the City of Fayetteville, the Arkansas Department of Health and the Arkansas Highway and Transportation Department. Once it is evident that the Final Design is acceptable, appropriate documents suitable for submission to the Corps of Engineers for creek crossing permits shall be developed. Final Design deliverables shall include:

1. Two full sized sets of plans and project specifications, as well as cost estimates for the City of Fayetteville.
2. Six full sized sets of plans and cost estimates for AHTD.
3. Two full sized sets of plans and specifications for the Health Department.
4. A summary of easement requirements for the City of Fayetteville.

2.2.4 Bidding Phase

MCE shall assist the City of Fayetteville with an Advertisement for Bids, issue plans and specifications to Plan Rooms, assist in addressing bidders questions, issue Addenda as authorized by the City of Fayetteville, attend a Prebid Conference if desired by the City of Fayetteville, attend the bid opening and prepare Bid Tabulation with an award recommendation. In addition, MCE shall prepare a summary of the project costs and the estimated AHTD reimbursement value based on the actual bid prices.

2.3 Property Surveys, Property Mapping, Easement Mapping and Easement Preparation Services

2.3.1 Property Surveys

MCE shall rely on the AHTD Highway 265 right of way plans, the AHTD ownership map and Fayetteville easement atlas information for the initial evaluation of easement requirements. Based on those sources of information, an initial map of easements needs will be submitted to the City of Fayetteville. Upon Fayetteville's concurrence, property surveys as necessary to confirm property lines needed for the easement preparation process will be completed. The property survey process shall include verification of current property ownership/current property legal descriptions based on courthouse records.

2.3.2 Property Mapping

The AHTD property maps shall be updated/modified based on any changes determined during the property survey process and property ownership verification process. For the 36-inch main between Highway 265 and Old Wire Road, property mapping shall be limited to areas where interconnections or the water main route is outside of the existing street right of way.

2.3.3 Easement Mapping

The easement maps obtained from Fayetteville atlas sheets shall be updated as needed to reflect more current existing easement records, as provided by City of Fayetteville personnel, in areas where the exact location of existing easements has an impact on the project. New easements shall be added to this easement map and to the project plans, as necessary to illustrate to the bidders and construction contractor the limits of their authorized work areas.

2.3.4 Easement Preparation Services

For those areas identified and subsequently approved by the City of Fayetteville, individual easement legal descriptions and tract maps will be prepared in accordance with criteria established by the City of Fayetteville, generally in accordance with documents prepared on previous projects. It is anticipated that as many as 42 new easement documents may be required and as many as 12 of these documents may require revisions based on design changes by AHTD or the City of Fayetteville.

2.4 Storm Water Pollution Prevention Plan Services

A Storm Water Pollution Prevention Plan shall be completed at the end of the design phase, to conform to the design documents and ADEQ criteria, and to further be acceptable to the City of Fayetteville.

2.5 Geotechnical Services

The scope of Geotechnical Services will be added with a future amendment to this agreement.

2.6 Construction Phase Services

The scope of Construction Phase Services will be added with a future amendment to this agreement.

2.7 Extra Work

The following items are not included under this agreement but will be considered as extra work:

1. Redesign for the City's convenience or due to changed conditions after prior approval or conflicting direction from the City or from AHTD.
2. Submittals or deliverables in addition to those listed in paragraph 2.2.3.
3. Environmental Assessment.
4. Work related to environmentally or historically (culturally) significant items.

Extra Work will be as directed by the City of Fayetteville in writing for an additional fee as agreed upon by the City of Fayetteville and MCE.

2.8 Schedule

MCE will begin work under this Agreement within ten (10) days of a Notice to Proceed and will complete the work in accordance with the schedule below:

<u>Phase Description</u>	<u>Calendar Days</u>
Design Survey	120 days from start date
Draft Preliminary Design	45 days from completion of Design Surveys
Preliminary Design Review	30 days from Preliminary Design Submittal
Final Design	90 days from Preliminary Design Review
Final Design Approval	75 days from Final Design Submittal
Easement Preparation	60 days from Final Design Approval
Bidding Phase	75 days from Final Design Approval
Storm Water Pollution Prevention Plan	Concurrent with Easement Preparation

APPENDIX B - FEE PROPOSAL

B-1, Fee Proposal For
Design Surveys, Preliminary Design,
Final Design and Bidding Assistance
In Conjunction with the Highway 265
Water and Sewer Relocation and Improvements
AHTD Job No. 040517
Fayetteville, Arkansas

Labor Classification	Time/Hours	Labor Rate	Extended
Project Manager	1160	\$44.57	\$51,701.20
Project Engineer	240	\$35.58	\$8,539.20
Senior Engineering Tech	196	\$26.25	\$5,145.00
Engineering Tech	100	\$19.50	\$1,950.00
Chief Draftsman	280	\$21.00	\$5,880.00
Senior Draftsman	440	\$16.00	\$7,040.00
Survey Supervisor, RLS	116	\$25.25	\$2,929.00
Registered Land Surveyor	32	\$20.50	\$656.00
Survey Crew (2 man)	72	\$35.60	\$2,563.20
Robotic Survey Crew	340	\$35.60	\$12,104.00
Surveyor (1 man)	40	\$20.00	\$800.00
Computer Tech	328	\$23.00	\$7,544.00
Clerical Support	96	\$16.59	\$1,592.64
Direct Labor			<u>\$108,444.24</u>
Payroll Expenses (34.23%)			<u>\$37,120.46</u>
Subtotal, Direct Payroll			\$145,564.70
Travel, 480 miles @ \$0.50			\$240.00
Reproduction			\$1,200.00
Materials and Supplies			<u>\$500.00</u>
Subtotal, Direct Costs			\$147,504.70
Indirect Costs (112.79%)			<u>\$166,370.55</u>
Subtotal, Direct and Indirect			\$313,875.25
Profit			<u>\$37,664.75</u>
Total Design Costs			\$351,540.00

B-2, Fee Proposal For
 Property Surveys, Property Mapping,
 Easement Mapping and Easement Preparation Services
 In Conjunction with the Highway 265
 Water and Sewer Relocation and Improvements
 AHTD Job No. 040517
 Fayetteville, Arkansas

Labor Classification	Time/Hours	Labor Rate	Extended
Project Manager	16	\$44.57	\$713.12
Chief Draftsman	8	\$21.00	\$168.00
Senior Draftsman	20	\$16.00	\$320.00
Survey Supervisor, RLS	36	\$25.25	\$909.00
Registered Land Surveyor	384	\$20.50	\$7,872.00
Survey Crew (2 man)	12	\$35.60	\$427.20
Robotic Survey Crew	32	\$35.60	\$1,139.20
Surveyor (1 man)	16	\$20.00	\$320.00
Computer Tech	48	\$23.00	\$1,104.00
Clerical Support	16	\$16.59	\$265.44
Direct Labor			\$13,237.96
Payroll Expenses (34.23%)			\$4,531.35
Subtotal, Direct Payroll			\$17,769.31
Travel, 60 miles @ \$0.50			\$30.00
Reproduction			\$60.00
Materials and Supplies			\$140.00
Subtotal, Direct Costs			\$17,999.31
Indirect Costs (112.79%)			\$20,301.43
Subtotal, Direct and Indirect			\$38,300.74
Profit			\$4,596.26
Total Design Costs			\$42,897.00

**B-3, Fee Proposal For
Storm Water Pollution Prevention Plan Services
In Conjunction with the Highway 265
Water and Sewer Relocation and Improvements
AHTD Job No. 040517
Fayetteville, Arkansas**

Labor Classification	Time/Hours	Labor Rate	Extended
Project Manager	3	\$44.57	\$133.71
Project Engineer	20	\$35.58	\$711.60
Senior Draftsman	4	\$16.00	\$64.00
Computer Tech	1	\$23.00	\$23.00
Clerical Support	2	\$16.59	\$33.18
Direct Labor			\$965.49
Payroll Expenses (34.23%)			\$330.49
Subtotal, Direct Payroll			\$1,295.98
Reproduction			\$40.00
Subtotal, Direct Costs			\$1,335.98
Indirect Costs (112.79%)			\$1,506.85
Subtotal, Direct and Indirect			\$2,842.83
Profit			\$341.17
Total Design Costs			\$3,184.00

City of Fayetteville Staff Review Form

A. 14
Old Square, Inc.
Page 1 of 4

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

12/2/2008

**City Council Meeting Date
Agenda Items Only**

Gary Dumas

Submitted By

Division

Operations

Department

Action Required:

Approve Resolution authorizing the Mayor to execute a two year contract in the amount of \$7,800 annually with Old Square, Inc. for lease space of approximately 3,500 square feet to be used for document storage

\$15,600

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 Dumas

Department Director

11/12/2008

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City
Clerk's Office



Paul A. Becker

Finance and Internal Service Director

11-14-08

Date

Received in
Mayor's Office



Mayor

Date

Comments:



OPERATIONS DIRECTOR

To: City Council

From: Gary Dumas, Director of Operations

Date: November 12, 2008

RE: Approve Resolution authorizing the Mayor to execute a two year contract in the amount of \$7,800 annually with Old Square, Inc. for lease space of approximately 3,500 square feet to be used for document storage

Background

The Old Jail and Prosecutor's Office building is being demolished to make room for a new Courts Building. The vacant space within the building had been used by various departments for the storage of files. The unnecessary files have been purged and destroyed. However, the City Clerk and others require storage space not available in City Hall and other municipal buildings.

Discussion

The files to be stored must be at a relatively convenient location as some files require access on a somewhat frequent basis.

Management of nearby office buildings were contacted concerning their availability and cost per square foot. The lowest cost option with secure storage, utilities paid, and proximity to City Hall is the Old Square, Inc. located at Center and Block Street.

The initial lease is for two years with an option for an additional two years.

Recommendation

Approve resolution authorizing the Mayor to execute the contract with Old Square, Inc..

RESOLUTION NO. _____

A RESOLUTION APPROVING A TWO-YEAR LEASE AGREEMENT WITH OLD SQUARE, INC., FOR THE ANNUAL RENTAL AMOUNT OF \$7,800.00 TO LEASE APPROXIMATELY 3,500 SQUARE FEET FOR DOCUMENT STORAGE.

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 two-year Lease Agreement with Old Square, Inc., for the annual rental amount of \$7,800.00 to lease approximately 3,500 square feet for document storage. A copy of the Lease Agreement, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

LEASE

On this 10th day of November, 2008, Old Square, Inc. (Lessor) and the City of Fayetteville (Tenant) agree as follows:

Old Square, Inc. agrees to lease the north end of the basement of 26 West Center (approximately 3,500 square feet) to the City of Fayetteville for an annual rent of **Seven Thousand Eight Hundred Dollars (\$7,800.00)** to be paid monthly at the first business day of each month beginning January 1, 2009 in the amount of **Six Hundred Fifty Dollars (\$650.00)**.

The City of Fayetteville agrees to lease approximately 3,500 square feet in the north end of the basement of 26 West Center from Old Square, Inc. and pay an annual rent of **Seven Thousand Eight Hundred Dollars (\$7,800.00)** to be paid monthly on the first business day of each month beginning January 1, 2009, in the amount **Six Hundred Fifty Dollars (\$650.00)**.

Old Square, Inc. shall be responsible to pay all building utilities. The City of Fayetteville agrees that the space it has rented will be used as storage space for City of Fayetteville records or property. Old Square, Inc. agrees to allow access to the City of Fayetteville records or property as needed by City personnel.

The City of Fayetteville shall not sublet any of this space without the prior written approval of Old Square, Inc.

The initial term of this Lease shall be two years (from January 1, 2009 until December 31, 2010). The City of Fayetteville shall have the right to renew this Lease for up to ~~three~~ two additional years, but the annual rental (to be paid in future equal monthly payments) shall be increased each year by the increase of the Consumer Price Index of the preceding period.

In Agreement with all the promises, terms and conditions stated above, Old Square, Inc. by Lee Ward and the City of Fayetteville by Mayor Dan Coody sign their names below.

OLD SQUARE, INC.

**CITY OF
FAYETTEVILLE, ARKANSAS**

By: Lee Ward
LEE WARD

By: _____
DAN COODY, Mayor

Partner
Corporate Title

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody
Members of the City Council

FROM:  Larry Rennie – Building Services Supervisor

THRU: Gary Dumas – Director of Operations

DATE: 11/03/2008

SUBJECT: Replacement of Building Maintenance Worker II

Recommendation

City Council approves the hiring of a Building Maintenance Worker II

Background

On May 30, 2008 a vacancy was created due to a resignation. This was a Carpenter I position with an annual salary of \$44,842. Our maintenance requirements suggest a Building Maintenance Worker II with an annual salary of \$ 38,936 would better fit the cities maintenance needs at this time.

Discussion

A Building Maintenance Worker II responds to service calls for Electrical, plumbing , HVAC repairs and provides general labor for grounds keeping activities and welding functions. They also perform carpentry services and safety inspections of buildings and grounds.

Budget Impact

This is a budgeted position funded through the general fund.



THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

To: City Council, Mayor Dan Coody
From: Jeremy Pate, Director of Current Planning &
Date: 18 November 2008
Subject: R-PZD 08-3071 (Bridgedale Plaza)

As discussed at the last agenda session meeting, it is my understanding that the City Council may wish to reconsider its denial of R-PZD 08-3071, Bridgedale Plaza. This decision was made at the meeting of November 04, 2008. The applicant has submitted new booklets and plats which have been revised to reflect substantial changes, in an attempt to gain a favorable review and approval from the Council.

The change, in brief, is that the multi-family planning area, formerly Planning Area #2, has been removed and replaced with additional single family dwellings instead.

The previous land use plan included the following:

15.95 acres, Net Density of 8 units per acre
Single Family Residential: 46 dwellings, 5 units per acre
Multi-family Residential: 60 dwellings, 21.5 units per acre
Residential-Office: 20,000 SF non-residential space and 24 dwelling units
Neighborhood Commercial: 20,000 SF non-residential space

The current land use plan proposes the following:

15.95 acres, Net Density of 5 units per acre
Single Family Residential: 60 dwellings, 5 units per acre
Residential-Office: 20,000 SF non-residential space and 24 dwelling units
Neighborhood Commercial: 20,000 SF non-residential space

Should the City Council choose to approve the amended proposal, staff has prepared amended conditions of approval that remove references to the multi-family units, and these shall be enforceable by the adopted ordinance.

Tabled to Dec. 2, 2008 11/18/08

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 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, 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 and 3 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 56 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:
 - a) Update the density and intensity information on page 9 to reflect that proposed in the text. Dwellings are not a permitted or conditional use in Planning Area 3.

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.

CONDITIONS OF APPROVAL:

R-PZD 08-3071

Page 3 of 3

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

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

B. 2
R-PZD 08-3071
(Bridgedale Plaza)
Page 5 of 46

21-Oct-08
City Council Meeting Date

Jeremy Pate
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

Original Contract Number: n/a

[Signature]
City Attorney

10-1-08

Received in City Clerk's Office

10-1-08 ENTERED

Paul A. Beshen
Finance and Internal Service Director

10-1-08
Date

Received in Mayor's Office

ENTERED

10/1/08

[Signature]
Mayor

10/6/08
Date

Comments:

*Tabled to Dec. 2, 2008 11/18/08
Motion to Reconsider 11/18/08
This item Failed 11/6/08
left on the second reading 10/21/08*

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: 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.

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"

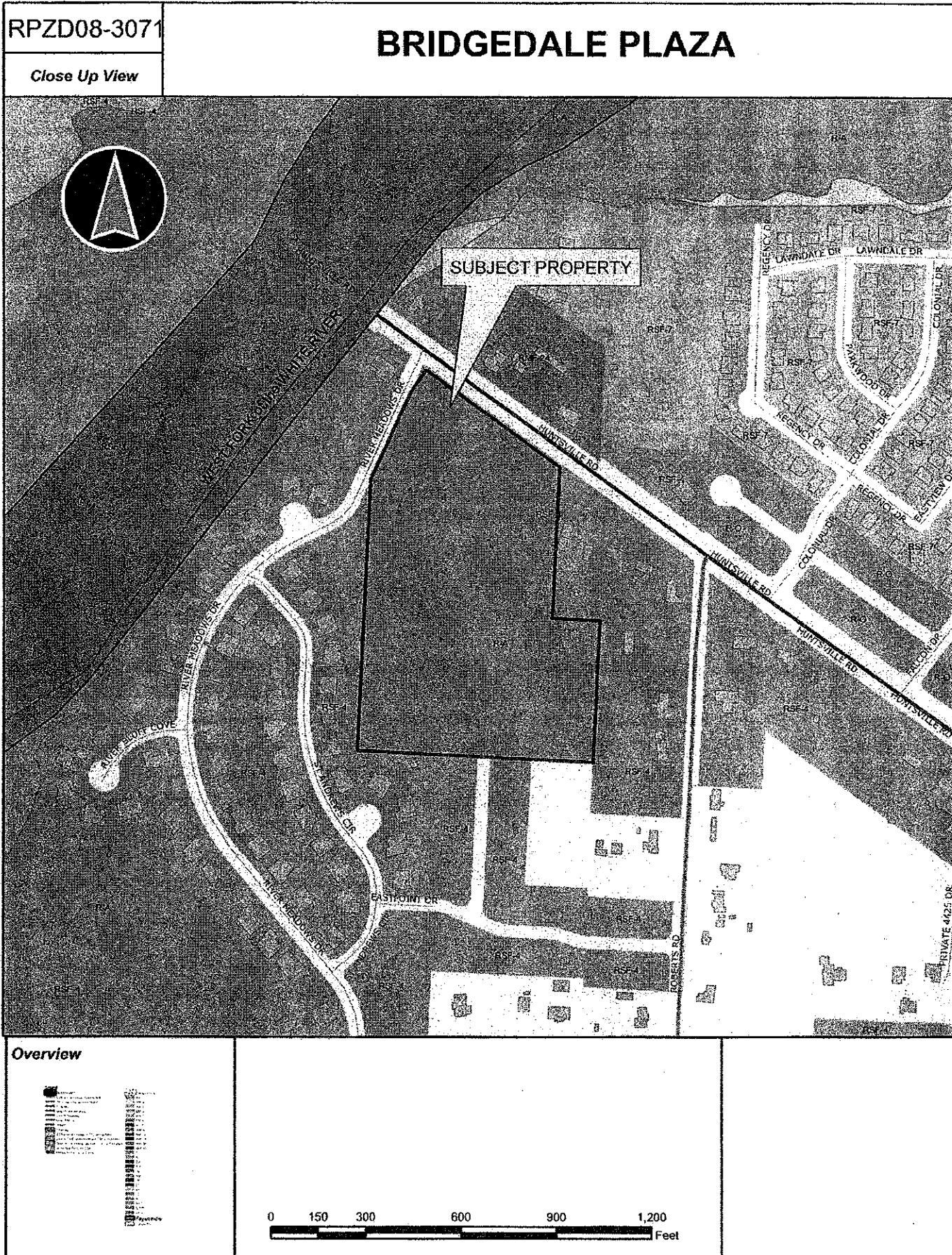


EXHIBIT "B"
R-PZD 08-3071

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.
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

B. 2
R-PZD 08-3071
(Bridgedale Plaza)
Page 13 of 46

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.

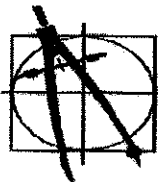
4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

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.

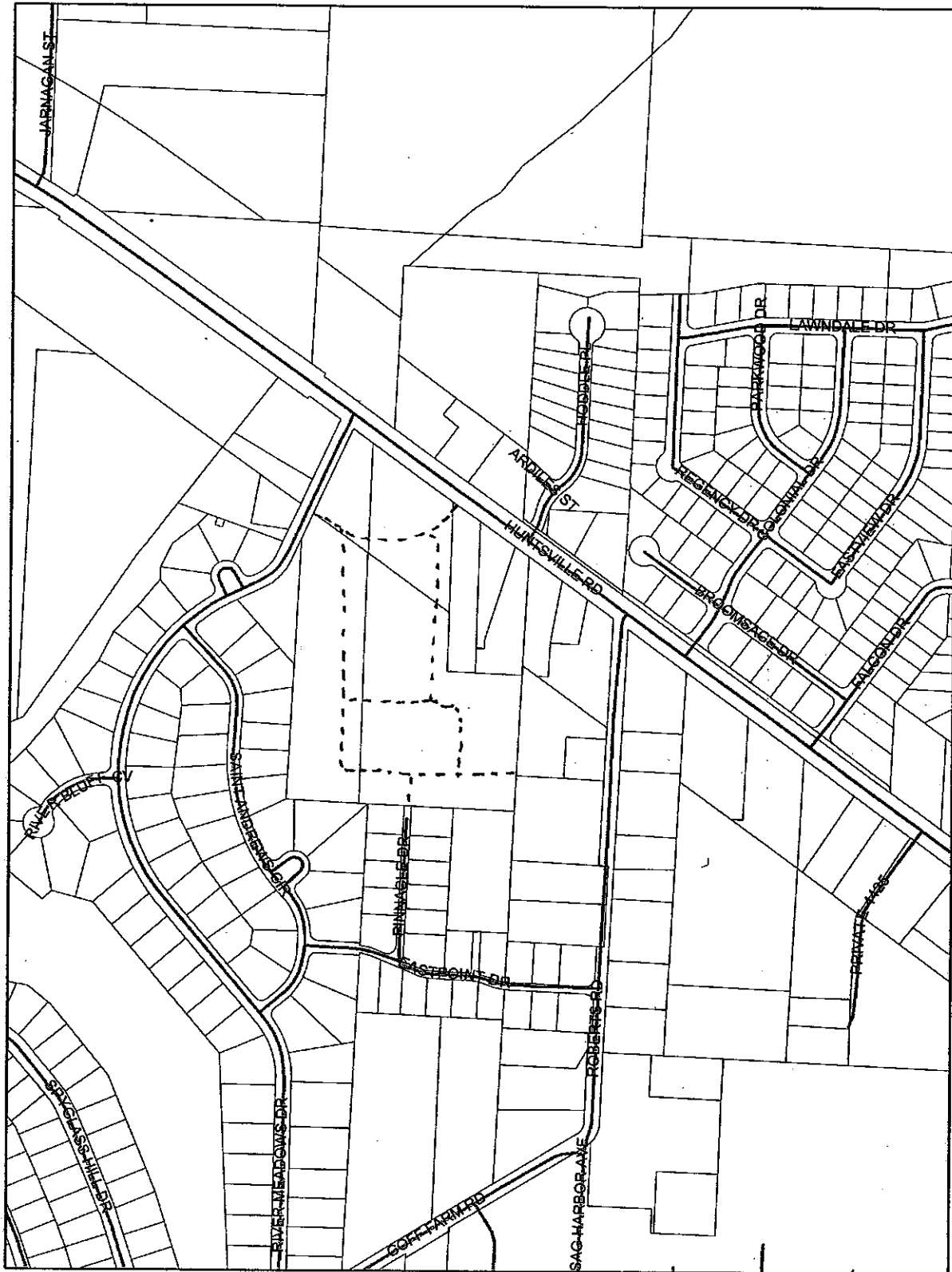
In summary, we believe that the single family Planning Area #1 will be compatible with the existing single family to the west and south and also provide a transition to the multi-family area. The residential office will provide a transition to the neighborhood commercial to the north. With this Mixed 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

B. 2
R-PZD 08-3071
(Bridgedale Plaza)
Page 39 of 46



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.

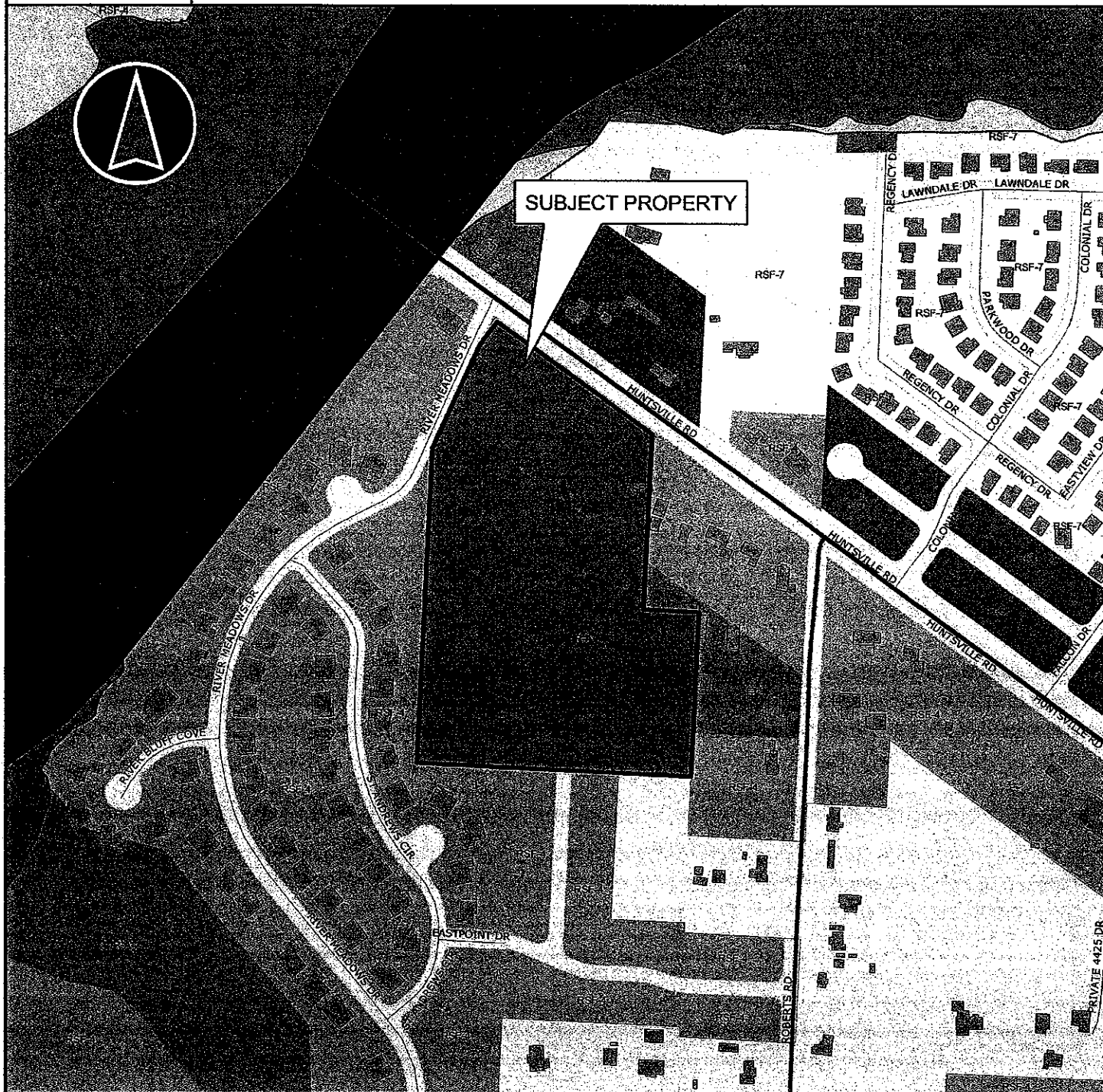
RZN 08-3084: (CANDLELIGHT PLACE, 367): Submitted by PAT MCGOWAN for property located at the SE CORNER OF GREGG AVENUE AND ASH STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.94 acres. The request is to rezone the subject property to RMF-24, RESIDENTIAL MULTI-FAMILY 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.

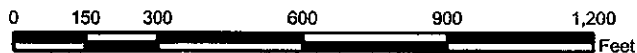
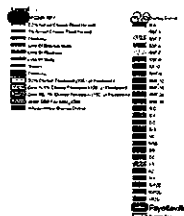
RPZD08-3071

BRIDGEDALE PLAZA

Close Up View



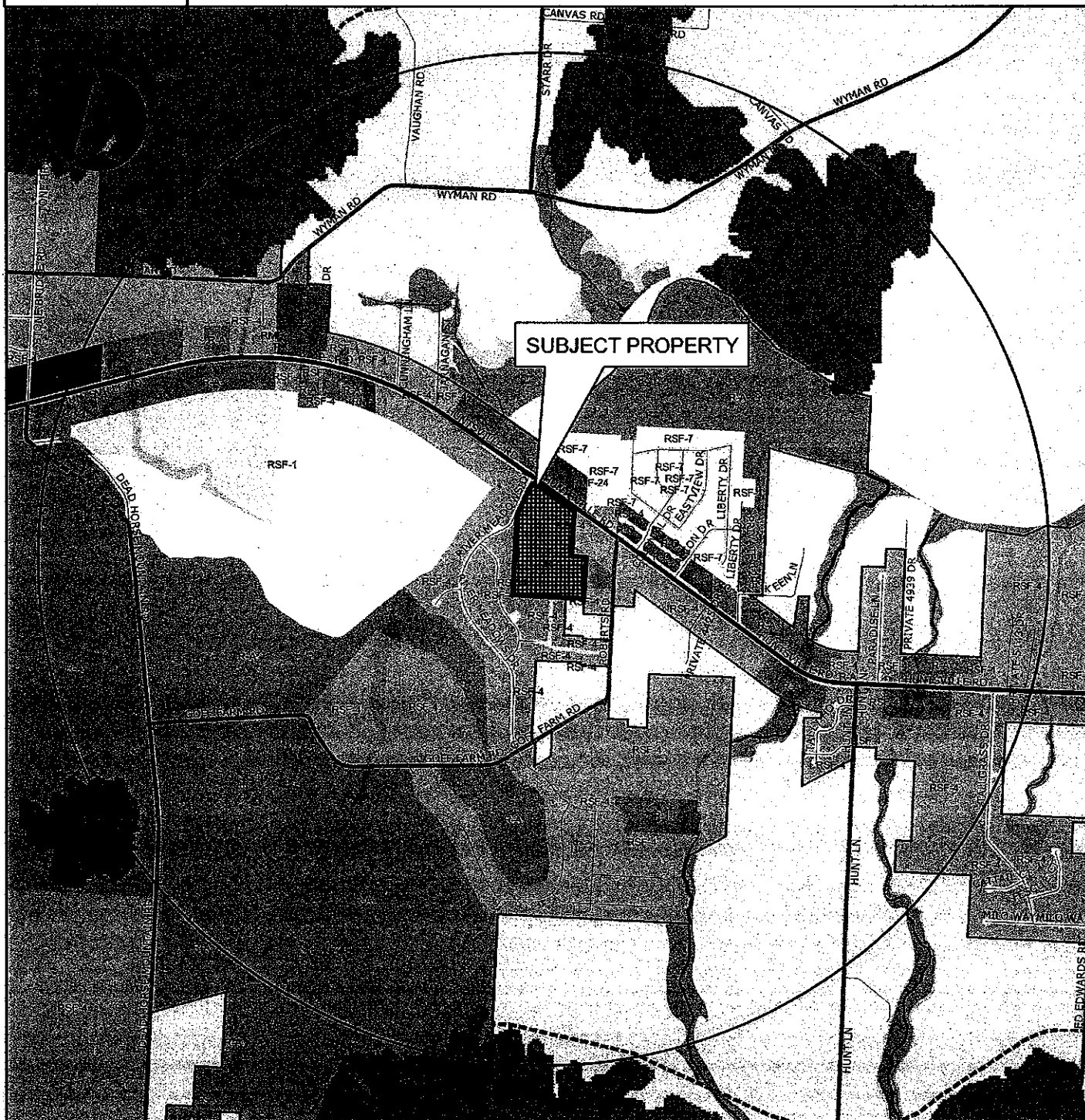
Overview



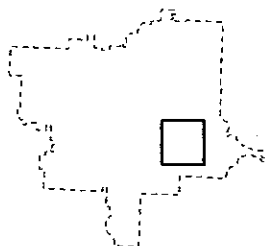
RPZD08-3071

BRIDGEDALE PLAZA

One Mile View



Overview



Legend

Subject Property
 RPZD08-3071

Boundary

Planning Area
 Overlay District
 Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1
 Miles

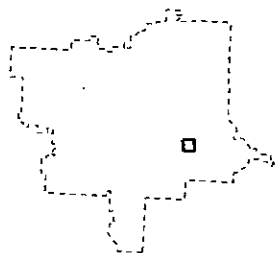
RPZD08-3071

BRIDGEDALE PLAZA

Future Land Use



Overview



Legend

Subject Property

RPZD08-3071

Boundary

Planning Area

Overlay District

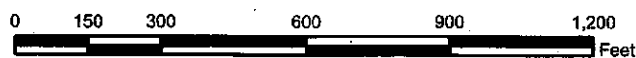
Outside City

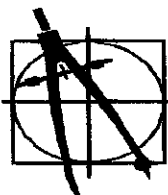
Streets

Existing

Planned

Legend





JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

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DAVID L. JORGENSEN, P.E., P.L.S.

July 17, 2008

City of Fayetteville – City Council
113 W. Mountain Street
Fayetteville, AR 72701

RECEIVED

JUL 17 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

RE: AMBERWOOD PLACE PZD

Dear Council Members,

On behalf of our client, JRJBCS, LLC, we would like to appeal the July 14, 2008 Planning Commission decision to deny R-PZD 08-2965. We are requesting that this item be put on the August 5, 2008 City Council Agenda.

Amberwood Place is being presented as a land use and zoning conceptual PZD. This project is located just south of Dot Tipton Road, east of Double Springs and west of 54th Street. This property was annexed into the city of Fayetteville last year, by the developer, with the encouragement of some the ward alderman who also had concerns and showed strong interest in the need for affordable housing in this area. This project has three planning areas as follows;

Planning Area #1: Single family, 102 units, 19.87 acres, 5.13 units/acre,
Planning Area #2: Single family, 41 units, 9.12 acres, 4.50 units/ acre
Planning Area #3: Single family, 39 units, 10.99 acres, 3.55 units/ acre
Total single family = 182 units on 39.98 acres; 4.55 units/acre

The current zoning is R-A and the surrounding zoning is RSF-1 and RSF-2 to the south with RSF-4 and RMF-6 due north..

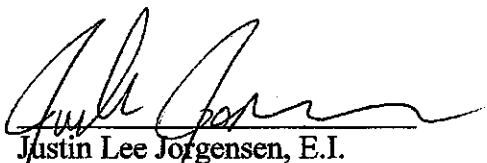
This project was presented at the July 14, 2008 Planning Commission meeting and denied with only one vote for it. It seemed the Planning Commission in general liked the project layout and idea but were a little uneasy about the density and timing of the project. The general comments from the surrounding property owners that spoke at the meeting were about the side setbacks in planning area 3, which was simply a misprint in the PZD booklet, and the size of some of the homes in planning area 3. The developers are more than willing to work with the property owners on these issues and plan to be in contact with them before the August 5th meeting. The planning staff recommended denial of this project sighting that it doesn't meet all the goals of the City 2025 Plan. We however, feel that it does meet many of the goals and could be a very desirable and valuable project for this area now and in the future. We would like to stress that the developers build out date for this project could be up to 8 years with the first Planning Area being completed in the next 2-3 years. The driving force behind this project is creating attainable housing

Tabled to Oct. 7, 2008 meeting 9/16/08
Tabled to Sept. 16, 2008 mtg 9/2/08

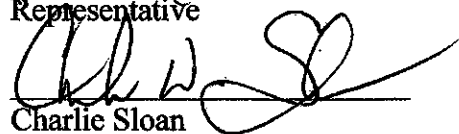
without losing focus on the City 2025 Plan and creating an isolated pocket of smaller homes.

Please contact us if you have any questions or would like more information regarding this project.

Sincerely,



Justin Lee Jorgensen, E.I.
Representative



Charlie Sloan
Developer/Owner



City Council Meeting of August 5, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

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

Date: July 16, 2008

Subject: Residential Planned Zoning District for Amberwood Place (R-PZD 08-2965)

RECOMMENDATION

Planning Staff and Planning Commission recommend denial of an ordinance creating a Residential Planned Zoning District (R-PZD) for Amberwood Place, based on the findings that the proposed zoning is not consistent with the land use planning objectives, principles, and policies established by the City Council with the adoption of City Plan 2025 to make infill and revitalization our highest priority, and to discourage suburban sprawl; and finding that the proposed zoning is not compatible with surrounding existing agricultural and rural residential land uses and zoning.

BACKGROUND

The subject property, zoned R-A, Residential Agricultural, is located south and east of Double Springs Road on the south side of Dot Tipton Road. If City Council overturns the Planning Commission decision to deny, this action will establish a unique zoning district for a single-use project on approximately 39.98 acres. The proposal consists of 182 single family dwelling units and an overall density of 4.55 units/acre. The property is undeveloped agricultural pasture land, surrounded by rural residential and agricultural land uses. Dot Tipton Road, currently a partially paved/gravel road, provides access to the residences in this area, from Double Springs Road to 54th Avenue. Some infrastructure for the now-abandoned Windsor/Dunnerstock subdivision adjacent to the south has been installed, although this development has been abandoned for some time and the application is considered voided. Rezoning applications for this adjacent site to RSF-4 have been previously denied by the Planning Commission.

DISCUSSION

The Planning Commission voted 6-1-0 (Commissioner Kennedy voting 'No') to deny this request on July 14, 2008. The Planning Commission stated agreement with staff findings that the project does not comply with main goals and policies of City Plan 2025 to discourage suburban sprawl, and that the relatively high density proposed is not compatible with surrounding rural residential and agricultural land uses.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 08-2965, AMBERWOOD PLACE, LOCATED SOUTH AND EAST OF DOUBLE SPRINGS AND DOT TIPTON ROAD; CONTAINING APPROXIMATELY 39.98 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From R-A, Residential Agricultural to R-PZD 08-2965 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

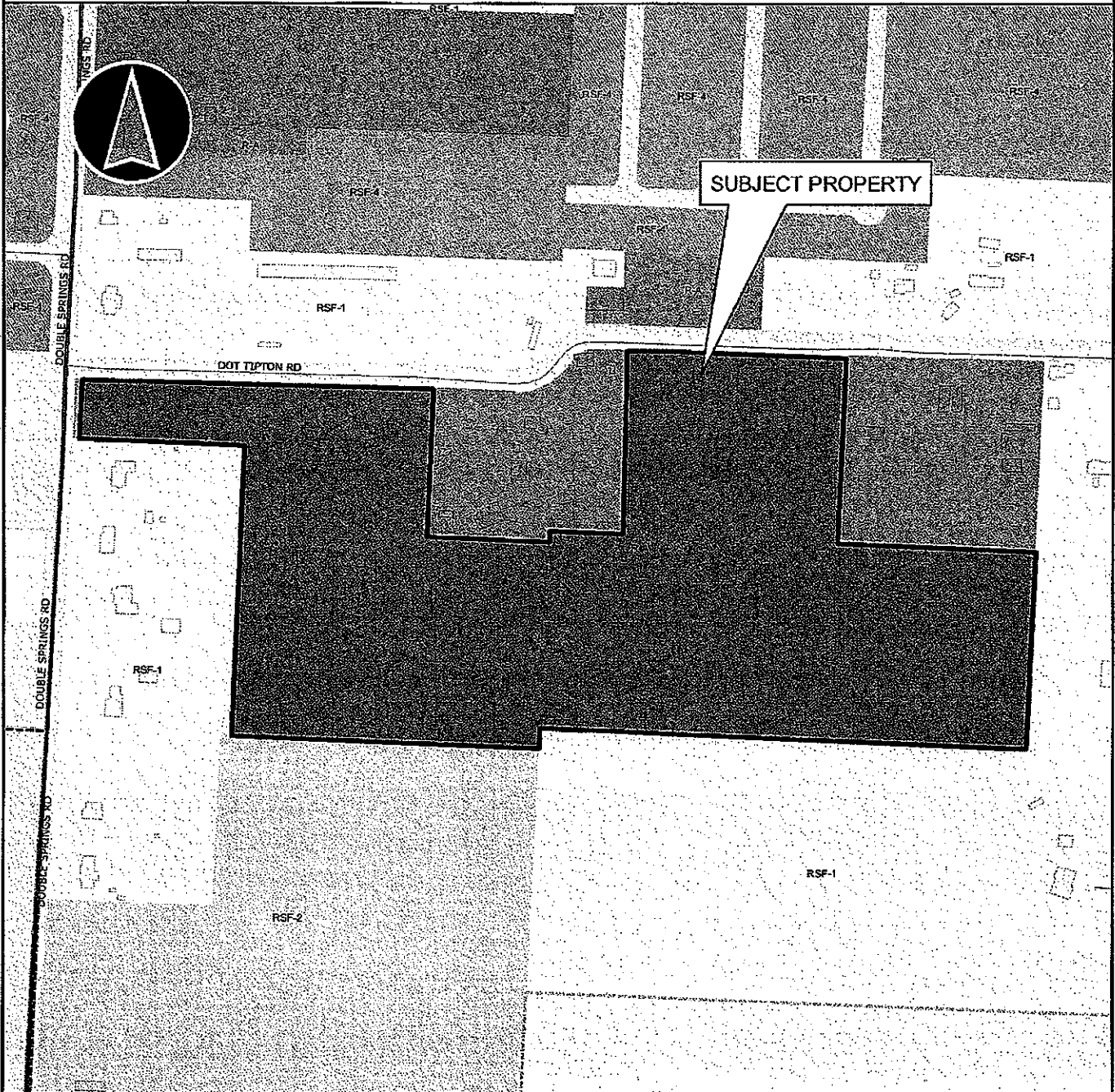
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RPZD08-2965

AMBERWOOD PLACE

Close Up View



Overview



0 175 350 700 1,050 1,400 Feet

EXHIBIT "B"
R-PZD 08-2965

PART OF THE SE1/4 OF THE NE1/4 OF SECTION 15 AND PART OF THE SW1/4 OF THE NW1/4 OF SECTION 14 ALL IN T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF SAID SE1/4, NE1/4 THENCE S89°46'03"W 825.57 FEET, THENCE N00°01'18"W 788.63 FEET, THENCE S89°52'44"W 448.54 FEET, THENCE N00°29'58"E 159.86 FEET, THENCE N88°55'29"E 947.20 FEET, THENCE S00°02'16"E 401.26 FEET, THENCE N89°57'44"E 328.25 FEET, THENCE N00°15'06"E 30.31 FEET, THENCE N89°56'37"E 196.61 FEET, THENCE N01°15'52"W 496.68 FEET, THENCE N87°12'01"E 84.38 FEET, THENCE N89°42'27"E 514.78 FEET, THENCE S00°07'57"W 502.35 FEET, THENCE N89°53'47"E 537.01 FEET, THENCE S00°11'49"W 536.03 FEET, THENCE S89°54'10"W 1320.92 FEET, THENCE S00°28'05"W 55.08 FEET TO THE P.O.B.; CONTAINING 39.98 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

Page 1 of 4

Conditions of Approval for R-PZD 08-2965 (Amberwood Place)

1. The applicant shall be responsible for the following street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*
 - a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
 - b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*
2. Determination of adequate connectivity. Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 3.5 acres of dedicated greenspace with several pedestrian trails to be constructed by the developer. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line.
 - a. *To improve pedestrian connectivity and provide a more meaningful linkage of greenspace, staff recommends that the greenbelt be extended all the way to the southern property line to provide the opportunity for the greenbelt to be connected to the south.*
 - b. *Staff recommends an additional street stub-out be provided to the west in the vicinity of lots 12/13, to break up the approximately 1,000-foot block length between the north and south property lines on the westernmost street and another in the vicinity of lots 78/79 to provide a neighborhood connection to the tract or Dot Tipton Road surrounded on three sides by the proposed development.*
3. This project is required to go through preliminary plat review and approval prior to construction.
4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.
5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

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Project Phasing Amberwood Place R-PZD

Phase	Planning Area	Milestone	Deadline
1	Planning Area 1 (first half)	Preliminary Plat Approval	within 1 year from CC approval
2	Planning Area 1 (second half)	Preliminary Plat Approval	within 3 years from CC approval
3	Planning Area 2	Preliminary Plat Approval	within 4 years from CC approval
4	Planning Area 3	Preliminary Plat Approval	within 6 years from CC approval

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
7. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of building permit.
8. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.
11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.
12. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a percent minimum canopy of 25%.
14. Street trees shall be provided along public streets pursuant to city codes at the time of development.
15. As indicated in the PZD plats and booklets all lot owners will be required to plant two trees on their lot along the perimeter of the property.
16. The pedestrian trails and dedicated greenspace indicated in the PZD plats and booklets shall be constructed and landscaped by the developer and inspected prior to Final Plat approval for the lots surrounding the greenspace.
17. A landscape plan showing street tree plantings (including plantings in the traffic circles), the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

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18. Plat/booklet revisions:

- a. Pg. 9. Remove reference to Lot 16 from (D).
- b. Pg. 9. Section D and E. Reduce to 7,000 sq. ft.
- c. Planning Areas 1-3. Staff recommends consistent maximum building area of 30% for all planning areas.
- d. Pg. 21. Item 17. PA #2. Change '100 SF' to '1,700 SF'

19. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:

- A full tree inventory of all significant trees;
- Canopy calculations including existing canopy, preserved canopy and removed canopy;
- A site analysis report; and
- A survey of the location of significant trees and those directly affected by the development.

20. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.

21. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

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

Standard Conditions of Approval:

23. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

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

25. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

26. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

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27. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.

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

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



Planning Commission Meeting
July 14, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: July 7, 2008 Updated July 16, 2008

R-PZD 08-2965: (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.
Planner: Andrew Garner

Findings:

Property: The subject property contains 39.98 acres, located southeast of the intersection of Double Springs/Dot Tipton Roads. The property is undeveloped agricultural pasture land, surrounded by rural residential and agricultural land uses. Dot Tipton Road, currently a partially paved/gravel road, provides access to the residences in this area, from Double Springs Road to 54th Avenue. Some infrastructure for the now-abandoned Windsor/Dunnerstock subdivision adjacent to the south has been installed, although this development has been abandoned for some time and the application is considered voided. Rezoning applications for this adjacent site to RSF-4 have been previously denied by the Planning Commission. The immediately adjacent surrounding land use and zoning are listed in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Agricultural/rural residential	RSF-1; R-A
South	Agricultural/Dunnerstock Windsor Subdivision (not developed)	RSF-1; RSF-2
East	Agricultural/rural residential	RSF-1
West	Single family residential	Washington County Planning Area (1 unit/acre)

Proposal: The request is for rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with 182 detached single family dwellings in three planning areas. Planning Area 1 is on the east side of the property and has 102 lots that are approximately 45' x 100' with a density of 5.13 units/acre. Planning Area 2 is in the middle of the property and has 41 lots that are approximately 60' x 100' with a density of 4.50 units/acre.

Planning Area 3 is on the west side of the property and will have 39 lots that are approximately 70' wide with a density of 3.55 units/acre. The development proposes 3.5 acres of public pedestrian trails and greenspace throughout the development to be built by the developer. The overall proposed density for the project is 4.55 units/acre.

If the PZD is approved as proposed the project would be required to go through subdivision/preliminary plat approval prior to development.

Access: Three access points to the site are provided from Dot Tipton Road to the north. Two street stub-outs are provided to the south and a street stub-out is also provided to the east. Vehicular access to the 182 single family residences is provided as follows:

- 84 lots - front loaded individual curb cuts
- 54 lots - front loaded shared driveways
- 44 lots - rear loaded off of alleys

Adjacent Master Street Plan Streets: Double Springs Road (Minor Arterial), Dot Tipton Road (Local).

Right-of-way to be dedicated: 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.

Connectivity: Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is proposed to the existing rural residential lots to the west. These lots are approximately two acre in size. The project proposes internal pedestrian connectivity with sidewalks on both sides of the streets and pedestrian trails in approximately 3.5 acres of dedicated greenspace. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line. *A potential improvement for future pedestrian connectivity would be to extend the greenbelt all the way to the southern property line to provide the opportunity for a greenbelt linkage to the south. Potential improvements to street connectivity include additional street stub-outs to the west in the vicinity of lots 12-14, to break up the block length between the north and south property lines and allow connectivity for future infill to the west, and to the 'out-parcel' along Dot Tipton Road that is surrounded on three sides by the proposed development, near lots 78/79.*

Parking: Parking is provided in attached and detached garages for all of the single family homes. 138 homes will have front-loaded garages, and 44 of the homes will have alley-loaded garages. 98 homes will have garages in the rear of the homes, and 84 homes will have garages in the front of the homes.

Phasing: Four phases are planned for Amberwood Place over the next several years as listed below and provided in the PZD Booklet. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. A one-year extension may be permitted, subject to Planning Commission approval.

**Project Phasing
Amberwood Place R-PZD**

Phase	Planning Area	Milestone	Deadline
1	Planning Area 1 (first half)	Preliminary Plat Approval	within 1 year from CC approval
2	Planning Area 1 (second half)	Preliminary Plat Approval	within 3 years from CC approval
3	Planning Area 2	Preliminary Plat Approval	within 4 years from CC approval
4	Planning Area 3	Preliminary Plat Approval	within 6 years from CC approval

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

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

Parks: The developer has met with City Parks staff and anticipates donating off-site land in lieu of payment of parks fees. This project will be required to go through Park Recreation Advisory Board prior to preliminary plat submittal.

Solid Waste Service: Solid waste service will be provided with standard curbside carts for each home as typical of single family residential development.

Tree Preservation: This development will be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development. Tree canopy minimum of 25% shall be required.

Public Comment: City staff has received a phone call from an adjacent property owner opposed to the project citing concerns that the proposed density is too high and is not compatible with surrounding farms and rural-residential uses. He also discussed concerns with runoff issues. Staff also received several public comments opposed to other RSF-4 rezoning in this immediate vicinity. The applicant has also presented the project at a Street Committee and Ward 4 meeting to area residents, most specifically to discuss cost-sharing the improvements to Dot Tipton Road.

Recommendation: Finding that the proposed rezoning and development approval does not meet most of the primary goals of the Planned Zoning District ordinance and policies adopted within the City Plan 2025 as noted herein, and primarily based on the compatibility/density of the development pattern in an area under-served by adequate infrastructure and service to support such a density, staff recommends denial of **R-PZD 08-2965**.

Should the Planning Commission forward this project to the City Council with a recommendation for approval, staff recommends the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street

improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*

- a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
 - b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*
2. Planning Commission determination of adequate connectivity. Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 3.5 acres of dedicated greenspace with several pedestrian trails to be constructed by the developer. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line.
 - a. *To improve pedestrian connectivity and provide a more meaningful linkage of greenspace, staff recommends that the greenbelt be extended all the way to the southern property line to provide the opportunity for the greenbelt to be connected to the south.*
 - b. *Staff recommends an additional street stub-out be provided to the west in the vicinity of lots 12/13, to break up the approximately 1,000-foot block length between the north and south property lines on the westernmost street and another in the vicinity of lots 78/79 to provide a neighborhood connection to the tract or Dot Tipton Road surrounded on three sides by the proposed development.*
3. This project is required to go through preliminary plat review and approval prior to construction.
4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.
5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

**Project Phasing
Amberwood Place R-PZD**

Phase	Planning Area	Milestone	Deadline
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Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
7. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of building permit.
8. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.
11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.
12. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a percent minimum canopy of 25%.
14. Street trees shall be provided along public streets pursuant to city codes at the time of development.
15. As indicated in the PZD plats and booklets all lot owners will be required to plant two trees on their lot along the perimeter of the property.
16. The pedestrian trails and dedicated greenspace indicated in the PZD plats and booklets shall be constructed and landscaped by the developer and inspected prior to Final Plat approval for the lots surrounding the greenspace.
17. A landscape plan showing street tree plantings (including plantings in the traffic circles), the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

18. Plat/booklet revisions:

- a. Pg. 9. Remove reference to Lot 16 from (D).
- b. Pg. 9. Section D and E. Reduce to 7,000 sq. ft.
- c. Planning Areas 1-3. Staff recommends consistent maximum building area of 30% for all planning areas.
- d. Pg. 21. Item 17. PA #2. Change '100 SF' to '1,700 SF'

19. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:

- A full tree inventory of all significant trees;
- Canopy calculations including existing canopy, preserved canopy and removed canopy;
- A site analysis report; and
- A survey of the location of significant trees and those directly affected by the development.

20. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.

21. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

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

Standard Conditions of Approval:

23. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

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

25. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

26. Street lights shall be installed adjacent to all public and private streets (not alleys), with a

separation of no greater than 300 feet.

27. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.

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

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

Planning Commission Action:

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

Motion: Myres

Second: Graves

Vote: 6-1-0 (Kennedy voting 'No')

Meeting Date: July 14, 2008

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 08-2965 (Amberwood Place at Fayetteville)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

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

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

FINDING: Staff finds that much of this application is in conflict with the criterion and policies established in City Plan 2025. The applicant conducted pre-application meetings with City Planning staff, who advised the applicant against a development of this type of density in this area at this time. Some of the issues discussed with the applicant in pre-application and at the technical plat review meetings included concerns that this development with a density 4.55 units/acre is not compatible with surrounding rural-residential/low density land uses. Staff also advised the applicant of the relatively recent zoning denial by the Planning Commission of adjacent property, to RSF-4. Staff has also discussed that this type of subdivision encourages suburban sprawl in an area without adequate infrastructure or non-residential services or employment centers in the vicinity. Traffic concerns already being discussed on surrounding roads, particularly Wedington, will likely be exacerbated, and the attainable housing element of the project is jeopardized due to the requirement of every resident to drive miles for any good or service.

Staff has concerns that this development does not meet several of the primary Goals of City Plan 2025, is incompatible with surrounding land uses as a re-zoning request, and is not served by adequate public services as discussed in the bulleted points below:

- **Goal 1: Infill and revitalization highest priority:** This site is a green field development on the west side of Fayetteville, surrounded by large rural residential lots and agricultural land. The project is not considered infill or revitalization.
- **Goal 2: Discourage suburban sprawl:** As discussed in City Plan 2025, sprawl makes people solely dependent upon the automobile to get from here to there, increasing traffic congestion. Based on the input from the community throughout the planning process, it is apparent Fayetteville residents want to maintain a high quality of life and support increased growth in the center of the city, or assess where services are provided, and limit growth on the edges of the city. The proposed development, while using a higher density development pattern, is not near urban service centers, and is solely auto-dependent, thereby placing a greater burden on not only adjacent streets, but others in the area. Development at the proposed density in this area may be appropriate at a later date; however, at this time, it is not supported by adequate levels of infrastructure or services. Examples of density and lot size of this nature currently in the city are the Washington/Willow, Wilson Park, and Ruppel Row neighborhoods, which contain high levels of connectivity and close proximity to

high-capacity streets, commercial services and goods.

- **Goal 3: Make traditional town form the standard:** This goal encourages a variety of uses, not just houses, to make a neighborhood. This goal encourages development with the provision of places to live and work in the same area with less daily vehicle trips on surrounding streets. While this development varies the size of lot/house, it does not contribute to or gain from a surrounding neighborhood of mixed uses at this time.
- **Goal 6: Creating attainable housing:** This plan aspires to this goal, which is a very positive aspect of this plan. However, attainable houses should not exist in isolation. Traditional, mixed-income neighborhoods should result in pedestrian-friendly environments, enabling households to save on transportation costs, which can affect their ability to obtain housing. By locating this project far from goods and services and the potential for jobs, additional burden, time, and expense is created for a future homebuyer to supply travel to and from the development for daily needs. Many case studies have proved that a mixed-use environment with these amenities is the only desirable and successful way to create attainable housing, as opposed to many failed projects that aspired to do so in single-use areas.
- **This area is planned for Residential Neighborhood Areas on City Plan 2025.** These areas are predominantly residential in land use, which is consistent with the uses proposed with Amberwood Place. This zone encourages traditional neighborhood development; developments should have a strong sense of connectivity where appropriate. New residential areas should be sited where they are accessible to roadways, alternative transportation nodes, community amenities, schools and infrastructure and retail goods and services. Staff has concerns that this development, while attempting to meet one of the City's goals to provide "attainable housing", is being located in an area that severely lacks infrastructure and services at a sufficient level to serve the future residents. There are no nearby services that can serve the planned neighborhood, thus requiring a greater density of residents to drive for common, daily needs.
- **Harmonious relationship/degree of compatibility with adjacent land uses.** Staff finds the surrounding land uses to be large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location, while perhaps desirable nearer to higher density areas with services and adequate infrastructure, is very much out of place with the surrounding rural character of the area.
- **Demands on public facilities.** The proposed density, at this time, will create a greater burden on existing infrastructure in the area; currently the site is accessed by way of gravel roads or recently paved county roads. Future residents will likely demand improvement of streets in the area by the City, at a level that is not viable at this time.
- **Permitted/Conditional Uses.** Staff finds the proposed single family residential land use is appropriate.

In summary, staff finds the proposal does not meet the goals of the City's adopted Future Land Use Plan to a degree that is appropriate for a rezoning approval as proposed.

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

FINDING: As discussed in Finding No. 1 above, the application has been reviewed and found to be inconsistent with several of the applicable City policies. The application has been submitted in accordance with all statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer, in order to function at acceptable levels. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. The Fayetteville Police Department has stated that the development could increase traffic danger and congestion and would place an undesirable load on police services. As discussed in Finding No. 1 this site is accessed by way of gravel roads or recently paved county roads. This development proposes to contribute \$150,000 for the City to pave Dot Tipton Road. In order for staff to find that the project would not adversely impact public facilities in the area, many more improvements than are recommended here would have to occur. However, staff does not find that this particular developer should bear the burden of all of those expenses, based on typical rational nexus calculations. This is ultimately one reason why staff has recommended denial of the application, finding that at this time, the project is not appropriate for the area.

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

FINDING: As discussed in Finding No. 1, the surrounding land uses are large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location, while perhaps desirable nearer to higher density areas with services and adequate infrastructure, is very much out of place and thus incompatible with the surrounding rural character of the area.

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

FINDING: The 39.98-acre property is a generally level, undeveloped pasture with minimum tree canopy. The intended land use, while incompatible with surrounding land uses, could be suitable on the subject property at some time in the future, when adequate services have been extended and are available to this area.

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

FINDING: The proposed development, which will allow for the construction of 182

dwelling units, will have a significant impact on surrounding infrastructure, all of which is substandard. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that while the surrounding roads would likely still be congested and inconvenient, the proposed development would not create a traffic danger. Staff does find that due to the number of units proposed in a low density agricultural/rural residential area, a burden on the existing road network would be created.

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

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

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

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

(B) Development standards, conditions and review guidelines

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

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. The Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments and design standards offered by the applicant. As discussed under Findings No. 1 and No. 4, staff finds that the proposal will not achieve a high level of compatibility with adjacent properties. Staff finds that the overall density of 4.55 units/acre is not appropriate when surrounded by rural-residential/agricultural land uses. Density within a project under a PZD is to be determined on the basis of the density of surrounding development, urban development goals, and the impact of a given density on the site and adjacent property. The City's urban development goals encourage a variety and mixture of densities within neighborhoods. However, the density of development must be supported with adequate infrastructure and services in order to create a viable, functioning neighborhood that contributes to the City as opposed to a separate "island" of development that is auto-

dependent for all goods and services. Staff finds this proposal to be located well away from supporting goods and services, and may adversely impact the character of surrounding low density residential and agricultural uses.

The site does not have any significant natural features to be incorporated into the subdivision, although approximately 3.5 acres of greenspace and pedestrian trails are provided. The developer also proposes to have all perimeter lots plant two trees in the backyard to help provide some vegetative screening around this subdivision.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: No screening is proposed or required for this single family subdivision. Approximately 54% of the proposed lots (98 out of 182 lots) have garages at the rear of the homes to help create a pedestrian oriented streetscape and an attractive public realm. This development proposes 3.5 acres of landscaped greenspace and pedestrian trails and two trees planted in the backyard of each perimeter lot. A landscape plan showing street tree plantings, the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the

planned zoning development and to adjacent areas.

- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of two main public streets leading into the central portion of the project where the streets are slowed down by traffic circles and a north-south greenbelt crossing the streets. The lots in Planning Area 1 are accessed off of alleys or shared driveways with the garages in the rear of the homes. The lots in Planning Areas 2 and 3 are accessed directly off of the street with individual curb cuts and garages in the front of the homes. The street system provides a hierarchy of circulation that encourages an efficient flow of traffic. The external street system consists of two access roads, Double Springs Road, a minor arterial, and Dot Tipton Road, a local street, that is substandard and in need of improvements.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for the single family residential uses shall apply. Two garage parking spaces are provided for each home.

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

FINDING: The applicant proposes that each lot on the perimeter of the project plant two trees in the backyard of the homes. The project will comply with all open space requirements.

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

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of preliminary plat to ensure compliance. In general the Master Development Plan provides for sidewalks along public streets, and interior pedestrian trails in the designated greenspace lots.

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

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

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

FINDING: Public water will be provided to the project site, pursuant to city code.

(9) *Sewer*. As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

(10) *Streets and Drainage*. Streets within a residential PZD may be either public or private.

(a) *Public Streets*. Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets*. Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for

such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The proposed project proposes public streets and alleys that comply with the adopted development standards.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development to comply with Chapter 167 of the UDC. The site has little existing tree canopy which should be incorporated into the design as much as possible.

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

FINDING: Not applicable. All proposed structures are single-family residential.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

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

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any

additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

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

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

- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

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

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

- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal does not meet some of the primary goals of the City Plan 2025, and the overall urban development goals of the City as discussed in Staff Finding No. 1. The proposed PZD provides a mix of lot and house sizes, rather than the typical RSF-4 single family lot size. The proposed development pattern is consistent with several of the goals of the PZD ordinance, Chapter 161, including providing a variety of housing types and providing usable and suitably located open space areas. However, an average density of 4.5 units/acre is not compatible with the surrounding rural residential/agricultural properties, with the lack of goods and services, schools or other amenities typically associated with urban development form. Development of surrounding properties, which could provide a higher level of compatibility with the Amberwood Place PZD, may require several years or even decades to occur. Furthermore, core public services, including schools, jobs and commercial services are not readily available to this area and are at least two miles away. Ultimately, the residents of the development will continue to be auto-dependent due to the current isolated location of the property.

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

FINDING: The subject described real property is proposed to be rezoned to R-PZD 08-2965, with three (3) unique Planning Areas. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

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

- (1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:
 - (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.

- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending denial of this application, finding the proposed PZD does not meet the intent of the PZD ordinance and City Plan 2025 as noted above. Staff finds that the higher density single family land uses within the development do not consider abutting parcels of land. A harmonious relationship with surrounding properties does not exist, and will result in land use incompatibility, traffic congestion and inconvenience for existing and future residents, and encourage suburban sprawl and leap-frog development.

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

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

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

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

(F) *Bulk and area regulations*

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

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

FINDING: The subject property is adjacent to large undeveloped agricultural lands with sparsely located single-family homes. The property is zoned R-A, Residential Agricultural, which would permit one dwelling unit per two acres, resulting in a maximum of 20 dwelling units on 39.98 acres. The applicants are requesting 182 dwelling units, a density of approximately 4.5 units per acre. While this is not a normally high density in much of the developed City, and in general the City's development goals and policies do support the development pattern proposed by Amberwood Place in a designated Residential Neighborhood Area, the density of the development is not appropriate in the rural landscape that it is proposed. Staff has communicated to the applicant that this project may be appropriate in other Residential Neighborhood Areas that have an adequate level of services and infrastructure for development.

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

FINDING: Lot area minimums vary from 4,500 – 7,700 square feet, a little smaller than standard single family zoning districts; setbacks are not varied and are consistent with the RSF-8 zoning district setbacks. This project would provide for some variety in the size and mass of residential homes over this 39.98 acre subdivision with homes varying from 1,000 – 1,700 square feet. The structures are generally oriented to the street with 15-foot front setbacks, with the smaller lots in Planning Area 1 accessed off of either shared drives or alleys.

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

FINDING: Building heights proposed for this project are a maximum of 45-feet, consistent with the height requirements of the surrounding zoning.

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

FINDING: The proposed lot coverage varies from 25-30% compared with 40-50% lot coverage allowed under typical single family zoning. This indicates more greenspace on the lots than in a typical subdivision.

***Required Findings for Rezoning Request.**

FINDINGS OF THE STAFF

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

Finding: Please reference findings under compliance with Planned Zoning District ordinance and Future Land Use Plan. As discussed in these previous findings, this project can be characterized as suburban sprawl as it: 1) is located on the fringe of an urbanized area; 2) "leap frogs" over large, undeveloped properties; 3) is auto-dependent due to isolation from core public services; 4) and is developed before necessary infrastructure improvements are made. Ultimately, the development is inconsistent with land use planning principles and policies to a degree that would not support the rezoning.

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

Finding: The subject property is just within the limits of the City and is adjacent to large agricultural and rural residential properties. Rezoning the property for 182 residential dwellings is not justifiable or needed at this time. The development will "leap frog" over and around many acres of undeveloped farmland and low density rural residential land uses, and will exacerbate the traffic congestion in the area. Improvements to Dot Tipton and Double Springs roads will facilitate future development in the area, including agricultural and rural residential land in the vicinity. Currently though, the development is too early based on existing infrastructure and inconsistent with the goals and policies adopted by the City Council for rezoning applications.

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

Finding: Staff finds this proposal will likely increase traffic congestion and inconvenience, without several improvements to surrounding infrastructure. The Fayetteville

Police Department has commented that this project may create an appreciable increase in traffic danger and congestion, although a traffic study has not been completed. Overall, the area has a lack of infrastructure or services to serve a high density suburban development pattern, as proposed. With the minimum of improvements recommended by staff, an appreciable increase in traffic danger would not likely occur. This project is several miles away from public services and employment centers, and would therefore contribute to congestion on main arterials, particularly to Wedington Drive.

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

Finding: Staff finds that in evaluating this proposal, the population density would undoubtedly increase from that which currently exists to a great extent, and that the 182 residential units proposed would create additional demand on public services. The applicants have noted in the project booklet that water and sewer services are being constructed to serve the subject development. Therefore, an undesirable load on water and sewer services is not expected.

Engineering: Public water is located adjacent to the site. There is an 8-inch water main along Double Springs Road and one located through this site.

Sanitary sewer is available to the site. There is an 8-inch sewer main through the site as well as a newly installed lift station. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Dot Tipton Road and Double Springs Road. Dot Tipton is an unimproved two lane gravel city street, with pavement near the intersection of Double Springs Road. Street improvements including pavement, curb and gutter, storm sewer and sidewalks will be required along the project frontage including the gap of project frontage in the middle of the project along Dot Tipton. Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20-foot wide pavement width plus the appropriate shoulders from the project boundary east to 54th Street.

Standard improvements and requirements for drainage will be required for the development.

Police: It is the opinion of the Fayetteville Police Department that this R-PZD would substantially alter the population density, and would create an appreciable or undesirable increase in the load on police services. This R-PZD will possibly create an appreciable increase in traffic danger and congestion.

Fire: This property will be covered by Engine 7 located at 835 North Ruppel Road. It is 2.3 miles from the station with an anticipated response time of 7 minutes. The Fire Department anticipates 32 (20 EMS-12 Fire/other) calls for service each year once the development is completed and maximum build out has occurred. The Fire Department does not feel this development will affect calls for service or response time.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: As discussed in the findings throughout this report, staff recommends denial of the requested R-PZD 08-2965, finding the proposal inconsistent with several adopted goals and policies of the City Plan 2025; finding the project encourages suburban sprawl in an area without adequate public services and infrastructure and incompatible with surrounding agricultural and rural residential land uses.



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701
Phone (479) 575-8365 Fax (479) 575-0471

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: June 3, 2008
Re: April 9, 2008 Zoning Review

PZD 08-2965: Planned Zoning District (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located at S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.

It is 2.3 miles from the station with an anticipated response time of 6.0 minutes to the beginning of the development and 7.0 minutes to the western edge.

The Fire Department anticipates 32 (20 EMS – 12 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 – 18 months, after the development is started, before maximum build-out occurs.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

RZN 08-2968: Rezoning (LAZENBY, 557): Submitted by DAVE JORGENSEN for property located at 3390 W. 6TH ST., NE CORNER OF HWY 62W & OLD FARMINGTON RD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.49 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.

It is 1.3 miles from the station with an anticipated response time of 4.0 minutes to the beginning of the development. We do not figure calls for service on this type of development but typically this will not affect our response times.

RZN 08-2971: Rezoning (WALKER PARK NEIGHBORHOOD): Submitted by THE CITY OF FAYETTEVILLE. THE SUBJECT PROPERTIES ARE ROUGHLY BOUNDED BY ARCHIBALD YELL BLVD., HUNTSVILLE RD., 15TH STREET AND S. SCHOOL AVE. The properties are zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE, C-2, THOROUGHFARE COMMERCIAL AND P-1, INSTITUTIONAL and contain approximately 303.45 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Commercial (128.19 acres), DG, Downtown General (107.41 acres), MSC, Main Street Center (19.94 acres) and P-1, Institutional (47.91 acres).

The fire department does not anticipate any additional calls for service or reduced response times on rezoning these properties to the proposed re-zonings.

If you have any questions please feel free to contact me.

ENGINEERING COMMENTS

PZD 08-2965: Planned Zoning District (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located at S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units. Planner: Andrew Garner

Public water is available to the property. There is an 8" water main along Double Springs Rd; and one located running through this site.

Sanitary sewer is available to the site. There is an 8" sewer main through the site as well as a newly installed lift station. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Dot Tipton Rd. and Double Springs Rd.. Dot Tipton is currently an unimproved two lane gravel city street. Double Springs Rd. is currently an unimproved two lane paved city street. Street improvements including pavement, curb and gutter, storm sewer and sidewalks will be required along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton. Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement width plus the appropriate shoulders from the project boundary east to 54th Street.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

RZN 08-2968: Rezoning (LAZENBY, 557): Submitted by DAVE JORGENSEN for property located at 3390 W. 6TH ST., NE CORNER OF HWY 62W & OLD FARMINGTON RD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.49 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial. Planner: Dara Sanders

Public water is available to the property. There is an 8" water main along across Old Farmington Road on the west side of this property.

Sanitary sewer is available to the site. There is an 8" sewer main along the north property line of this parcel. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Old Farmington Rd. and Sixth Street. Sixth Street is currently an improved five lane paved state highway. Old Farmington Rd. is an unimproved two lane city street. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Date 4/7/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **PZD 08-2965: (Amberwood Place 474 / 475):** Submitted by **Dave Jorgensen** for property located at **S & E of Double Springs Road and Dot Tipton Road**, would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. **The property contains approximately 39.98 acres.**

It is the opinion of the Fayetteville Police Department that this PZD will substantially alter the population density, and will possibly create an appreciable or undesirable increase in the load on police services. This PZD will possibly create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 9, 2008

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

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission
From: Carole Jones, Interim Urban Forester
Date: June 3, 2008

ITEM #: C-PZD 08-2965-: Planned Zoning District (Amberwood Place)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
 - A full tree inventory of all significant trees;
 - Canopy calculations including existing canopy, preserved canopy and removed canopy;
 - A site analysis report; and
 - A survey of the location of significant trees and those directly affected by the development.
2. The site has little existing canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
3. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

LANDSCAPE REGULATIONS

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



PC Meeting of July 14, 2008

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

THE CITY OF FAYETTEVILLE, ARKANSAS

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: July 8, 2008

ITEM #: R-PZD 08-2965-: Planned Zoning District (Amberwood Place)

TREE PRESERVATION PLAN

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 - Canopy calculations including existing canopy, preserved canopy and removed canopy;
 - A site analysis report; and
 - A survey of the location of significant trees and those directly affected by the development.
2. The site has little existing canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
3. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

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**PLANNING COMMISSION MEETING MINUTES
JULY 14, 2008**

AMBERWOOD PLACE R-PZD 08-2965

R-PZD 08-2965: (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.

Andrew Garner, Senior Planner, gave the staff report, describing surrounding properties, which is surrounded by rural, residential, and agricultural land uses. Dot Tipton along northern border of site is a partially paved and gravel road. Infrastructure for a now-abandoned subdivision to the south has been installed, but the development has been abandoned for some time. There have been rezoning applications for an adjacent site to RSF-4, which have been previously denied by the Planning Commission. The applicant is proposing rezoning and land use approval for a RPZD with 182 SF dwellings, overall density is 4.55 du/acre, 3 planning areas consist of different densities. PA 1 on east side with 102 lots that are 45'x100', PA 2 in the middle with 60'x100' ft lots, PA 3 has 39 lots, 79 feet wide. Access proposed is at three points from Dot Tipton to the north, two street stub-outs are provided to the south, and a street stub-out is provided to the east. Staff recommends additional connectivity to the west. Staff has received public comment from adjacent property owners opposed to the project, citing concerns with density and property not being compatible with surrounding rural residential uses. Staff finds that much of the application is in conflict with the goals and policies established with City Plan 2025. In addition, staff finds that the proposed density of 4.55 units/acre is not compatible with surrounding rural residential and low-density zoning. Staff has concern that this subdivision encourages suburban sprawl in an area without adequate infrastructure. City Plan 2025 discourages growth on the edges of the City. Development may be appropriate at a later date, when infrastructure is available. Staff does not recommend the rezoning as proposed, but instead recommends denial of the application.

Justin Jorgensen, applicant, described project. In 2006, when this was annexed, developer Charlie Sloan was encouraged by City Council to build attainable housing in the area. The applicant has worked with Water and Sewer Department to install a new pump station west of the detention pond, along with new water line, so there is already water and sewer within the subdivision. Goal of project was attainable housing. The applicant also wanted to create a traditional town form by focusing on goals of City Plan 2025. He cannot say this is the best example of infill, but it is within 1.6 miles of school and Boys and Girls Club, ½ mile from RSF-4. In time, the development will fit in to where it is at. Probably is not the ideal project for City Plan 2025, but in time it will fit in.

Public Comment:

Dave Yeomans, neighbor, stated he lives in corner house, affected in two sides by the subdivision. Built home in 1991. Many nearby homeowners, including owners of two-acre tracts adjacent to Double Springs Rd., are frustrated by the notification procedures. There is a lot of opposition to this. Homeowners will not accept anything less than what is built in Silverthorne Subdivision – 100x100' lots, big houses. Have worked hard for a nice home, find

Planning Commission
July 14, 2008
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myself fighting for that value. He does not have a problem with attainable housing, but this is not the area for it. He discussed concerns adjacent to property and a more ideal land-use arrangement for the area.

Maurice Rankin, neighbor, lives at 105 N. Double Springs Rd, directly across road from proposed development. She is concerned with Planning Area 3 on the property (west side). Cherishes the area for its view, but the proposal for 5' side setback allowances will destroy view of area – they will be looking at nothing but roofs and walls. City has received a number of awards, don't think any of them had to do with looking at roofs and houses, but instead involved the presence of greenspace.

No more public comment was received.

Commissioner Myres stated that a lot of what she likes about the site is the way it is laid out, but this density is not appropriate at this time and place. Stretching it a bit to consider it infill. Do not agree with this development and therefore will not support approval.

Commissioner Graves stated he will have to agree with Commissioner Myres. Typically he is supportive of development, voted in support of a number of the projects these developers have done on this side of the town, but I don't think I've seen any of them where it was proposed to drop something so dense in the middle of agricultural, one-acre, and two-acre property. May just be a matter of time when this is a typical zoning request, but it is not infill at this time since it is at the edge of the City, and surrounded by lower density property. Cannot support.

Commissioner Kennedy asked about building minimum differences throughout the phases of the development.

Jorgensen stated that PA 1 will be a 1200-1300 SF home, then moving up into PA 3 into 1700 SF homes

Commissioner Kennedy asked if 2400-2500 SF homes were completely out of the question.

Jorgensen stated that they were.

Commissioner Trumbo stated that the Planning Commission is seeing dense developments come through on the outskirts of town and are bringing up the word "sprawl" quite a bit, certainly wouldn't consider this project infill, but if we let it develop as RSF-4 or RSF-2, it will in turn down the road be all sprawl. I agree that at this time it is possibly too soon for this project, but I'm getting to the point where I need a better definition of sprawl just to clarify, if we are going to approve RSF-4 in 25 years it will be sprawl. Another issue is the traffic coming back east and west, other than Wedington, you're going to have to go to Farmington. There is Persimmon, but it is not developed all the way, it's a very small street. To have a lot more traffic on that road going to the school and the Boys and Girls club might be considered dangerous, and it might be too much traffic, so I would imagine most of these folks are going to come down Persimmon instead of going to Wedington. If Persimmon were built out to a wider degree I

Planning Commission

July 14, 2008

Page 11 of 12

might be more in support of this project.

Commissioner Winston stated he would encourage more mixed use. One of the problems we're seeing is that it's all housing, with no infrastructure to support daily needs. There is a lot of potential for the site, and something creative can happen. Would like to see something with more mixed use.

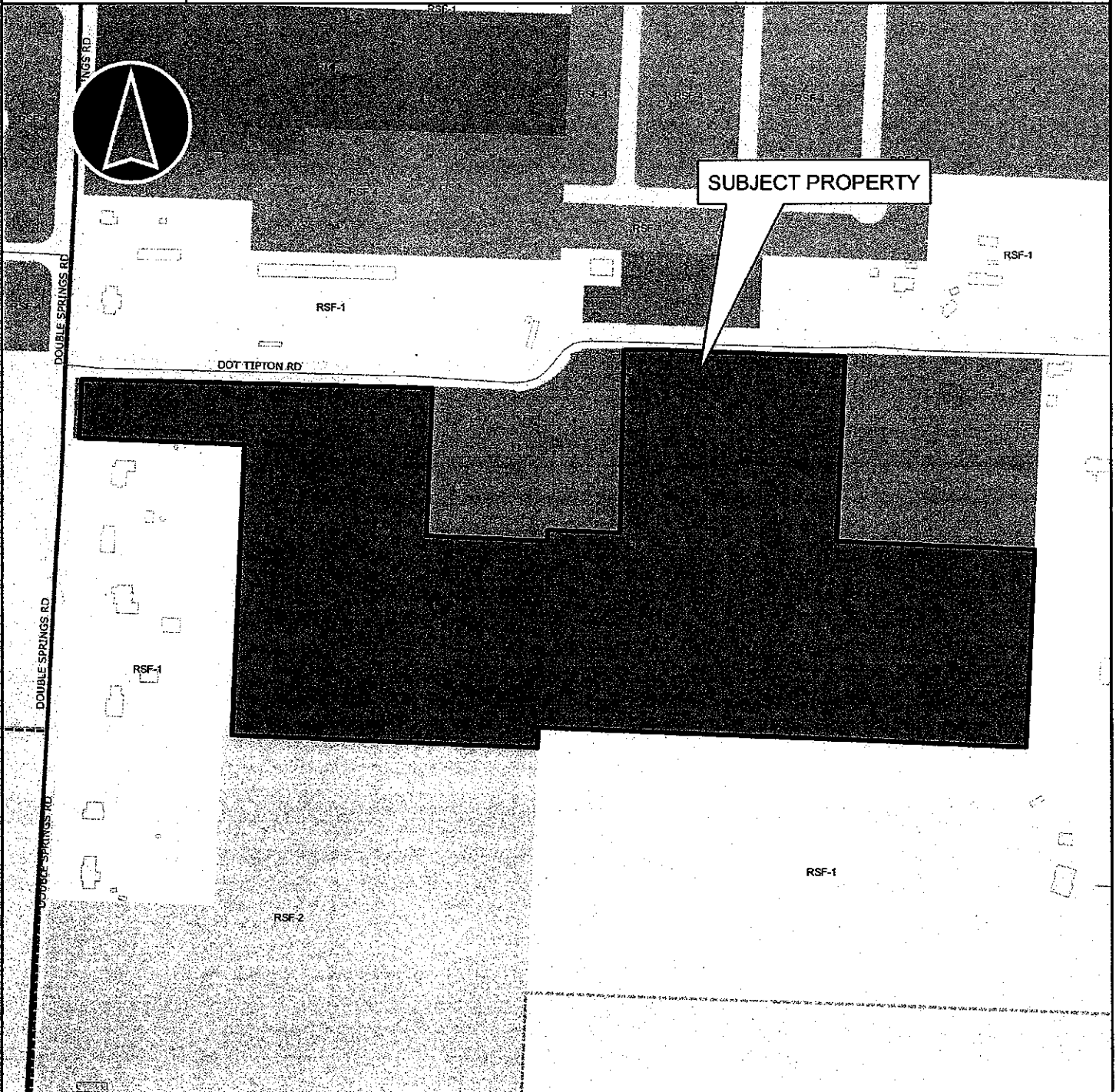
Motion:

Commissioner Myres made a motion to deny the request. **Commissioner Graves** seconded the motion. **Upon roll call the motion passed with a vote of 6-1-0, with Commissioner Kennedy voting no.**

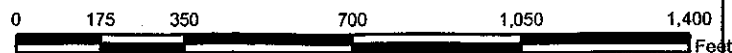
RPZD08-2965

AMBERWOOD PLACE

Close Up View



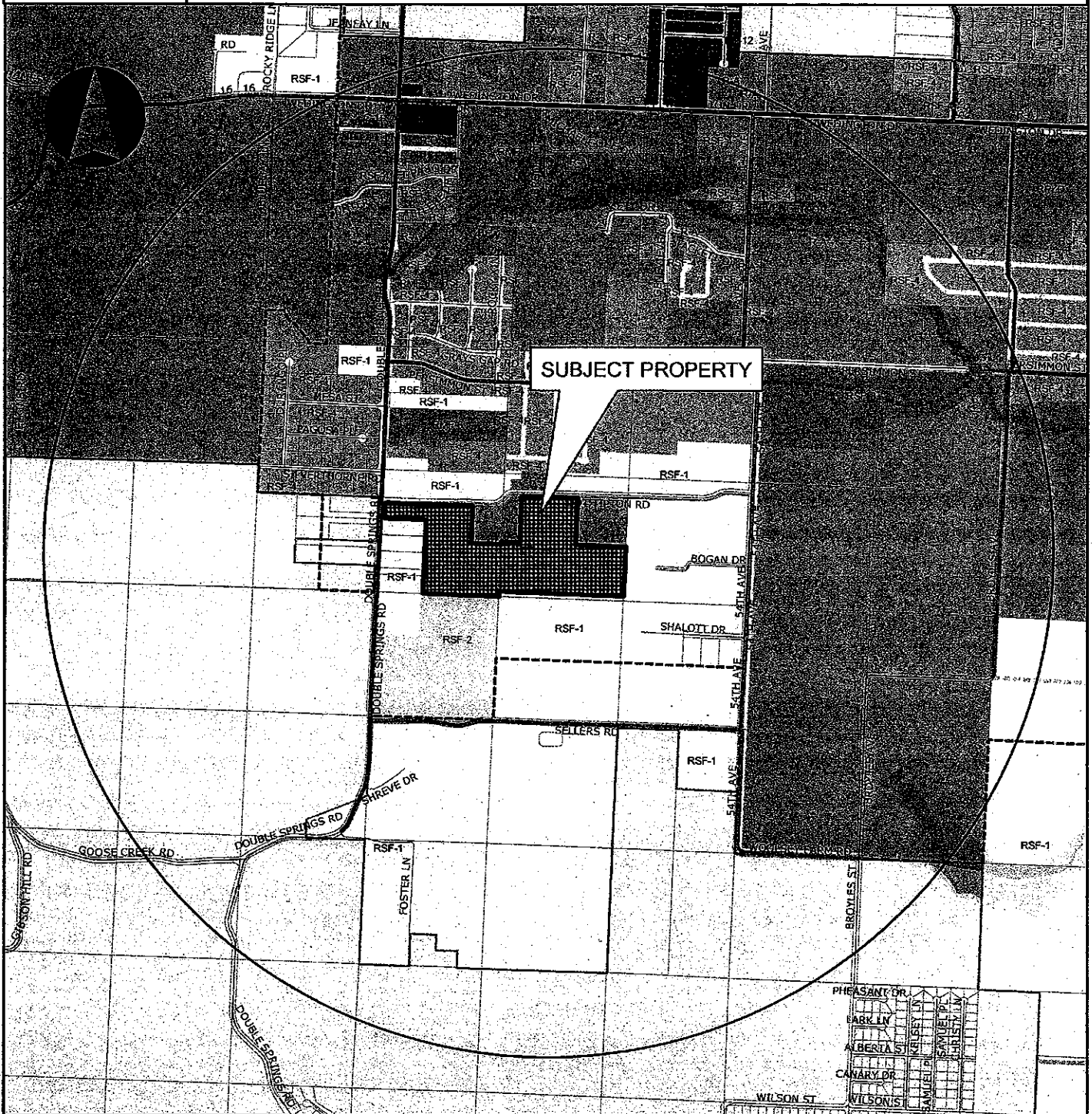
Overview



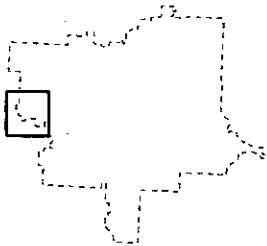
RPZD08-2965

AMBERWOOD PLACE

One Mile View



Overview



Legend

Subject Property

RPZD08-2965

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

City of Fayetteville Staff Review Form

B. 4
Amend Chapter 164, ADM 08-3094
(UDC Chapter 164.04 Animals & Fowl)
Page 1 of 28

City Council Agenda Items and Contracts, Leases or Agreements

~~10/7/2008~~ 11-18-08
City Council Meeting Date
Agenda Items Only

Jeremy Pate 
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 08-3094 (UDC Ch. 164.04 Animals & Fowl): An ordinance amending Ch. 164.04 of the Unified Development Code to permit a property owner to keep a maximum of four chickens (hens) within residential districts of the city, subject to the restrictions of the ordinance.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

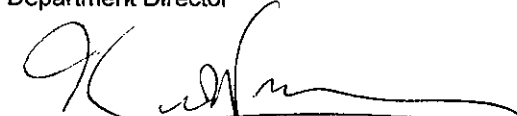

Department Director

9-19-08
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

9-19-08
Date

Received in City
Clerk's Office

9-19-08

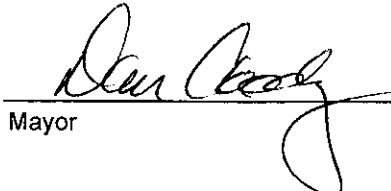
ENTERED

Paul a. Becker
Finance and Internal Service Director

9-21-08
Date

Received in
Mayor's Office

ENTERED


Mayor

9/22/08
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning 

Date: September 19, 2008

Subject: UDC Ch. 16.04 Animals & Fowl (ADM 08-3094)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance amendment to Ch. 164 of the Unified Development Code, Animals and Fowl, to permit a property owner to keep a maximum of four chickens (hens) within residential districts of the City, subject to the restrictions listed.

BACKGROUND

The City of Fayetteville's zoning regulations do not currently permit typical barnyard, livestock or farm animals to be kept within the municipal limits, unless the property is zoned R-A, Residential Agricultural. The reason for this regulation is typically associated with nuisances that come about from often intense farming or livestock operations: odor, noise, sanitary conditions, etc. Staff has investigated numerous violations regarding various animals within the City over the years, including horses, cows, chickens, ducks, pigs, rabbits and other such animals. Staff recently discussed with a City Council member a violation of a citizen who was raising hens in her back yard. After explaining the ordinance requirement, we were asked to draft an ordinance to present to the Planning Commission and City Council to permit chickens within the city limits, subject to certain restrictions. After some research into various other municipalities across the country, it became apparent that this was an issue that has been raised in hundreds of cities in the nation, with many ordinances being re-drafted to allow the raising of chickens, which can be a low-impact, sustainable source of income or food. Presented to the Council is a draft of an ordinance that pulls information from several of these cities, and adapted to fit Fayetteville.

The proposal is to amend the current Ch. 164.04, Animals and Fowl, of the Unified Development Code, to permit up to four hens to be raised in all residential districts of the City, provided the use on the property is a single family residence. Other stipulations include:

- None allowed in 2F, 3F or MF complexes (issues of sanitary conditions, density, etc.)
- No more than four hens (cities vary from 3 to 25, or sometimes base it on lot size; staff chose to keep it at a low number, to allow both large and small lots this use)
- No roosters (to reduce noise issues)
- No slaughtering of animals outside
- All hens must be kept in a secure enclosure; when the owner is present, they may be let out of the enclosure, as long as the yard is fenced
- Must be kept in side or rear yard – no front yard use
- The enclosure must be kept 40 feet from any residential structure on adjacent lots and must meet building setbacks

City Council Meeting of October 7, 2008

Agenda Item Number

- Must be kept neat and sanitary at all times
- Not applicable to R-A districts

A list of cities with similar ordinances includes:

- Portland, OR
- Spokane, WA
- Little Rock AR
- Seattle, WA
- Round Rock, TX
- Burlington, VT
- San Antonio, TX
- Anaheim, CA
- Madison, WI
- St. Louis, MO
- Louisville, KY
- Boise, ID

DISCUSSION

The Planning Commission voted 6-2-0 (Kennedy and Graves voting 'No') in favor of this request on September 22, 2008. An amendment was made to increase the distance from the enclosure and adjacent residential structures from 25 feet to 40 feet. Staff finds the permission of a maximum of four hens within the city limits in residential districts, with the provisions suggested in the ordinance, will contribute to a more sustainable and local lifestyle and will not detract from nor reduce the comfortable enjoyment of life or property by other members of the city.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE BY REPEALING AND REPLACING CHAPTER 164.04: ANIMALS AND FOWL, TO PERMIT A PROPERTY OWNER TO KEEP A MAXIMUM OF FOUR CHICKENS (HENS) WITHIN RESIDENTIAL DISTRICTS OF THE CITY, SUBJECT TO THE RESTRICTIONS HEREIN.

WHEREAS, the City of Fayetteville encourages a sustainable and local economy that may include local produce or small-scale use of certain fowl, such as chickens; and

WHEREAS, chickens are identified as agricultural or barn-yard animals and are thus currently not permitted within residential zones of the City; and

WHEREAS, the use of a home-owner's property to keep hens, along with specific restrictions regarding cleanliness, enclosures, separation from adjacent structures, noise, and a limited number permitted on each property, is a compatible and reasonable request,

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

Section 1: That the City Council of the City of Fayetteville, Arkansas, hereby repeals and replaces Unified Development Code Chapter 164.04: Animals and Fowl, as shown as "Exhibit A" attached hereto and made a part hereof.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

CHAPTER 164: SUPPLEMENTARY ZONING REGULATIONS

164.04 Animals And Fowl

- (A) It shall be unlawful for any person to permit or allow any domesticated animal or fowl to run at large within the corporate limits of the city.
- (B) Animals traditionally associated with the practice of livestock raising or farm animals, such as horses, goats, swine, chickens, cows and other such animals are not considered pets and are not permitted within any zoning district in the city limits, with the exception of R-A, Residential Agricultural, unless otherwise stated herein.
- (C) It shall be lawful for any person to keep, permit or allow any fowl within the corporate limits of the city in all Residential zones under the following terms and conditions:
- (1) The principal use of the property shall be a single family dwelling. No fowl shall be allowed in multi-family complexes, including two-family and three-family dwellings.
 - (2) No more than four (4) hens shall be allowed for each single-family dwelling.
 - (3) No roosters shall be allowed.
 - (4) There shall be no outside slaughtering of hens.
 - (5) All hens must be kept in a secure enclosure constructed at least two feet above the surface of the ground when the owner is not present. When the owner is present all hens must be kept in the covered enclosure or a fenced enclosure at all times. All hens shall be kept in the side or rear yard, and may not be permitted in the front yard area.
 - (6) No enclosure shall be located closer than forty (40) feet to any residential structure on an adjacent lot, and shall meet building setbacks.
 - (7) Enclosures must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons.
 - (8) Fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of this Ordinance.
 - (9) The City may further restrict the use of fowl within residential districts if it causes a public nuisance or public health issue as defined in City Codes.
 - (10) All regulations administered by the Animal Services Division shall be enforceable by law, and this ordinance shall not supersede or replace any regulation thereof.
- (D) The above Section C is not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl kept in areas of the City which are zoned R-A, Residential Agricultural.
- (E) *Separation of use.* The following uses, where permitted, shall be conducted no nearer than the following stated number of feet to the boundary of an R District, or to a dwelling on the same premises.

40 FEET

Fowl Enclosure in Residential districts (from residential dwelling on adjacent lot)

50 FEET

Animal hospital; serving household pets and similar small animals
Commercial breeding, raising
Boarding; breeding, raising, or boarding of household pets or similar small animals for commercial purposes
Kennel
Egg farm

100 FEET

Animal hospital; serving livestock and similar animals
Boarding or training of horses
Dairy farm
Poultry farm
Farm: for raising cattle, goats, horses, sheep, rabbits and poultry

200 FEET

Hog raising
Livestock: assembly, breeding, feeding, sales or shipment

(Code 1965, App. A., Art. 7 (3); Ord. No. 1747, 6-29-70;
Code 1991, §160.078; Ord. No. 4100, §2 (Ex. A.), 6-16-98)

Planning Commission
September 8, 2008
Page 12 of 18

ADM 08-3094: (UDC CHAPTER 164.04, ANIMALS & FOWL): Submitted by Planning Staff, a request to amend Chapter 164 of the UDC, Unified Development Code, Animals & Fowl. The proposed amendment would permit 4 hens to be kept within residential districts, subject to several restrictions to achieve compatibility with adjacent land uses.

Jeremy Pate, Director of Current Planning, gave the staff report. The proposed amendment for consideration was requested by a City Council member, to address a citizen's request. Currently the City's zoning regulations do not permit any type of barnyard/agricultural animals within residential districts. These determinations have occasionally been tested, and interpreted consistently. The reason for the regulation is most likely associated with nuisances that come about from intensive farm uses: odor, noise, and sanitary issues. Staff has discussed potential issues with Jill Hatfield from the Animal Services Division and also did research with other cities with regard to allowing chickens within their city limits. There are many across-the-board requirements that other cities have that we are proposing: no roosters; a maximum number of hens, which is often based on lot area; we have decided on four hens maximum. In addition most cities have requirements for enclosures, which we have decided must be above the ground, kept sanitary, and that Animal Services could inspect. Another concern was that we wanted to limit this to single-family residences, despite the zoning. This will potentially allow chickens to be kept in multi-family zoning districts, as long as it is single family home that occupies the property. Another stipulation we are proposing is that the hens must be kept in the enclosure if the owner is not present, but they may be allowed out so long as they are kept within a fenced back or side yard area. The enclosure must be kept 25 feet from any residential structure. This ordinance would not be applicable to R-A districts, where it is a use by right. Staff recommended approval of the request.

Commissioner Trumbo opened the floor to public comment.

Steve Nolan, 2154 Manor Dr., I have lived in Fayetteville since 1951. Three items I would like to consider tonight. First, everyone in Fayetteville has the potential of residing downwind or downhill from these birds. Twenty-five feet in new neighborhoods will place them directly on the property line. Second issue is health. Poultry have diseases that may be transmitted to humans. We would not be able to control these chickens like we control our dogs with vaccinations for rabies, etc. Third, due to the diversity of Fayetteville we feel that some might interpret this to mean that other domesticated animals could be raised on their property. I encourage you to vote no on this ordinance.

No additional public comment was received.

Commissioner Graves stated that one of his concerns was the selection of one species of animal and allowing that but not others. I can think of people who have pot bellied pigs as a pet kept in the house. Under this ordinance, it would not be allowed while chickens would be. Mr. Nolan is correct in the commercial farming aspect; there are a lot of commonly transmitted diseases, and nothing here that would include disease control for these types of animals within municipal limits. Why are we carving out an allowance for this one type of animal when it seems to be more appropriate as an agricultural use and left well enough alone?

Planning Commission
September 8, 2008
Page 13 of 18

Pate stated that the first reason they were raising the issue was because it was brought to their attention by a City Council member. Keeping chickens on residential property is also associated with the sustainability movement by allowing more direct access to food and resources. Many subdivision covenants would prohibit them. In my time with the city we have processed at least five or six violations for chickens, and the outcome is that they have always had to be removed. This ordinance wouldn't necessarily prohibit any other animal than we already do.

Commissioner Graves stated that although he understands why the ordinance amendment is being proposed, he doesn't understand why we would make an exception for chickens and not ducks, pigs, or rabbits, which might also contribute to sustainable agriculture.

Commissioner Trumbo stated he personally knows some current violators who use the chickens specifically for their eggs. He recognizes that it is catching on, it is grassroots, done cleanly, and there are only 3 or 4 birds at these places. He understands why people would want this passed.

Commissioner Winston asked if the chickens are penned and somebody builds a house within 25 feet of the chicken pen, would the pen or the house need to be moved?

Pate stated that the enclosure would be required to be moved.

Commissioner Anthes asked whether it was the secure enclosure, or the fenced area the chickens could be let out to that would be the area that must be 25 feet from a structure.

Pate stated it was the enclosure.

Commissioner Anthes asked if staff would be amenable to a distance greater than 25 feet.

Pate stated it was certainly up to the Commission for consideration.

Kit Williams, City Attorney, stated that we might also look at the property line as opposed to the next structure to avoid what Mr. Nolan was talking about, where you could put it on the edge of the property as long as the house was 25 feet away. It might be that you would want to look at the property line as opposed to the residential structure, as it would ensure that it would be further away, because of the setbacks also.

Commissioner Pate stated that the reason we did not go with the 25 feet from adjacent property lines is that on a 50-foot wide lot it would essentially not be permitted, because you could not be 25 feet away from each property line.

Commissioner Anthes stated she was thinking that the minimum distance from a property line should be five feet, which would keep it so you're not putting your coop directly on a property line.

Planning Commission
September 8, 2008
Page 14 of 18

Motion:

Commissioner Anthes made a motion to forward the request to City Council with a recommendation for approval, changing line 3 on pg. 2 to read "the enclosure must be kept 40 feet from any residential structure, and must be contained within the building setback line."
Commissioner Myres seconded the motion.

Commissioner Anthes stated the language needs to be placed in the chapter under #5, so in addition to altering the staff report, it would need to be rewritten in the language.

Commissioner Kennedy stated he agrees with Commissioner Graves in that he does not understand why the amendment allows only chickens and not any other barnyard animals, and that he will vote no.

Pate stated that the Planning Commission requires five votes to forward the amendment.

Upon roll call the motion to forward the request passed with a vote of 6-2-0, with Commissioners Graves and Kennedy voting no.

From: <jkreess@cox.net>
To: <webmaster@ci.fayetteville.ar.us>
Date: 9/8/2008 7:25 PM
Subject: [Form mail from AccessFayetteville] - Chicken ordinance
CC: <planning@ci.fayetteville.ar.us>

From: Kriste Rees
Email: jkreess@cox.net
To: planning@ci.fayetteville.ar.us
Subject: Chicken ordinance

Message:

I support the chicken ordinance. I see no difference in having a chicken in my backyard and having a dog in my backyard--except that dogs bark and keep my awake.

Thanks,
Kriste Rees
1644 E. Susan
Fayetteville, AR 72703

ADM 68-3094 (UDC Ch. 164.04 Animals & Fowl)

We, the undersigned, support an ordinance allowing up to four hens in a sing family dwelling in Fayetteville under certain conditions with a Conditional Use Permit.

Date	Name	Address
9/5/08	Laura Camargo	3060 Quainton Ct Quainton Ct
9/6/08	Roxanne Work	533 Prospect Fay, AR 72701
9/6/08	Chris Tedford	887 15 th St Fayetteville, AR 72701
9/6/08	Ali Carter	1962 E Peridot #1 Fayetteville 72701
9-6-08	Tom LaFleur	161 Lapis Lane #4 Fayetteville, AR
9-6-08	ARL LINDING	327 W MEADOW NO 2 FAYETTEVILLE, AR
9.6.08	Walt Eilers	2044 Archer Drive Fayetteville, AR 72701
9/6/08	Sperry Wright	11252 Rav Valley rd Prairie Grove 72753
9/6/08	W. Sed	4055 Mashburn Ave 72701
	Phillie Maccian	221 E. Lafayette Fay
	Carlos Maccian	" " "
9/6/08	Merum Jharaj	105 S WEST, FAYETTEVILLE, AR 72701
	Margot Ganster	2584 Elizabeth Ave. Fay, AR 72701
	DANIEL GANSTER	2584 ELIZABETH AVE, FAY, AR 72701
	JOHN KEARY	257 J2 FAYVILLE " " 72701
	JEFFREY NEWMAN	120 N. Block Ave. FAY AR 72701
	Shannon Wallace	215 W. Lafayette St., Fay., AR 72701
9/6/08	Michael Ward	915 N Park Ave. Fay, AR 72701
9/6/08	MATTHEW DICKHUT	855 FAIRVIEW ST. FAYETTEVILLE, AR
9/6/08	Emily W. Williams	2885 Knorr Rd Fay. 72701
9/6/08	Justin Berenguel	1644 Arrowhead St. Fay. 72701
	Nikki Holland	" " " " " "
	Erin Cohen	2215 N Winwood Fay AR 72701
	Michael Cohen	2215 Winwood Pl Fay 72703
	Daniel Hartz	637 Ray Ave 72701
9/6/08	Conthia Van Bibber	604 Vinson Avenue [cvanb]
	Drew Harriman	945 LAKESIDE DR. FAY AR 72701
	Nick Early	4046 N. Smoother circle 72703
	Jacob Holloway	6046 N. Smoother circle Arkansas Ave. Fay, AR

[illegible]

We, the undersigned, support an ordinance allowing up to four hens in a single family dwelling in Fayetteville under certain conditions with a Conditional Use Permit.

Date	Name	Address
8/6/2008	Mary Dillard	3337 Archie Watkins Rd.
9/6/2008	Sarah Whippo	273 W Village Lake Dr
	Molly Staire	440 S. Locust Ave
	Terry Dushan	2003 Bridgeton Ct 72701
9/6/08	Maciezy	11252 Rav Valley Rd Prairie Grove 72753
9/6/08	Tammi Sheryl McMullen	11 E Elm Fayetteville AR 72701
9/6	Janet McMullen	916 Eva Ave, Fayetteville 72701
9/6	Sam Kincannon	601 West Adams St.
9/6	Erin C Jenkins	2287 S Camron Cir Fay 72701
9/6	Dana Collins	2287 S. Camron Cir. Fay 72701
9-6	David Buckley	201 W. Maple
9-6	Maryette Camille	116 S. School Ave. Fay
9/6	Cara Corbin	8 Davidson Fay AR 72701
9/6	Beverly Walker	2873 Elizabeth Fay 72703
9/6	CHRIS Wilson	3616 TOWER CIR, FAY 72704
9/6	Corinna Drane	3172 Fayetteville, AR 72703
9/6	David Lyon	7 S University Ave Apt 8, Fay
9/6	Brenden Flack	7 S. Duncan Apt A Fay 72701
9/6	Christy D Bullington	41 S Gregg Ave Apt A, Fay 72701
9/6	Kristen R. Mueller	833 E. Bryan Lane Fay 72701
9/06	Susan Schwen	1025 E Elm St. Fayetteville. 72703
9/06	David Schwen	" " " "
9/06	Jamie Akiki	950 Cleveland St. Fayetteville
9/06	Shaunty Den Herder	1136 N. Centennial Drive
9/06	Dagon Ames	943 S. Washington Ave
9/06	Alan Drane	3172 Warwick Tr.
9/6	Patricia Dele Peters	3076 BAXTER W. FAY 72701
9/6		3520 La Salle Dr, Fayetteville, AR
9/6	A. Petrides	700 W. W. Pl. #4, (72701)
9/6	Marilyn Haver	22430 E W Eagle Rd.

We, the undersigned, support an ordinance allowing up to four hens in a single family dwelling in Fayetteville under certain conditions.

Date	Name	Address
9/20/08	For Ben	1621 Price Fayetteville
9/20/08	Donna Berry	" " "
9/20/08	Matthew Gasper	131 S Hill Ave.
9/20/08	Josh Goldstein	157 S Hill Ave.
9/20/08	Pierre Paquette	159 S Hill Ave.
9/20/08	Jeremy Wylie	166 Hill Ave
9/20/08	Adam Smalls	410 S. Hill Ave
9/20/08	Matthew Forbes	410 S Hill Ave.
9/20/08	Robert S/B	320 S. Duran Ave
	John Lee	725 W. Stone Apt 4
	Tyler Duncan	4922 Tumbleweed St 72704
9-20-08	Dust	725 W. Stone Apt. C.
9/20/08	Nick Carl	1062 N. Valley View Dr. Fayetteville, AR
	Adrian Smith	534 E. Huntsville Rd. 72701
9/27/08	JOHN HERRMAN	319 HOLLY 72703
	ED. LA REIF	416 Gunter St 72701
9-27-08	Sydney Pearson	134 S Locust, Apt. 4 Fayetteville
9-27-08	Michelle Lewis	397 Dogwood Ln. Fay. AR 72701
9-27-08	ERIN LILLEN	740 W. Taylor Fay. AR 72701
9-27-08	Brianna Jank	920 N. Everett, Fayetteville, AR
9-27-08	Maggie Bailey	700 ANNA PL. #7, Fay. AR 72701
only 10-2-08	Shea Williams	129 S. Univ. Fayetteville AR 72701
10/2	Nathan	131 S. Univ
10/2	Chen Bull	115 S Univ. Fay. AR 72701
10/2	Melissa Peritz	42 S. University Fayetteville,
	Gary Halstead	32 S University Fayetteville
10/2	Joseph G. Robson	110 S. University Ave. Fayetteville, AR
10/2	Marcia K. Robson	110 S. University Av. Fay. AR. 72701
10/2	Ann	106 S. University Av. Fay, AR 72701

We, the undersigned, support an ordinance allowing up to four hens in a single family dwelling in Fayetteville under certain conditions.

Date	Name	Address	E
9/27/08	Virginia Brandt	532 W. Selle Dr. Fay, AR 72701	
	Christie Kuhn	1415 Chestnut Dr. Fay AR 72701	
	May Ray	607 N. Walnut Ave. Fay 72701	
	Helen Beattie	2731 Arroyo, Fay, AR 72703	
	Rose Bartlett Clark	1753 E. 2100 C24, Fayetteville, AR 72703	
9/27/08	Bayard Gain	2434 Blackbird Dr Fayetteville AR 72701	
	SHANNON WURST	1125 W. CATO SPRINGS FAY AR 72701	
	BOB KOHLER	695 N GRAY AVE FAY 72701	
	Elaine Wade	100 N. Sang Ave. Fay, AR 72701	
9/27/08	JESSICA McCAUGH	31 E. CENTER ST. #300 FAY, AR 72701	
9/27/08	Jamex McCaugh	31 E Center St. #300 FAY, AR 72701	
	Jay Gates	612 N Store Ave Fay, AR 72701	
	Evan Niehaus	325 S. Washington Ave Fay AR 72701	
9/27/08	Jesse Thomas	38 W. Trenton, Fay AR 72701	
	Terry Michaels	405 S. Mash Burn Ave. Fay AR 72701	
	Matt Kennedy	307 S. Washington, Fayetteville 72701	
	Sabrina Bittner	12 E. Davidson Fayetteville 72701	
10-11	John Hurlbert	P.O Box 3373 Fay AR 72702	
10-11	Nancy Umiker	1548 Hope St, Fay. AR 72701	
10-11	Adam Jones	1314 522 Fayetteville	
10-11	James Lynn-Kunzelmann	410 W. Holly St. Fayetteville, AR 72703	
10-11-08	Don MARR	410 W Holly St Fay. AR 72703	
10-11-08	Jennifer Steinauer	1502 E Overcrest. 72703	
	Marilyn Shoffit	111 W Mt NORD Fay 72701 mainly	
10-11-08	MARION TICHENOR	1922 E. HELEN ST FAY. 72701	
	Kathleen Britain	1931 N. Wheeler Ave. Fay 72703	
	Margaret Britain	" " "	
10-11-08	Christine Taylor	280 S. Hill Ave., Apt 202, Fay 72701	
10-11-08	Jay Taylor	2493 W. Orin St Dr Fay 72701	

We, the undersigned, support an ordinance allowing up to four hens in a single, family dwelling in Fayetteville under certain conditions with a Conditional Use Permit.

Name	Address
Brandon Thrash	705 W. Putman Apt L-2 Fayetteville, AR
Bingbiao Ni	703 West Putman St. Apt. #L2
Ruby Courtney	705 W. Putman St. Apt. J-1 Fayetteville, AR
Rally Austin	705 W. Putman J-2 Fayetteville, AR
Ed Hamsa	99 S. Will Ave. #1 72701
Joe Horick	1881 N Pine Valley Dr. 72703
Wendy Warghure.	91 S Duncan Ave, Fayetteville, AR-72
Tom Purcell	714 Treadwell
John Vollmar	718 Treadwell # B Fayetteville
Josh Elms	718 Treadwell St. Apt. C Fayetteville
Chella Collins	728 Treadwell St. Fayetteville, AR
Rene Bailey	611 S Duncan, Fayetteville, AR 72701
Karen Bailey	611 S Duncan, Fayetteville, AR 72701
Hugh Masal	705 89 S Duncan Ave Fayetteville, AR
Sam Sam	93 S. Duncan Ave Fayetteville, AR 72701
Sam Flanders	99 S. Duncan, Fayetteville, AR 72701
Phil & Wood	92 S. Duncan Fayetteville, AR 72701
Frank Tobler	97 S. Duncan Apt 3 Fayetteville, AR 72701
Nan Blackford	632 W Putman Fayetteville, AR 72701
Jeremy Meyer	8 Davidson, Fayetteville, AR 72701
John Zander	126 5th St Fayetteville, AR 72701
Jordan Dietrich	1919 N. Radcliffe Ave Fayetteville, AR 72701
Melissa Portz	42 S. University Fayetteville, AR
Rachel McDonald	422 S. Church Fayetteville, AR
Destar Camargo	3060 Avarition Ct Fayetteville, AR
9/5/08 Jennifer Aubick	521 S. Church Fayetteville, AR
9/6/08 Hilary Hamm	807 W Elm Fayetteville, AR 72701
9/6/08 Mitchell Lapham	232 Rebecca St. Fayetteville, AR 72701
9/6/08 Alice Kennedy	232 Rebecca St 72701

We, the undersigned, support an ordinance allowing up to four hens in a single family dwelling in Fayetteville under certain conditions.

Date	Name	Address
10/2/08	Sara Burev	108 S. Hill #4 72701
	Dameon Rogers	108 S. Hill #2 72701
10/2/08	Emily Reese	280 S Ambassador 72701
10/2/08	Louis B. Jones, Jr.	686 W. STONE #8
	Jason Gar	686 W Stone apt #5
10/2/08	Strigley	686 W. Stone St Apt. #1
10/2/08	Nathan Pickett	686 W. Stone St Apt #4
10/4/08	Justin Riley	525 N. Olive St
10/11/08	Kenyon Williams	609 S.E. 1st. Apt. A Bentonville, KS
10/11/08	Jesse Casana	12 E. Davidson St.
10/11/08	James Graech	4548 Lufay Wood 72704
10/11/08	Jane Hunt	943 S Washington Fayetteville
10-11-08	Nikki Gibbs	943 S. Washington Fayetteville
	Ellen C. Crowther	565 E. North FAY
10-11-08	William Bracey	2241 Emma St. Fay Ark 72701
10/11/08	Rachael Johnson	215 W. Lafayette Fayetteville, AR 72701
10/11/08	Clark Ogden	645 Jackson St #9 72701
10/11/08	Brad Campbell	2933 W. Dorchester Fayetteville, 72703
10/11/08	Raymond Blumson	1505 STEPHENS AVE Fayetteville
10/11/08	Richard C. Covey	68 S. KESTREL DR. FAYETTEVILLE
10-11-08	Willie Benson	309 W. Spring St. #2 Fayetteville, AR 72701
10-11-08	Kathleen Collins	3094 N. PYRITH DR. Fayetteville AR 72701
10-11-08	Leslee Brown	5080 E. Huntsville Rd. Fayetteville AR 72701
10/11/08	Malcolm LeVois	510 W Prairie St. Fayetteville
10/11/08	Michael Garrison	2064 N. Buckley St Fayetteville, 72701
10/11/08	Michael Lewis	12 E. Sycamore
10/11/08	Silvia Tornay	503 W. Prospect, Fayetteville, AR
10/11/08	Natalie Brown	242 S. Virginia Ave. Fayetteville, AR 72701
10/11/08	HANK KRAMINSKY	543 ASSEMBLY RD FAY AR 72701

We, the undersigned, support an ordinance allowing up to four hens in a single family dwelling in Fayetteville under certain conditions.

Date	Name	Address
10/25/08	Jay Cohen	346 N. Ralston
10/25/08	Mr. R. Smith	2957 Oak Bailey Dr, Fayetteville, AR
10/25/08	LOFGOD	"
10/25/08	Janbli Hamilton-Gamache	311 E Huntsville rd 72701
10/25/08	Abraham Shaffer	311 E Huntsville Rd. 72701
10/25/08	Tim	33 GREENBRIAR FAY 72703
10/25/08	JANA LYNN BRITTON	1000 Oak Manor Dr. Fay 72703
10/25/08	Charles R. Britton	1000 Oak Manor Dr., Fay 72703
10/25/08	Tora McKinnon	1860 Brent Lane, Fay 72703
10/25/08	Ryan Pignatto	2213 Wildcat Creek Pkwy 72702
10-25-08	Nicole Chalfant	1010 Rockwood Tr. Fay. 72701
10-25-08	Chuck Chalfant	1010 Rockwood Tr. Fay. 72701
10-25-08	Ben Brongiatto	1000 Wood Ave, Fayetteville 72701
10/25/08	Elizabeth Hill	1580 Rockwood Tr. Fay, 72701
10-25-08	Suzanne Ray	413 W. Holly F'ville 72703
10-25-08	Christine Haller	1659 W. Maple St. F'ville 72701
10-25-08	Nguyen Karas	1446 W. Halsell Rd. Fay 72701
10-25-08	David Haller	1659 W. Maple Fay
10/25/08	Teresa Cox	5791 Tipton Rd Fayetteville 72704
10/25/08	Sarah Santos	1320 N. Oakland Ave #9 Fay AR 72703
10/25/08	Connie Rieper-Estes	4650 E. Gullet Rd., Fay. AR 72703
10/25/08	John Carlson	1278 CR 323 Eureka Springs AR.
10/25/08	Ted Bert	1278 Cr 323 Eureka Springs AR
10-25-08	Denise L. Stein	1530 N. Garland Fay Ark 72703
10/25/08	Amy Stone	1741 N. Sioux Ct. Fay AR 72701
10/25/08	Barbara Jagusch	319 Sutton St. Fay 72701
10/25/08	TERRI Phelan	1171 N. Maxwell, FYV 03
10/25/08	Julie Nelson	2019 S Doran Dr. Fay, 72701
10/25/08	Grace Richardson	2000 N. Garland #71 F'ville AR 72703

We, the undersigned, support an ordinance allowing up to four hens in a sing family dwelling in Fayetteville under certain conditions.

Date	Name	Address
	Adam Steenken	1219 DEANEST Fay/AIR Ca
10/11/08	Na Maria Lawler	68 S. HESTREL FAY 72701
"	LESEY, EAU	316 S. Block Ave. Fay 72701
"	Jane Kimball	1525 Meyhens Ave Fay 72704
"	Pat Besom	15 N. West Ave. Fay 72701
10/11/08	Cathy Oates	3061 Valerie Dr. Fay 72703
"	STEPHAN DEEN	515 N. PARK, Fay 72701
10/25/08	Katherine Freeman	2927 Gooseberry Ln. Fay. 72704
"	Georg M. Molen	115 Mt. Ararat Fay. 72701
"	Jon Champagne	345 Prospect Fay 72701
"	Anne C. Reynolds	South Gage Fay 72701
10/25/08	Kevin Lackey	1201 E. Huntsville ^{#2} AR 72701
"	Susan Harris	1064 Company Fay 01
"	Kelly Tate	911 N. Leverett
"	Justin Nolan	2817 S. College Dr. 72701
10/25/08	Jonni A. Gamble	311 E. Huntville Rd, Fay. 72701
10/25/08	Sharon T. Davis	904 E. Rodgers Dr. Fay AR 72701
10/25/08	Sarah E. King	631 W. Skelton St., Fay 72701
10/25/08	Lindsay Read	1316 N. Pine Creek Dr Fay, 72704
10/25/08	Holly Collins	11625 GILES Rd, Fay, AR 72704
10/25/08	Mr. D. Jordan	244 Gumm St Springdale 72762
"	Rob Karp	1666 W. Halsey 72701
10/25/08	Christina J. J. J.	2732 N. Valencia Fay AR
10/28/09	Mr. Brenner	4040 N. Brookhaven Ct Fayetteville
"	Howard	3284 Chellern RD 72703
10/25/08	Edna Starn	320 Burton Ave Fay AR 72703
"	Eileen Nankvanz	3257 W. Autumn Ct P.V. 72-
"	Christi Daniels	543 Ray Ave. Fayette AR 72703
"	Elizabeth S. Mick	101 S. Duncan Ave 72701

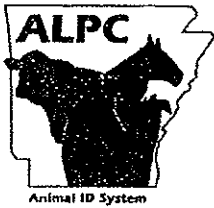
Name	Address
------	---------

[illegible]

[illegible]

Date _____

[illegible]



Ark. Livestock & Poultry Comm.

Arkansas Premises Identification

Business/Farm Account Information:

Business/Farm Name: _____

Primary Contact:

First name

Middle name

Last name

Secondary Contact:

(optional)

First name

Middle name

Last name

Business/Farm mailing Address: _____

City: _____ State: _____ Zip: _____ - _____ County: _____

Phone number: _____ - _____ - _____ ext: _____ (☐ Business ☐ Home ☐ Cell ☐ Fax ☐ Pager)

Phone number: _____ - _____ - _____ ext: _____ (☐ Business ☐ Home ☐ Cell ☐ Fax ☐ Pager)

Phone number: _____ - _____ - _____ ext: _____ (☐ Business ☐ Home ☐ Cell ☐ Fax ☐ Pager)

E-mail address: _____

Business Type: ☐ Individual ☐ Partnership ☐ Incorporated ☐ Limited Liability Corporation
(check one) ☐ Limited Liability Partnership ☐ Non-profit Organization

Operation Type: ☐ Producer Unit/Farm ☐ Clinic ☐ Exhibition ☐ Laboratory ☐ Market/collection point
(check all that apply) ☐ Non-producer Participant ☐ Rendering ☐ Slaughter plant ☐ Tagging site

Premises Information:

(Primary location where livestock resides, if more than one location and animals are managed separately, apply for multiple premises ID's)

Premises name/description: _____ (example "home place", "heifer place")

Premises Address: Must be a 911 address. Check if same as business/farm account mailing address ☐

OR (if not the same as business/farm mailing address)

911 Premises Address: _____

City: _____ State: _____ Zip: _____ - _____ County: _____

(Contact information will not be sold or given out by ALPC or NAIS without your prior written consent)

COMPLETE PREMISES INFORMATION ON BACK PAGE

Premises Type: ☐ Producer Unit/Farm ☐ Clinic ☐ Exhibition ☐ Laboratory ☐ Market/collection point
(check all that apply) ☐ Quarantine Facility ☐ Rendering ☐ Slaughter plant

Species at Premises: ☐ Beef Cattle ☐ Dairy Cattle ☐ Bison ☐ Swine ☐ Sheep ☐ Goats ☐ Equine
(check all that apply) ☐ Poultry ☐ Deer and Elk ☐ Llama ☐ Emu

Additional Secondary Premises Information (optional):

Premises name/description: _____

911 Premises Address: _____

City: _____ State: _____ Zip: _____ - _____ County: _____

Premises Type: ☐ Producer Unit/Farm ☐ Clinic ☐ Exhibition ☐ Laboratory ☐ Market/collection point
(check all that apply) ☐ Quarantine Facility ☐ Rendering ☐ Slaughter plant

Species at Premises: ☐ Beef Cattle ☐ Dairy Cattle ☐ Bison ☐ Swine ☐ Sheep ☐ Goats ☐ Equine
(check all that apply) ☐ Poultry ☐ Deer and Elk ☐ Llama ☐ Emu

Producer/Contact Signature: _____ Date: _____

FOR OFFICE USE ONLY

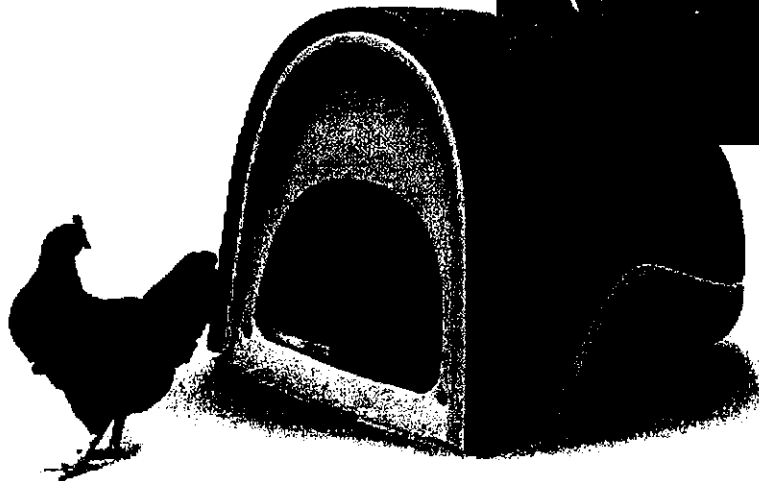
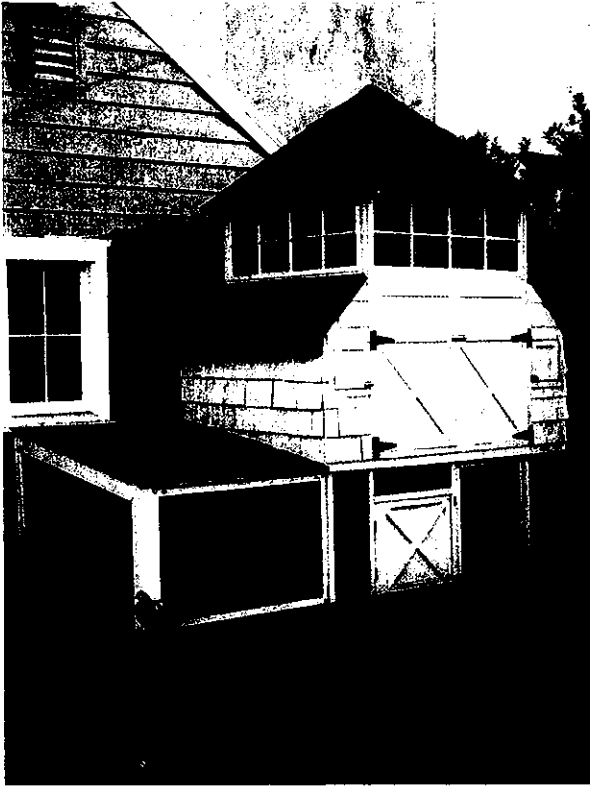
User Name: _____ (minimum of 8 characters)

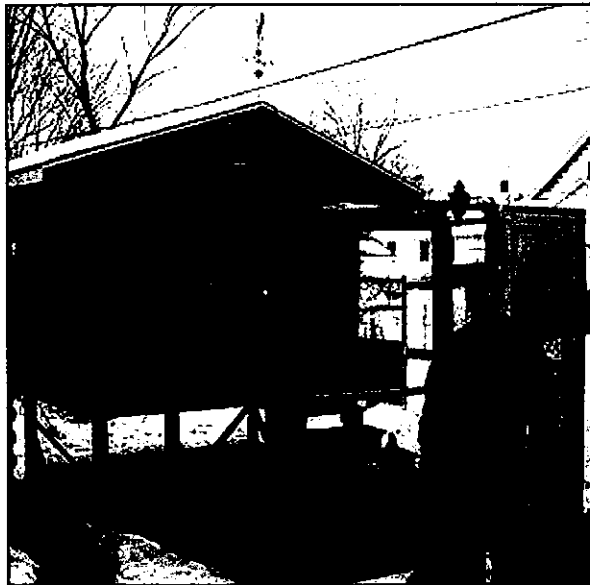
Password: _____ (minimum of 8 characters)

Account #: _____ Premise ID #: _____

Return forms to: AR Livestock & Poultry Commission, #1 Natural Resources Drive, P. O. Box 8505, Little Rock, AR 72215
Website: www.arlpc.org For questions, contact ALPC support: Phone: 501-907-2400 or e-mail: info@arlpc.org
Fax: 501-907-2425

If you have more than two premises (animal locations), please request additional sheets







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

11/18/2008

City Council Meeting Date

Kevin Springer *KS*
Submitted By

Budget & Research
Division

Finance
Department

Action Required:

Approve a resolution adopting the Proposed 2009 Annual Budget & Work Program.

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 ☐

Paul A. Becher
Department Director 10-31-2008
Date

Previous Ordinance or Resolution #

DD Whit
City Attorney 11/5/08
Date

Original Contract Date:

Original Contract Number:

Paul A. Becher
Finance Director 11-3-2008
Date

Received in City Clerk's Office

Don Cook
Mayor 11/5/08
Date

Received in Mayor's Office

Comments:



DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

FROM: Paul A. Becker, Finance Director
Kevin Springer, Budget Director *JS*

DATE: October 30, 2008

SUBJECT: **Proposed 2009 Annual Budget & Work Program**

Recommendation:

Consider the Proposed 2009 Annual Budget & Work Program for adoption by the December 16, 2008 City Council meeting.

Discussion:

The Proposed 2009 Annual Budget & Work Program will be distributed to City Council on Thursday, November 6, 2008. Listed below is a schedule of hearing dates for the Proposed 2009 Annual Budget & Work Program.

Date	Budget Meeting/ Location
Thursday, November 6, 2008	<i>Distribution of the Proposed 2009 Budget</i>
Monday, November 10, 2008	<i>Budget Discussion Meeting, Room 326</i>
Tuesday, November 18, 2008	City Council Meeting, <i>Room 219</i>
Tuesday, November 25, 2008	City Council Agenda Session, <i>Room 326</i>
Tuesday, December 2, 2008	City Council Meeting, <i>Room 219</i>
Tuesday, December 9, 2008	City Council Agenda Session, <i>Room 326</i>
Tuesday, December 16, 2008	City Council Meeting, <i>Room 219</i>

If you have any questions concerning the Proposed 2009 Annual Budget & Work Program, please feel free to contact either Paul A. Becker at 575-8330 or Kevin Springer at 575-8226. Thank you for your attention to this matter.

RESOLUTION NO. _____

**A RESOLUTION ADOPTING THE 2009 ANNUAL BUDGET
AND WORK PROGRAM AS AMENDED AND APPROVED**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby adopts the 2009 Annual Budget & Work Program as amended and approved. A copy of the Amended Budget, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 16th day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

Added at Agenda Session 11/18/08

B. 6
Southpass Development
Company, LLC
Page 1 of 8

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

11/18/2008

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

A resolution to approve approximately \$744,880.00 as a 50/50 Cost Share with Southpass Development Company, LLC for the sewer installation costs for the Regional Park and Southpass PZD.

\$

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

☒

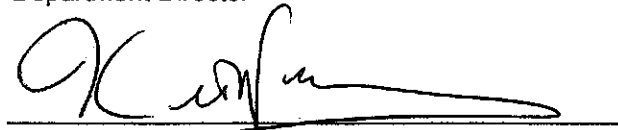
Budget Adjustment Attached

☐


Department Director

11-13-08
Date

Previous Ordinance or Resolution #


City Attorney

11-13-08
Date

Original Contract Date:

Original Contract Number:

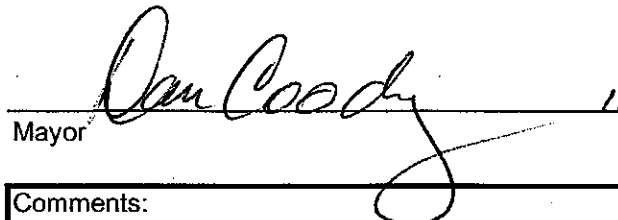
Paul A. Becker
Finance and Internal Service Director

11-13-08
Date

Received in City Clerk's Office

11-13-08

ENTERED


Mayor

11/13/08
Date

Received in Mayor's Office

ENTERED

11/13/08

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Date: November 13, 2008

Subject: A resolution to approve approximately \$744,880.00 as a 50/50 cost share with Southpass Development Company, LLC for the sewer installation costs for the regional park and Southpass PZD.

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 Regional 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 development.

BUDGET IMPACT:

Upon approval of this Council agenda item, plans will be developed by the Southpass Development Company and actual construction bids will be acquired for the sewer construction. A cost share agreement will then be prepared and brought forward for approval that will obligate the funds. It is anticipated that this work will be paid for out of the wastewater impact fee account.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE APPROXIMATELY \$744,880.00
AS A 50/50 COST SHARE WITH SOUTHPASS DEVELOPMENT
COMPANY, LLC FOR THE SEWER INSTALLATION COSTS FOR
THE REGIONAL PARK AND SOUTHPASS PZD**

WHEREAS, Resolution NO. 138-04 passed unanimously by the City Council on September 7, 2004, accepted and approved a contract with SouthPass Development Company LLC to "cost share (50/50) all costs of extending sewer to the Community Park site ...;" and

WHEREAS, the City Engineering Department has estimated that the City 50% portion of these costs will be \$744,880.00 but will be subject to competitive bidding so that the final cost may be higher or lower.

**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 approves approximately \$744,880.00 as the City's portion (50%) of the sewer installation costs to the edge of the SouthPass property to be able to provide sewer to the City's Regional Park.

PASSED and APPROVED this 18th day of November, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

RESOLUTION NO. 138-04

MICROFILMED

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

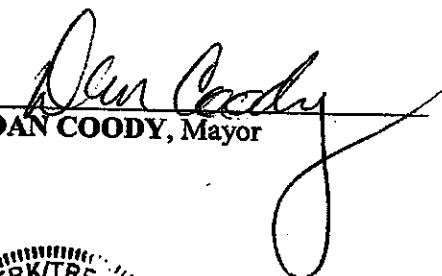
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby accepts and approves the Contract with SouthPass Development Company (attached as Exhibit "A") to accept 200 acres of park land, a 10 acre water tank site, one million dollars for park land development and other consideration for the City's acceptance of a 33 acre landfill and its agreement to spend the money currently identified in its Parks Capital Improvement Plan for the community park development.

PASSED and APPROVED this 7th day of September, 2004.

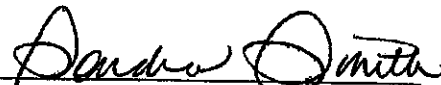
APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk



**AGREEMENT TO ACQUIRE AND DEVELOP
THE COMMUNITY PARK FOR FAYETTEVILLE**

This contract and agreement is entered into by the City of Fayetteville and SouthPass Development Company, LLC (hereinafter "SouthPass");

Whereas, the City of Fayetteville desires to obtain a 200 acre Community Park for its citizens and tourists; and

Whereas, the Parks and Recreation Advisory Board has carefully studied available sites and determined that the Cummings' property is the most desirable site for the Community Park; and

Whereas, The City of Fayetteville does not have the current resources to both purchase the necessary acreage and develop such acreage into a functioning, attractive Community Park and so publicly requested proposals from developers for a public/private partnership to facilitate the acquisition and development of the Community Park; and

Whereas, SouthPass Development Company, LLC submitted a workable, attractive proposal which was selected by the City's selection committee as the recommended proposal.

NOW, THEREFORE, pursuant to the terms and conditions of the City's Request for Proposals and SouthPass Development Company, LLC's recommended Proposal, the City and SouthPass agree as follows:

1. Upon approval of this contract by the Fayetteville City Council and SouthPass Development Company, LLC and the accomplishment of all contingencies listed below, SouthPass shall tender to the trustee/owners of the Eight Hundred Acre (more or less) Cummings property an unconditional offer to purchase all said property for the sum of Six Million Nine Hundred Thousand Dollars (\$6,900,000.00). The obligation of SouthPass Development Company, LLC shall not become binding or enforceable until all the below contingencies have been fully accomplished:

(A) A Master Plan for the development of the approximately 800 acre site has been prepared and approved by SouthPass Development Company LLC and the City of Fayetteville;

(B) The City Council has annexed or committed itself to annex the entire 800 acre site;

(C) The zoning of the portion of the 800 acre site to be owned by SouthPass has been accomplished or the City Council has committed itself to rezone that portion in conformance with the approved Master Plan;

(D) The Greenland School District and Fayetteville School District have agreed that this entire site shall be within the Fayetteville School District;

(E) The Arkansas Department of Environmental Quality has agreed with the present owners of the Cummings landfill and assured the City of Fayetteville that the costs of the necessary corrective actions for the landfill shall not be borne by, recovered from, assessed to, or collected from the City of Fayetteville or SouthPass Development Company, LLC.

2. If this Offer is accepted by the Trustee and the Court, and all others necessary to accept the offer and legally deed the entire tract of 800 acres, more or less, SouthPass Development company, LLC shall pay the agreed price to the trustee/owners and the land shall be conveyed by warranty deed free from all encumbrances to the following parties:

(A) SouthPass Development Company, LLC shall be deeded the entire Eight Hundred (800) acre tract, more or less, except the 33 acre landfill;

(B) The City of Fayetteville shall be deeded (free and clear of any obligation to pay, repay, or otherwise fund the necessary corrective actions for the landfill: partial or full recapping of the landfill and restoration of the stream corridor) the Thirty-Three (33) acre abandoned and closed landfill located within the 800 acre property;

(C) South Pass Development Company LLC shall convey by warranty deed to the City of Fayetteville a Two Hundred (200) acre parcel for the Community Park which location shall be determined by the City;

(D) SouthPass Development Company LLC shall convey by warranty deed the Ten (10) acre City of Fayetteville water tank site to the City of Fayetteville.

3. To facilitate the preparation of the Master Plan, the City shall immediately pay for the perimeter survey of the property and the 200 acre Community Park site.

4. SouthPass shall fund up to \$10,000.00 and retain a mutually acceptable community master planning consultant for recommendations for a Master Plan for this entire 800 acre area (including the 200 acre Community Park area).

5. The City of Fayetteville shall assist in facilitating the planning, zoning and other development approval processes which are in accordance with the mutually acceptable master plan.

6. The City of Fayetteville shall recommend to the Fayetteville School Board and Greenland School Board that this property should be within the Fayetteville School District.

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

8. If all the contingencies listed in paragraph 1 have been accomplished and all the actions listed in paragraph 2 have been achieved, SouthPass Development Company LLC shall contribute One Million Dollars (\$1,000,000.00) when the City is ready to award the first construction contract utilizing the 2004 and 2005 budgeted CIP allocation as shown in Exhibits A and B*.

Signed this 31 day of August, 2004.

Signed this 7th day of September, 2004.

**SOUTHPASS DEVELOPMENT
COMPANY LLC**

By:

John Nock
JOHN NOCK
Managing Member

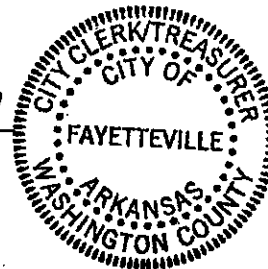
**CITY OF
FAYETTEVILLE, ARKANSAS**

By:

Dan Coody
DAN COODY
Mayor

Attest:

Sondra Smith
Sondra Smith, City Clerk



* Attached as Exhibit A are copies of the current Capital Improvement Program adopted last December by the City Council showing 2004-2008 Parks Development Fund allocations for Community Park Development (total about \$2.4 million) and Sales Tax CIP funds allocated to Community Park Development (total about \$1.2 million).

Attached as Exhibit B is the amount of funds that have been allocated by the City Council that will be available on January 1, 2005 for development of the Community Park (about \$1.6 million).

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

C. I
Operations Management International
Amendment # 16
Page 1 of 26

2-Dec-08
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Resolution approving Amendment Number 16 with Operations Management International, Inc. (OMI) for operation, maintenance and management of wastewater treatment facilities for 2009, in the amount of \$7,762,190.

\$ 7,762,190

Cost of this request

\$ 7,862,190.00

Category/Project Budget

Water/Wastewater

Program Category / Project Name

5400.5100.5328.00

Account Number

\$ -

Funds Used to Date

Wastewater Treatment

Program / Project Category Name

Project Number

\$ 7,862,190.00

Remaining Balance

Water and Sewer

Fund Name

Budgeted Item ☒ XX

Budget Adjustment Attached ☐

D. Jurgens
Department Director

14 Nov 08
Date

Previous Ordinance or Resolution # 94-94

Original Contract Date: 1-Aug-94

D. J. White
City Attorney

11/17/08

Original Contract Number: 412

Paul A. Behr
Finance and Internal Service Director

11-17-08
Date

Received in City Clerk's Office
11-14-08 **ENTERED**

Don Cook
Mayor

11/18/08
Date

Received in Mayor's Office
11/17/08 **ENTERED**

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: David Jurgens, Water/Wastewater Director



Date: November 14, 2008

Subject: Approval of Amendment Number 16 with Operations Management International, Inc. for operation, maintenance and management of wastewater treatment facilities for 2009

RECOMMENDATION

Fayetteville City Administration recommends approval of Amendment Number 16 with Operations Management International, Inc. (OMI) for operation, maintenance and management of wastewater treatment facilities for 2009, in the amount of \$7,762,190.

BACKGROUND

The City of Fayetteville's first private operating contract commenced in 1987 with this year marking 21 years of services from OMI. In May 2003, Fayetteville City Council approved Amendment No. 9 extending this agreement through December 31, 2008, and last year, the Council approved an extension through 2009.

The scope of services provided by OMI include: (1) operate and maintain the Noland Wastewater Treatment Plant (WWTP); (2) operate and maintain the West Side WWTP; (3) operate and maintain 45 wastewater pump stations; (4) administer the City's NPDES discharge permits; (5) manage the City's sludge disposal program; (6) manage the City's industrial pretreatment program; (7) support the SCADA (supervisory control and data acquisition system) network that monitors water and wastewater facilities; (8) pursue operation economies, efficiencies, and permit compliance; and (8) participate in the construction of the Wastewater System Improvement Project (WSIP).

To encourage cost saving operations, the contract contains an incentive provision whereby budget underruns are distributed 87.5% to the City and 12.5% to OMI.

DISCUSSION

Operating expenses for 2009 increased \$964,505 from 2008 due to the full annual operation of the West Side WWTP, biosolids landfill tipping fees, anticipated natural gas increases, and a redistribution of sewer lift station electrical costs from Water/Sewer Operations budget to the Sewer Lift Stations budget. Details are shown below.

	<i>Current 2008</i>	<i>Proposed 2009</i>
Direct Labor & Benefits	\$ 2,556,326	\$ 2,273,628
Labor Markup @ 15%	\$ 383,449	\$ 341,044
Other Direct Costs	\$ 2,461,348	\$ 3,377,588
Other Direct Costs Markup @ 10%	\$ 246,135	\$ 337,759
<i>Subtotal</i>	\$ 5,647,258	\$ 6,330,019
Fixed Fee	\$ 118,751	\$ 136,372
Electricity	\$ 865,615	\$ 1,257,197
Lift Station Odor Control	\$ 109,543	\$ 38,602
Capital Item Amortization	\$ 56,520	-
<i>Total Estimated Annualized Budget</i>	\$ 6,797,685	\$ 7,762,190
<i>Net Increase from 2008 to 2009</i>		\$ 964,505

In 2009, the City must either decide to operate the wastewater treatment system in-house or solicit proposals for all operations beginning in 2010.

BUDGET IMPACT

The 2009 cost of \$7,762,190 is included in the proposed 2009 Budget; authorization of Amendment No. 16 will be contingent upon the budget approval.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NUMBER 16 TO THE CONTRACT WITH OPERATIONS MANAGEMENT INTERNATIONAL (OMI) IN THE AMOUNT OF \$7,762,190.00 FOR THE OPERATION, MAINTENANCE AND MANAGEMENT OF FAYETTEVILLE WASTEWATER TREATMENT FACILITIES FOR 2009.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 16 to the contract with Operations Management International (OMI) in the amount of \$7,762,190.00 for the operation, maintenance and management of Fayetteville Wastewater Treatment facilities for 2009. A copy of Amendment No. 16, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to sign Amendment No. 16 to the contract with OMI, contingent upon final approval of the 2009 Budget.

PASSED and APPROVED this 2nd day of December, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

AMENDMENT NO. 16
TO
AGREEMENT FOR OPERATIONS, MAINTENANCE AND MANAGEMENT SERVICES
FOR THE CITY OF FAYETTEVILLE, ARKANSAS WASTEWATER TREATMENT PLANTS

THIS AMENDMENT NO. 16 to the Agreement for Operations, Maintenance and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant dated September 1, 1994 (the "Agreement"), made effective on the 1st day of January, 2009, by and between the City of Fayetteville, Arkansas, whose address for any formal notice is 113 W. Mountain St, Fayetteville, Arkansas 72701 (hereinafter the "City") and Operations Management International, Inc., with offices at 9193 S. Jamaica Street, Suite 400, Englewood, Colorado 80112 (hereinafter "OMI") is made and entered into for purposes of amending certain provisions of the Agreement, to prevent the facilities covered by the Agreement from being deemed to be used in the trade or business of OMI pursuant to Section 141 (b) of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, the City and OMI agree to amend the Agreement as follows:

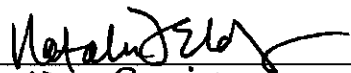
1. Article 4.1 is hereby deleted in its entirety and replaced with the following Article 4.1:
 - 4.1 For services rendered during calendar year 2009 the City of Fayetteville shall pay to OMI the actual cost of services performed plus an annualized management fee of One Hundred Thirty Six Thousand Three Hundred Seventy Two Dollars (\$136,372). Said fee and estimated cost (base fee) shall be paid in twelve (12) equal monthly installments. The management fee for subsequent years will be determined proportional to the increase in estimated cost.
2. Article 4.3 is hereby deleted in its entirety and replaced with the following Article 4.3:
 - 4.3 OMI estimates the cost for services for calendar year 2009 shall be Seven Million Seven Hundred Sixty Two Thousand One Hundred Ninety Dollars (\$7,762,190). Details of said cost are shown in Appendix J. The base fee shall be negotiated each year in September for the upcoming calendar year. Should the City and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Upon each contract year renegotiation, OMI shall continue to invoice City of Fayetteville at the previous amount until the new contract year price is agreed upon. Upon written notice agreement between the parties as to the new contract year base fee, OMI shall issue an invoice retroactively adjusting the previous base fee amount. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars (\$20,000), in any year of this Agreement, specific approval will be obtained from the City prior to OMI incurring additional costs.
3. Article 4.8 is hereby deleted in its entirety and replaced with the following Article 4.8:
 - 4.8 OMI agrees to incur up to Thirty Eight Thousand Six Hundred Two Dollars (\$38,602) per year in lift station odor control direct expenses, including costs for necessary chemicals, pumps, tanks, related equipment and such outside services as needed. These expenses will not include labor and benefits for OMI personnel. OMI will rebate to the City of Fayetteville the entire amount that actual lift station odor control expenses are less than Thirty Eight Thousand Six Hundred Two Dollars (\$38,602) in any year of this Agreement.

4. Appendices B, D.2, E, H, J, K, and L are hereby deleted in their entirety and replaced with the attached Appendices B, D.2, E, H and J.

This Amendment No. 16, together with the Agreement, constitutes the entire agreement between the Parties and supersedes all prior oral and written understandings with respect to the subject matter set forth herein. Unless specifically stated all other terms and conditions of the Agreement shall remain in full force and effect. Neither this Amendment nor the Agreement may be modified except in writing signed by an authorized representative of the Parties.

The Parties, intending to be legally bound, indicate their approval of the Amendment by their signatures below.

**OPERATIONS MANAGEMENT
INTERNATIONAL, INC.**

Doc


Vice President

Date: 11/7/08

CITY OF FAYETTEVILLE

Dan Coody
Mayor
Date: _____

ATTEST:

Sondra Smith
City Clerk
Date: _____

Appendix B

LOCATION OF PROJECT

B.1 OMI agrees to provide the services necessary for the management, operation and maintenance of the following:

- a) All equipment, vehicles, grounds and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Noland Wastewater Treatment Plant located at:

1400 North Fox Hunter Road
Fayetteville, Arkansas 72701

- b) Upon the beginning of operations, all equipment, vehicles, grounds and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's West Side Wastewater Treatment Plant located at:

15 South Broyles Avenue
Fayetteville, Arkansas 72704

- c) All equipment, grounds, and facilities now existing within the present property boundaries of pump stations described as follows:

WW1	978 E. Zion Rd (Lowe's - Zion PS)
WW2	3500 E. Mission Blvd (Timbercrest PS)
WW3	2805 N. Salem Rd (Crystal Springs)
WW4	691 W. Poplar St (Poplar PS)
WW5	3896 N. Gregg Ave (Gregg Ave PS)
WW6	3021 N. Old Wire Rd (Old Wire PS)
WW7 (old)	2034 N Sunshine Rd
WW7	2065 N. Sunshine Rd (Hamestring PS)
WW8	729 W. North St (North St PS)
WW9	1336 N. Porter Rd (Porter Rd PS)
WW10	716 N. Futrall Dr (Futrall Dr PS)
WW11	4412 W. 6 th St (Farmington East PS)
WW12 (old)	398 N. Double Springs Rd (Farmington)
WW12	571 N Double Springs Road (Farmington West)
WW13	878 S. Dead Horse Mountain Rd (Stonebridge PS)
WW14	1820 S. Armstrong Ave (Industrial Park PS)
WW15	203 E. 29 th Circle (Country Club PS)
WW16	516 W. Ernest Lancaster Dr (Airport North PS)
WW18	202 N. Sandy (Greenland PS)
WW19 (old)	988 S. Mally Wagnon Rd
WW19	5716 E. Norman Murphy Rd (Mally Wagnon PS)
WW20	3212 N Highway 112 (Truckers Dr PS)
WW22	630 N. Double Springs Rd (Owl Creek PS)
WW23	440 E. Fairway Ln (Masters PS)
WW24	265 W. Ernest Lancaster Dr (Airport East PS)
WW25	551 W. Aster Ave (Willow West PS - Farmington)
WW26	74 S. Kestrel (Sequoyah Preserve PS)
WW27	1031 River Meadows Dr (Stonebridge Meadow Phase I PS)
WW28	1603 Plantation Ave (Heritage Village PS)

WW29	390 N. Cato Springs Rd (Bohannon PS - Greenland)
WW30	2324 N. Rupple Rd (Holt Middle School PS)
WW32	478 N. Durango Place (Silverthorne PS)
WW33	4644 N. Crossover Rd (Stonewood PS - Copper Creek)
WW34	4572 S School Ave (Airport South)
WW35	3083 W. 6 th St (Lowe's - 6 th St PS)
WW36	1642 N. Willowbrook Dr (Skyler Place PS)
WW37	3848 W. Edgewater Dr (Clabber Creek)
WW38	3710 E. Zion Rd (Copper Creek Phase II PS)
WW39	2392 N. Kenswick Ave (Crofton Manner PS)
WW40	1811 S. Cherry Hills Dr (Stone Bridge Meadow Phase II PS)
WW41	1608 S. Springlake Dr (Crescent Lake PS)
WW42	2588 N Firefly Catch Dr (Clabber Creek III)
WW43	196 S. Woodsprings (Timber Trails PS)
WW44	10 Dot Tipton Rd (Legacy Pointe Phase 4 PS)
WW45	(Timberlake Office Park PS)
WW46	3788 E. Spyglass Hill Dr, (Stonebridge Meadows Phase V PS)
WW47	3601 E. Albright Rd (Embry Acres PS)
WW48	2435 S Dead Horse Mountain Rd (McDonald PS)
WW49	3393 E Goff Farm Road (Meadows PS)

- d) All equipment, grounds, and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Land Application Site located east of the Noland wastewater treatment facility across the White River.
- e) All equipment, grounds, and facilities associated with or being used to complete routine O&M activities for the City of Fayetteville's Mitigated Wetlands Site now existing within the present property boundaries located north of the West Side Wastewater Treatment Plant. The service includes limited herbicide application and site monitoring but excludes burning.
- f) The potable water SCADA system at the following locations:

W1	215 W. 24 th St (South Mountain)	Pump Station
W2	844 N. Crossover Rd (Hyland Park)	Pump Station
W4	1016 E. Ash St	Pump Station
W5	707 E. Rogers Dr	Pump Station
W6	456 E. Baxter Ln	Ground Storage Tank (2 each)
W7	707 E. Rogers Dr	Ground Storage Tank (2 each)
W8	133 N. Sang Ave	Elevated Storage Tank
W9	1170 E. South Skyline Dr (Mt. Sequoyah)	Elevated Storage Tank
W10	1044 E. Township Rd	Elevated Storage Tank
W11	3280 W. Judge Cummins Rd (Kessler Mountain)	Ground Storage Tank (2 each)
W12	7001 E. Mission (Highway 45 Valve Station)	Pressure-Reducing Valve
W13	1589 Fire Tower Road (Goshen)	Pump Station and Ground Storage Tank
W14	17301 Lake Sequoyah Rd (Round Mtn)	Pump Station
W15	14360 Round Mt Comm Church Rd County Rd #55 (Round Mountain)	Stand Pipe
W16	22032 Fire Tower Rd County Rd 4343	Stand Pipe

	(Benson Mountain)	
W17	3265 N Gulley Rd	Elevated Storage Tank
W18	3788 N Gulley Rd	Pump Station
W19	3370 S Coach Rd	Pump Station
W20	2098 Woodcliff Rd (Springdale)	Surge Tank
W21	2210 N. Old Wire Rd	Valve
W22	2800 N. Old Missouri Rd	Flow Meter
W23	3385 N. Par Ct	Valve
W24	3023 E. Joyce Blvd	Valve
W25	2567 E. Robinson (Springdale)	Valve
W26	Township Tank Weather Station	Weather Station
W27	17385 Blue Springs Rd (Goshen)	Pump Station
W28	17970 Lake Sequoyah Rd	Pump Station
W29	Beaver Water District	SCADA Interface
WSOPC	2435 S. Industrial Dr	Water & Sewer Ops Center
MTROB	12141 Ed Edwards Rd	Mt. Robinson Tower Site

- g) Installation of the necessary Remote Terminal Units (RTUs) and equipment to acquire flow information from the collection system via SCADA. Flow monitoring devices (up to 17 remote locations) are scheduled to be installed by the City's Water and Sewer Division in 2009. OMI will also provide maintenance of these flow monitoring devices and the related SCADA equipment.

D.2 Industrial Waste Dischargers and Monitoring Program

Industry	Parameters Analyzed
Ayrshire Electronics, LLC 1101 S. Beechwood Fayetteville, AR 72701	Copper, lead, zinc
Custom Powder Coating Services, Inc. 1629 W. Farmington St. Fayetteville, AR 72701	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Danaher Tool Group/K-D Tools 2900 City Lake Road Fayetteville, AR 72701	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Elkhart Products Corporation PO Box 1129 Fayetteville, AR 72702	Chromium, copper, lead, nickel, zinc, oil & grease
Hiland Dairy Company PO Box 3478 Fayetteville, AR 72702	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease
Marshalltown Tools 2200 Industrial Drive Fayetteville, AR 72701	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Pinnacle Foods Corporation PO Box G Fayetteville, AR 72702	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease
Superior Industries International, Inc. 1901 Borick Drive Fayetteville, AR 72701	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Tyson Foods, Inc. 2615 S. School Fayetteville, AR 72701	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease

Appendix E

VEHICLE AND MOBILE EQUIPMENT DESCRIPTION

Unit #	Unit Description	Year
82	Sykes 6" Pump/Trailer	
320	Ford F-350 SD 4X4 Utility, Crew Cab W/Crane	1999
324	Ford F-350 SD 4X4 Utility, Reg. cab W/Crane	1999
325	Ford F-350 4 X 4, Reg. Cab	2000
339	Ford F-350 4 X 4, Flatbed	2002
340	Ford F-350	2002
551	Ford 3930 Gen Purpose Tractor, 2X4	1995
556	Ford/New Holland 8160 Tractor w/Loader	1997
564	Ford/New Holland 8160 Tractor w/Loader	1999
570	New Holland 8670 Tractor, 145 hp, 4X4	2000
581	Ford/New Holland TS100A Tractor w/NH 52# Front End Loader	2004
582	New Holland 1412 Discbine Mower Conditioner	2004
583	New Holland 740 Round Baler	2004
588	New Holland B940A Large Square Baler	2005
589	New Holland 1412 Discbine Mower Conditioner	2005
644	New Holland 575E Backhoe/Loader	2000
706	IHC S-1900 T/A Dump	1985
741	Mack Tractor	1996
751	Sterling LT9500 Truck	2006
753	Kenworth Semi Tractor	1999
754	Kenworth Semi Tractor	1999
755	Kenworth Semi Tractor	2000
806	Case 1150G Bulldozer, 119 hp	1995
818	Caterpillar P5000LP Forklift	2008
927	Parker, 24' Gooseneck Trailer	1991
959	Bush Hog 2620 Rot. Cutter	1995
966	P.J. Trailer, 18 Ft.	1996
969	LO-Boy, 25T-36FT Trailer	1996
988	Hesston 3982 Wheel Rake	1998
989	M & W DF-12 Wheel Rake	1998
1052	Ford Explorer	1999
1092	Ford Explorer	2002

Appendix E

VEHICLE AND MOBILE EQUIPMENT DESCRIPTION (CONTINUED)

Unit #	Unit Description	Year
2004	Ford Ranger, 4X4	1997
2007	Ford Ranger, 4X4	1997
2103	Ford 150, 1/2 Ton, 4WD, Ext. Cab	2006
5000	New Holland 1412 Discbine	2006
5001	John Deere 6615 Tractor	2007
5002	John Deere 6615 Tractor	2007
5003	New Holland 740 Round Baler	2007
9021	Volvo Penta 400 KW - Trailer Mounted Diesel Generator @ North St PS (LS#8)	2001
9024	Hesston GEHL WR-522 Wheel Rake	2001
9025	Volvo Penta 400 KW - Trailer Mounted Diesel Generator @ Porter Rd PS (LS#9)	2001
9034	Yale 5000# Fork Lift, Solid Tires	2002
9083	Lufkin ULD-38 Trailer	1999
9088	Lufkin ULD-38 Trailer	2006
	Portable Generator for LS	2005
9104	Lufkin ULD-38 Trailer	2004
9105	Lufkin ULD-38 Trailer	2004
9106	Lufkin ULD-38 Trailer	2004
9111	Clement Star-lite Trailer	2009
9124	Thompson 6" Diesel Power Pump/Trailer	2009

Appendix H

THIRTY-DAY CHEMICAL INVENTORY

Chemical	Purpose	30-Day Supply
Liquid Alum	Phosphorus Removal	2,200 Gallons
Liquid Oxygen	Effluent Dissolved Oxygen	15,000 Cubic Ft
Polymer	Belt Filter Press	5,000 Pounds
Sodium Hypochlorite	Odor Control	1500 gallons
Sodium Hydroxide	Odor Control	1500 gallons

Appendix J

COST DETAIL

The annualized estimated costs for calendar year 2009 are as follows:

	<i>Current 2008</i>	<i>Proposed 2009</i>
Direct Labor & Benefits	\$ 2,556,326	\$ 2,273,628
Labor Markup @ 15%	\$ 383,449	\$ 341,044
Other Direct Costs	\$ 2,461,348	\$ 3,377,588
Other Direct Costs Markup @ 10%	\$ 246,135	\$ 337,759
<i>Subtotal</i>	\$ 5,647,258	\$ 6,330,019
Fixed Fee	\$ 118,751	\$ 136,372
Electricity	\$ 865,615	\$ 1,257,197
Lift Station Odor Control	\$ 109,543	\$ 38,602
Capital Item Amortization	\$ 56,520	-
<i>Total Estimated Annualized Budget</i>	\$ 6,797,685	\$ 7,762,190
<i>Net Increase from 2008 to 2009</i>		\$ 964,505

Following are some of the major reasons for cost changes:

1. Improvement in plant operations efficiency has allowed a reduction in operating hours at the Noland WWTP. This reduces the overall labor cost by 12.4%.
2. The \$391,583 increase in electricity includes: \$373,967 additional electrical cost for lift stations (OMI was asked to monitor and pay for electricity from lift stations starting in 2009), an estimated 8% cost increase in electricity, and a full twelve months of electrical expenses from the West Side WWTP.
3. Significant progress on the Wastewater System Improvement Project resulted in a reduction in lift station odor control costs. The declining costs are due largely to net decrease in overall force main detention time related to the shorter pumping distances to the new West Side WWTP
4. The cost of natural gas is expected to increase by about 10% in 2009. The projected \$84,155 increase also includes a full twelve months of natural gas expenses from the West Side WWTP.
5. Landfill tipping fee increases of almost 300% to a total estimated cost of \$765,544 are expected in 2009. The escalation in tipping fee is driven by increase in fuel cost and lack of landfill space

competition.

The following table delineates the cost centers contained in the above-annualized estimated costs:

Category Description	Wastewater Division Administration & SCADA	Noland WWTP O&M (incl. land application site)	West Side WWTP O&M (incl. wetlands mitigation site)	Lab & Industrial Pretreatment Program	Lift Station Maintenance
Direct Labor	380,443	879,847	581,460	238,654	193,223
Labor Markup, 15%	57,066	131,977	87,219	35,798	28,983
Direct Expense	368,151	1,682,173	1,054,688	136,063	136,514
Expense Markup, 10%	37,060	168,217	105,469	13,606	13,651
Electricity		441,615	441,615		373,967
Lift Station Odor Control					38,602
Fixed Fee	136,372				
Totals	978,847	3,303,830	2,270,451	424,122	784,940
Grand Total					7,762,190

AMENDMENT NO. 16

TO

**AGREEMENT FOR OPERATIONS, MAINTENANCE AND MANAGEMENT SERVICES
FOR THE CITY OF FAYETTEVILLE, ARKANSAS WASTEWATER TREATMENT PLANTS**

THIS AMENDMENT NO. 16 to the Agreement for Operations, Maintenance and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant dated September 1, 1994 (the "Agreement"), made effective on the 1st day of January, 2009, by and between the City of Fayetteville, Arkansas, whose address for any formal notice is 113 W. Mountain St, Fayetteville, Arkansas 72701 (hereinafter the "City") and Operations Management International, Inc., with offices at 9193 S. Jamaica Street, Suite 400, Englewood, Colorado 80112 (hereinafter "OMI") is made and entered into for purposes of amending certain provisions of the Agreement, to prevent the facilities covered by the Agreement from being deemed to be used in the trade or business of OMI pursuant to Section 141 (b) of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, the City and OMI agree to amend the Agreement as follows:

1. Article 4.1 is hereby deleted in its entirety and replaced with the following Article 4.1:
 - 4.1 For services rendered during calendar year 2009 the City of Fayetteville shall pay to OMI the actual cost of services performed plus an annualized management fee of One Hundred Thirty Six Thousand Three Hundred Seventy Two Dollars (\$136,372). Said fee and estimated cost (base fee) shall be paid in twelve (12) equal monthly installments. The management fee for subsequent years will be determined proportional to the increase in estimated cost.
2. Article 4.3 is hereby deleted in its entirety and replaced with the following Article 4.3:
 - 4.3 OMI estimates the cost for services for calendar year 2009 shall be Seven Million Seven Hundred Sixty Two Thousand One Hundred Ninety Dollars (\$7,762,190). Details of said cost are shown in Appendix J. The base fee shall be negotiated each year in September for the upcoming calendar year. Should the City and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Upon each contract year renegotiation, OMI shall continue to invoice City of Fayetteville at the previous amount until the new contract year price is agreed upon. Upon written notice agreement between the parties as to the new contract year base fee, OMI shall issue an invoice retroactively adjusting the previous base fee amount. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars (\$20,000), in any year of this Agreement, specific approval will be obtained from the City prior to OMI incurring additional costs.
3. Article 4.8 is hereby deleted in its entirety and replaced with the following Article 4.8:
 - 4.8 OMI agrees to incur up to Thirty Eight Thousand Six Hundred Two Dollars (\$38,602) per year in lift station odor control direct expenses, including costs for necessary chemicals, pumps, tanks, related equipment and such outside services as needed. These expenses will not include labor and benefits for OMI personnel. OMI will rebate to the City of Fayetteville the entire amount that actual lift station odor control expenses are less than Thirty Eight Thousand Six Hundred Two Dollars (\$38,602) in any year of this Agreement.

4. Appendices B, D.2, E, H, J, K, and L are hereby deleted in their entirety and replaced with the attached Appendices B, D.2, E, H and J.

This Amendment No. 16, together with the Agreement, constitutes the entire agreement between the Parties and supersedes all prior oral and written understandings with respect to the subject matter set forth herein. Unless specifically stated all other terms and conditions of the Agreement shall remain in full force and effect. Neither this Amendment nor the Agreement may be modified except in writing signed by an authorized representative of the Parties.

The Parties, intending to be legally bound, indicate their approval of the Amendment by their signatures below.

**OPERATIONS MANAGEMENT
INTERNATIONAL, INC.**



Vice President

NO C Date: 11/7/08

CITY OF FAYETTEVILLE

Dan Coody
Mayor
Date: _____

ATTEST:

Sondra Smith
City Clerk
Date: _____

Appendix B

LOCATION OF PROJECT

B.1 OMI agrees to provide the services necessary for the management, operation and maintenance of the following:

- a) All equipment, vehicles, grounds and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Noland Wastewater Treatment Plant located at:

1400 North Fox Hunter Road
Fayetteville, Arkansas 72701

- b) Upon the beginning of operations, all equipment, vehicles, grounds and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's West Side Wastewater Treatment Plant located at:

15 South Broyles Avenue
Fayetteville, Arkansas 72704

- c) All equipment, grounds, and facilities now existing within the present property boundaries of pump stations described as follows:

WW1	978 E. Zion Rd (Lowe's - Zion PS)
WW2	3500 E. Mission Blvd (Timbercrest PS)
WW3	2805 N. Salem Rd (Crystal Springs)
WW4	691 W. Poplar St (Poplar PS)
WW5	3896 N. Gregg Ave (Gregg Ave PS)
WW6	3021 N. Old Wire Rd (Old Wire PS)
WW7 (old)	2034 N Sunshine Rd
WW7	2065 N. Sunshine Rd (Hamestring PS)
WW8	729 W. North St (North St PS)
WW9	1336 N. Porter Rd (Porter Rd PS)
WW10	716 N. Futrall Dr (Futrall Dr PS)
WW11	4412 W. 6 th St (Farmington East PS)
WW12 (old)	398 N. Double Springs Rd (Farmington)
WW12	571 N Double Springs Road (Farmington West)
WW13	878 S. Dead Horse Mountain Rd (Stonebridge PS)
WW14	1820 S. Armstrong Ave (Industrial Park PS)
WW15	203 E. 29 th Circle (Country Club PS)
WW16	516 W. Ernest Lancaster Dr (Airport North PS)
WW18	202 N. Sandy (Greenland PS)
WW19 (old)	988 S. Mally Wagon Rd
WW19	5716 E. Norman Murphy Rd (Mally Wagon PS)
WW20	3212 N Highway 112 (Truckers Dr PS)
WW22	630 N. Double Springs Rd (Owl Creek PS)
WW23	440 E. Fairway Ln (Masters PS)
WW24	265 W. Ernest Lancaster Dr (Airport East PS)
WW25	551 W. Aster Ave (Willow West PS - Farmington)
WW26	74 S. Kestrel (Sequoyah Preserve PS)
WW27	1031 River Meadows Dr (Stonebridge Meadow Phase I PS)
WW28	1603 Plantation Ave (Heritage Village PS)

WW29	390 N. Cato Springs Rd (Bohannon PS - Greenland)
WW30	2324 N. Ruppel Rd (Holt Middle School PS)
WW32	478 N. Durango Place (Silverthorne PS)
WW33	4644 N. Crossover Rd (Stonewood PS - Copper Creek)
WW34	4572 S School Ave (Airport South)
WW35	3083 W. 6 th St (Lowe's - 6 th St PS)
WW36	1642 N. Willowbrook Dr (Skyler Place PS)
WW37	3848 W. Edgewater Dr (Clabber Creek)
WW38	3710 E. Zion Rd (Copper Creek Phase II PS)
WW39	2392 N. Kenswick Ave (Crofton Manner PS)
WW40	1811 S. Cherry Hills Dr (Stone Bridge Meadow Phase II PS)
WW41	1608 S. Springlake Dr (Crescent Lake PS)
WW42	2588 N Firefly Catch Dr (Clabber Creek III)
WW43	196 S. Woodsprings (Timber Trails PS)
WW44	10 Dot Tipton Rd (Legacy Pointe Phase 4 PS)
WW45	(Timberlake Office Park PS)
WW46	3788 E. Spyglass Hill Dr, (Stonebridge Meadows Phase V PS)
WW47	3601 E. Albright Rd (Embry Acres PS)
WW48	2435 S Dead Horse Mountain Rd (McDonald PS)
WW49	3393 E Goff Farm Road (Meadows PS)

- d) All equipment, grounds, and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Land Application Site located east of the Noland wastewater treatment facility across the White River.
- e) All equipment, grounds, and facilities associated with or being used to complete routine O&M activities for the City of Fayetteville's Mitigated Wetlands Site now existing within the present property boundaries located north of the West Side Wastewater Treatment Plant. The service includes limited herbicide application and site monitoring but excludes burning.
- f) The potable water SCADA system at the following locations:

W1	215 W. 24 th St (South Mountain)	Pump Station
W2	844 N. Crossover Rd (Hyland Park)	Pump Station
W4	1016 E. Ash St	Pump Station
W5	707 E. Rogers Dr	Pump Station
W6	456 E. Baxter Ln	Ground Storage Tank (2 each)
W7	707 E. Rogers Dr	Ground Storage Tank (2 each)
W8	133 N. Sang Ave	Elevated Storage Tank
W9	1170 E. South Skyline Dr (Mt. Sequoyah)	Elevated Storage Tank
W10	1044 E. Township Rd	Elevated Storage Tank
W11	3280 W. Judge Cummins Rd (Kessler Mountain)	Ground Storage Tank (2 each)
W12	7001 E. Mission (Highway 45 Valve Station)	Pressure-Reducing Valve
W13	1589 Fire Tower Road (Goshen)	Pump Station and Ground Storage Tank
W14	17301 Lake Sequoyah Rd (Round Mtn)	Pump Station
W15	14360 Round Mt Comm Church Rd County Rd #55 (Round Mountain)	Stand Pipe
W16	22032 Fire Tower Rd County Rd 4343	Stand Pipe

	(Benson Mountain)	
W17	3265 N Gulley Rd	Elevated Storage Tank
W18	3788 N Gulley Rd	Pump Station
W19	3370 S Coach Rd	Pump Station
W20	2098 Woodcliff Rd (Springdale)	Surge Tank
W21	2210 N. Old Wire Rd	Valve
W22	2800 N. Old Missouri Rd	Flow Meter
W23	3385 N. Par Ct	Valve
W24	3023 E. Joyce Blvd	Valve
W25	2567 E. Robinson (Springdale)	Valve
W26	Township Tank Weather Station	Weather Station
W27	17385 Blue Springs Rd (Goshen)	Pump Station
W28	17970 Lake Sequoyah Rd	Pump Station
W29	Beaver Water District	SCADA Interface
WSOPC	2435 S. Industrial Dr	Water & Sewer Ops Center
MTROB	12141 Ed Edwards Rd	Mt. Robinson Tower Site

- g) Installation of the necessary Remote Terminal Units (RTUs) and equipment to acquire flow information from the collection system via SCADA. Flow monitoring devices (up to 17 remote locations) are scheduled to be installed by the City's Water and Sewer Division in 2009. OMI will also provide maintenance of these flow monitoring devices and the related SCADA equipment.

D.2 Industrial Waste Dischargers and Monitoring Program

Industry	Parameters Analyzed
Ayrshire Electronics, LLC 1101 S. Beechwood Fayetteville, AR 72701	Copper, lead, zinc
Custom Powder Coating Services, Inc. 1629 W. Farmington St. Fayetteville, AR 72701	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Danaher Tool Group/K-D Tools 2900 City Lake Road Fayetteville, AR 72701	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Elkhart Products Corporation PO Box 1129 Fayetteville, AR 72702	Chromium, copper, lead, nickel, zinc, oil & grease
Hiland Dairy Company PO Box 3478 Fayetteville, AR 72702	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease
Marshalltown Tools 2200 Industrial Drive Fayetteville, AR 72701	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Pinnacle Foods Corporation PO Box G Fayetteville, AR 72702	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease
Superior Industries International, Inc. 1901 Borick Drive Fayetteville, AR 72701	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Tyson Foods, Inc. 2615 S. School Fayetteville, AR 72701	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease

Appendix E

VEHICLE AND MOBILE EQUIPMENT DESCRIPTION

Unit #	Unit Description	Year
82	Sykes 6" Pump/Trailer	
320	Ford F-350 SD 4X4 Utility, Crew Cab W/Crane	1999
324	Ford F-350 SD 4X4 Utility, Reg. cab W/Crane	1999
325	Ford F-350 4 X 4, Reg. Cab	2000
339	Ford F-350 4 X 4, Flatbed	2002
340	Ford F-350	2002
551	Ford 3930 Gen Purpose Tractor, 2X4	1995
556	Ford/New Holland 8160 Tractor w/Loader	1997
564	Ford/New Holland 8160 Tractor w/Loader	1999
570	New Holland 8670 Tractor, 145 hp, 4X4	2000
581	Ford/New Holland TS100A Tractor w/NH 52# Front End Loader	2004
582	New Holland 1412 Discbine Mower Conditioner	2004
583	New Holland 740 Round Baler	2004
588	New Holland B940A Large Square Baler	2005
589	New Holland 1412 Discbine Mower Conditioner	2005
644	New Holland 575E Backhoe/Loader	2000
706	IHC S-1900 T/A Dump	1985
741	Mack Tractor	1996
751	Sterling LT9500 Truck	2006
753	Kenworth Semi Tractor	1999
754	Kenworth Semi Tractor	1999
755	Kenworth Semi Tractor	2000
806	Case 1150G Bulldozer, 119 hp	1995
818	Caterpillar P5000LP Forklift	2008
927	Parker, 24' Gooseneck Trailer	1991
959	Bush Hog 2620 Rot. Cutter	1995
966	P.J. Trailer, 18 Ft.	1996
969	LO-Boy, 25T-36FT Trailer	1996
988	Hesston 3982 Wheel Rake	1998
989	M & W DF-12 Wheel Rake	1998
1052	Ford Explorer	1999
1092	Ford Explorer	2002

Appendix E

VEHICLE AND MOBILE EQUIPMENT DESCRIPTION (CONTINUED)

Unit #	Unit Description	Year
2004	Ford Ranger, 4X4	1997
2007	Ford Ranger, 4X4	1997
2103	Ford 150, 1/2 Ton, 4WD, Ext. Cab	2006
5000	New Holland 1412 Discbine	2006
5001	John Deere 6615 Tractor	2007
5002	John Deere 6615 Tractor	2007
5003	New Holland 740 Round Baler	2007
9021	Volvo Penta 400 KW - Trailer Mounted Diesel Generator @ North St PS (LS#8)	2001
9024	Hesston GEHL WR-522 Wheel Rake	2001
9025	Volvo Penta 400 KW - Trailer Mounted Diesel Generator @ Porter Rd PS (LS#9)	2001
9034	Yale 5000# Fork Lift, Solid Tires	2002
9083	Lufkin ULD-38 Trailer	1999
9088	Lufkin ULD-38 Trailer	2006
	Portable Generator for LS	2005
9104	Lufkin ULD-38 Trailer	2004
9105	Lufkin ULD-38 Trailer	2004
9106	Lufkin ULD-38 Trailer	2004
9111	Clement Star-lite Trailer	2009
9124	Thompson 6" Diesel Power Pump/Trailer	2009

Appendix H

THIRTY-DAY CHEMICAL INVENTORY

Chemical	Purpose	30-Day Supply
Liquid Alum	Phosphorus Removal	2,200 Gallons
Liquid Oxygen	Effluent Dissolved Oxygen	15,000 Cubic Ft
Polymer	Belt Filter Press	5,000 Pounds
Sodium Hypochlorite	Odor Control	1500 gallons
Sodium Hydroxide	Odor Control	1500 gallons

Appendix J

COST DETAIL

The annualized estimated costs for calendar year 2009 are as follows:

	<i>Current 2008</i>	<i>Proposed 2009</i>
Direct Labor & Benefits	\$ 2,556,326	\$ 2,273,628
Labor Markup @ 15%	\$ 383,449	\$ 341,044
Other Direct Costs	\$ 2,461,348	\$ 3,377,588
Other Direct Costs Markup @ 10%	\$ 246,135	\$ 337,759
<i>Subtotal</i>	\$ 5,647,258	\$ 6,330,019
Fixed Fee	\$ 118,751	\$ 136,372
Electricity	\$ 865,615	\$ 1,257,197
Lift Station Odor Control	\$ 109,543	\$ 38,602
Capital Item Amortization	\$ 56,520	-
<i>Total Estimated Annualized Budget</i>	\$ 6,797,685	\$ 7,762,190
<i>Net Increase from 2008 to 2009</i>		\$ 964,505

Following are some of the major reasons for cost changes:

1. Improvement in plant operations efficiency has allowed a reduction in operating hours at the Noland WWTP. This reduces the overall labor cost by 12.4%.
2. The \$391,583 increase in electricity includes: \$373,967 additional electrical cost for lift stations (OMI was asked to monitor and pay for electricity from lift stations starting in 2009), an estimated 8% cost increase in electricity, and a full twelve months of electrical expenses from the West Side WWTP.
3. Significant progress on the Wastewater System Improvement Project resulted in a reduction in lift station odor control costs. The declining costs are due largely to net decrease in overall force main detention time related to the shorter pumping distances to the new West Side WWTP
4. The cost of natural gas is expected to increase by about 10% in 2009. The projected \$84,155 increase also includes a full twelve months of natural gas expenses from the West Side WWTP.
5. Landfill tipping fee increases of almost 300% to a total estimated cost of \$765,544 are expected in 2009. The escalation in tipping fee is driven by increase in fuel cost and lack of landfill space

competition.

The following table delineates the cost centers contained in the above-annualized estimated costs:

Category Description	Wastewater Division Administration & SCADA	Noland WWTP O&M (incl. land application site)	West Side WWTP O&M (incl. wetlands mitigation site)	Lab & Industrial Pretreatment Program	Lift Station Maintenance
Direct Labor	380,443	879,847	581,460	238,654	193,223
Labor Markup, 15%	57,066	131,977	87,219	35,798	28,983
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Fixed Fee	136,372				
Totals	978,847	3,303,830	2,270,451	424,122	784,940
Grand Total					7,762,190

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

12-4-08
~~18-Nov-08~~

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

Approval of an ordinance waiving the requirements of formal competitive bidding and approval of a cost share agreement with Park West, LLC in the amount of \$2,157,000.00 for the upgrade of the future location of Highway 112 through Phase I of the Park West Development from two lanes to a four lane boulevard.

\$2,157,000.00

Cost of this request

4520.9520.5809.00

Account Number

06035.1320

Project Number

\$ 23,992,298.00

Category/Project Budget

\$ 4,736,122.23

Funds Used to Date

\$ 19,256,175.77

Remaining Balance

Garland Avenue

(Shiloh to Howard Nickell)

Program Category / Project Name

Street Improvements

Program / Project Category Name

2006A Sales Tax Construction

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐


Department Director

10-31-08
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

11/3/08


Finance and Internal Service Director

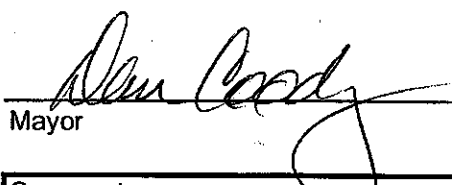
11-3-08
Date

Received in City Clerk's Office

10-31-08
ENTERED
CWO

Received in Mayor's Office

10/31/08
ENTERED
P/P


Mayor

11/4/08
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Date: October 31, 2008

Subject: Approval of an ordinance waiving the requirements of formal competitive bidding and approval of a cost share agreement with Park West, LLC in the amount of \$2,157,000.00 for the upgrade of the future location of Highway 112 through Phase I of the Park West Development from two lanes to a four lane boulevard.

RECOMMENDATION

City staff recommends approval of the ordinance waiving the requirements of formal competitive bidding and approval of a cost share agreement with Park West, LLC in the amount of \$2,127,000.00 for the upgrade of the future location of Highway 112 through Phase I of the Park West Development from two lanes to a four lane boulevard.

BACKGROUND

The Transportation Bond Program currently contains a project to widen Garland Avenue between Fulbright Expressway and Howard Nickell Road to five lanes. In late 2006, the City hired Jacobs Engineering (formally named Carter & Burgess) to perform all of the surveying and engineering design work for the project. In mid -2007, it was determined that the City should place a hold on this project because of the lagging sales tax collections in order to have in place sufficient funds for the remainder of the bond projects including the projects that are being managed by the Arkansas Highway and Transportation Department. To date, the City has spent \$144,400 on the engineering that occurred prior to placing the Garland widening project on hold.

DISCUSSION

The City was approached by representatives of the Paradigm Development Company on a concept that would re-route Garland Avenue diagonally across its property north of the Sam's Club as shown on the attached exhibits. This route would eliminate the two ninety degree bends on Highway 112 at the Howard Nickell Road intersections. The concept was brought forward to the Street Committee for consideration and after several meetings, the concept was forwarded to the full City Council on June 23, 2008 with a

favorable recommendation on the route change on the condition that an acceptable funding source be brought forward for consideration.

After reviewing the available funding options for the relocation project, it was determined that the same methodology that was utilized for the CMN Business Park cost shares should be utilized in this instance. In the CMN Business Park, Steele Boulevard and Van Asche Boulevard were widened to a four lane boulevard and the City and Developer both paid fifty percent of the construction. In the case of the Park West development, it was determined that there are insufficient funds available to construct the entire route through the development and that it could be split into different phases in conjunction with the build-out of the development.

The following is a summary of the Engineering and Construction costs for this street upgrade as was estimated by the Paradigm Development Company's engineer:

Developer's Share	\$ 2,157,000
City's Share	<u>\$ 2,157,000</u>
Total	\$ 4,314,000

These costs do not include any costs for the streets offsite of the main route. The other streets will be the responsibility of the land developer.

BUDGET IMPACT

The Transportation Bond Program included \$3,517,600 for the widening of Garland Avenue between Fulbright Expressway and Howard Nickell Road. The City has currently spent \$144,400 on engineering which leaves a remainder of \$3,373,200 budgeted within the Bond Program.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE AGREEMENT WITH PARK WEST, LLC IN THE AMOUNT OF \$2,157,000.00 FOR THE UPGRADE OF THE FUTURE LOCATION OF HIGHWAY 112 THROUGH PHASE 1 OF THE PARK WEST DEVELOPMENT FROM TWO LANES TO A FOUR-LANE BOULEVARD.

WHEREAS, the City of Fayetteville desires to relocate and expand a portion of Highway 112 from a two-lane road to a four-lane boulevard; and,

WHEREAS, entering into a cost-share agreement with Park West, LLC and utilizing their engineer and contractor to upgrade this portion of Highway 112 will avoid the added cost and unnecessary duplication of effort which would arise from the formal competitive bidding process.

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 finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding to approve a cost-share with Park West, LLC in the amount of \$2,157,000.00 for the upgrade of the future location of Highway 112 through Phase 1 of the Park West Development from two lanes to a four-lane boulevard.

PASSED and APPROVED this 18th day of November, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

CONTRACTUAL AGREEMENT

This Agreement, made and entered into on _____, by and between the City of Fayetteville, Arkansas and Park West, LLC, Witnesseth:

WHEREAS, Park West, LLC will be constructing a portion of a transportation corridor through Phase I of the Park West development that will replace Highway 112 (Garland Avenue) in the future when all Phases are complete; and

WHEREAS, The City of Fayetteville passed a Transportation Bond program that included funds for the widening of Garland Avenue; and

WHEREAS, The City of Fayetteville's Street Committee has recommended that the route of the existing Highway 112 be realigned through the Park West property in order to eliminate two dangerous ninety degree bends; and

WHEREAS, it will benefit the City of Fayetteville to widen this new route at the same time as the street segment is being built by Park West, LLC.

NOW, THEREFORE, the City of Fayetteville and Park West, LLC agree as follows:

1. Upon the City Council and/or the Mayor approving the Street Cost-Share, the City of Fayetteville agrees to:
 - A. Pay for 50% of the new Highway 112 boulevard section up to a maximum-not-to-exceed amount of \$2,157,000.00 for the afore mentioned street construction as was estimated by the developer's engineer.
 - B. Make all efforts to provide payment to Park West, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
2. Park West, LLC agrees to:
 - A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable street installation.
 - B. Provide a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor upon acceptance of the street construction.
3. It is further understood that the contract for construction is between Park West, LLC and their Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$2,157,000.00 for the street construction.

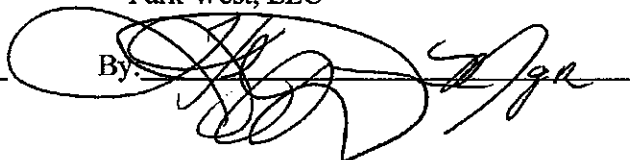
**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

Park West, LLC

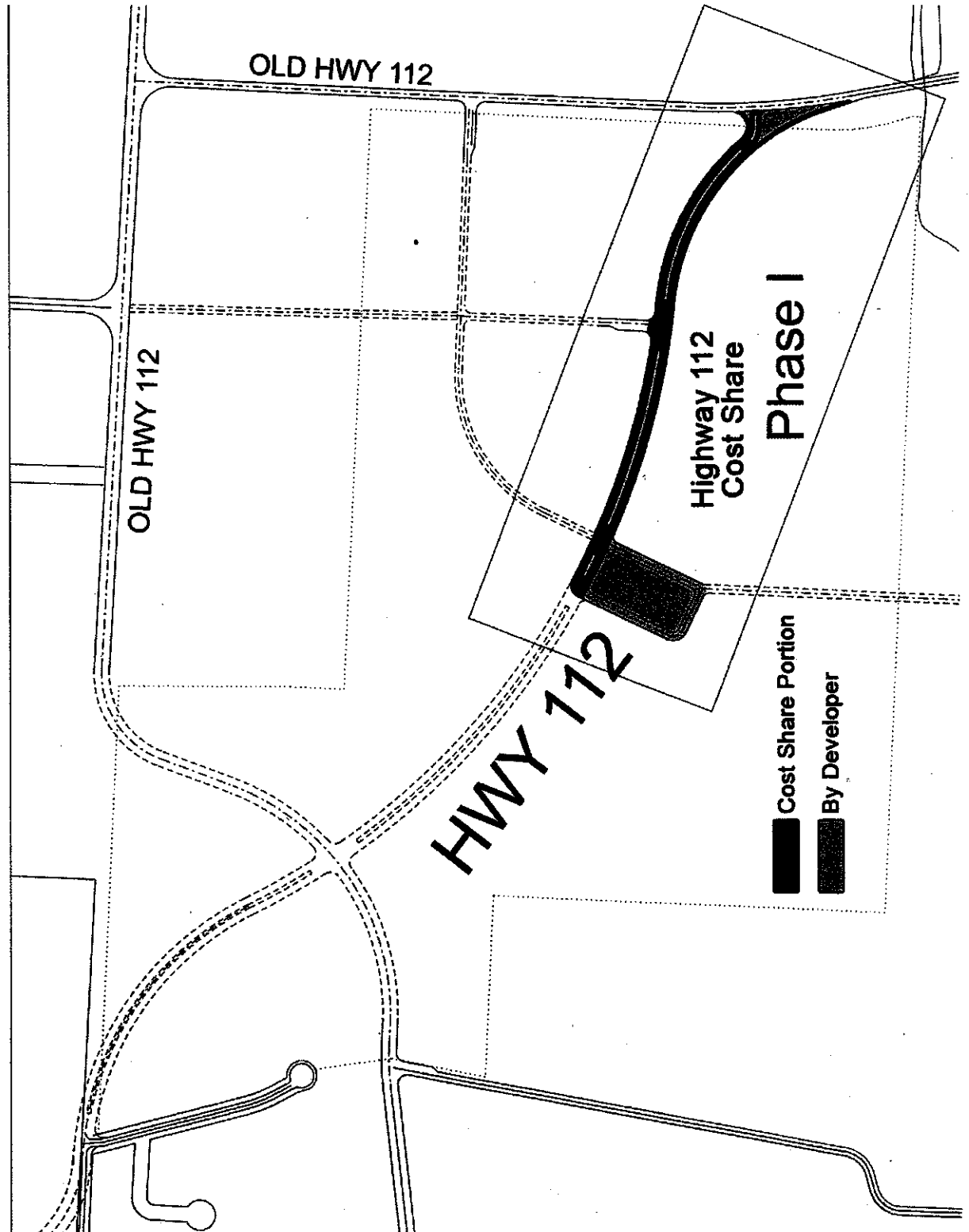
By: _____
DAN COODY, Mayor

By: _____

A large, stylized handwritten signature in black ink, likely belonging to a representative of Park West, LLC, is written over the signature line.

ATTEST:

By: _____
SONDRA SMITH, City Clerk



New Highway 112 Relocation Project
Estimate of Project Costs

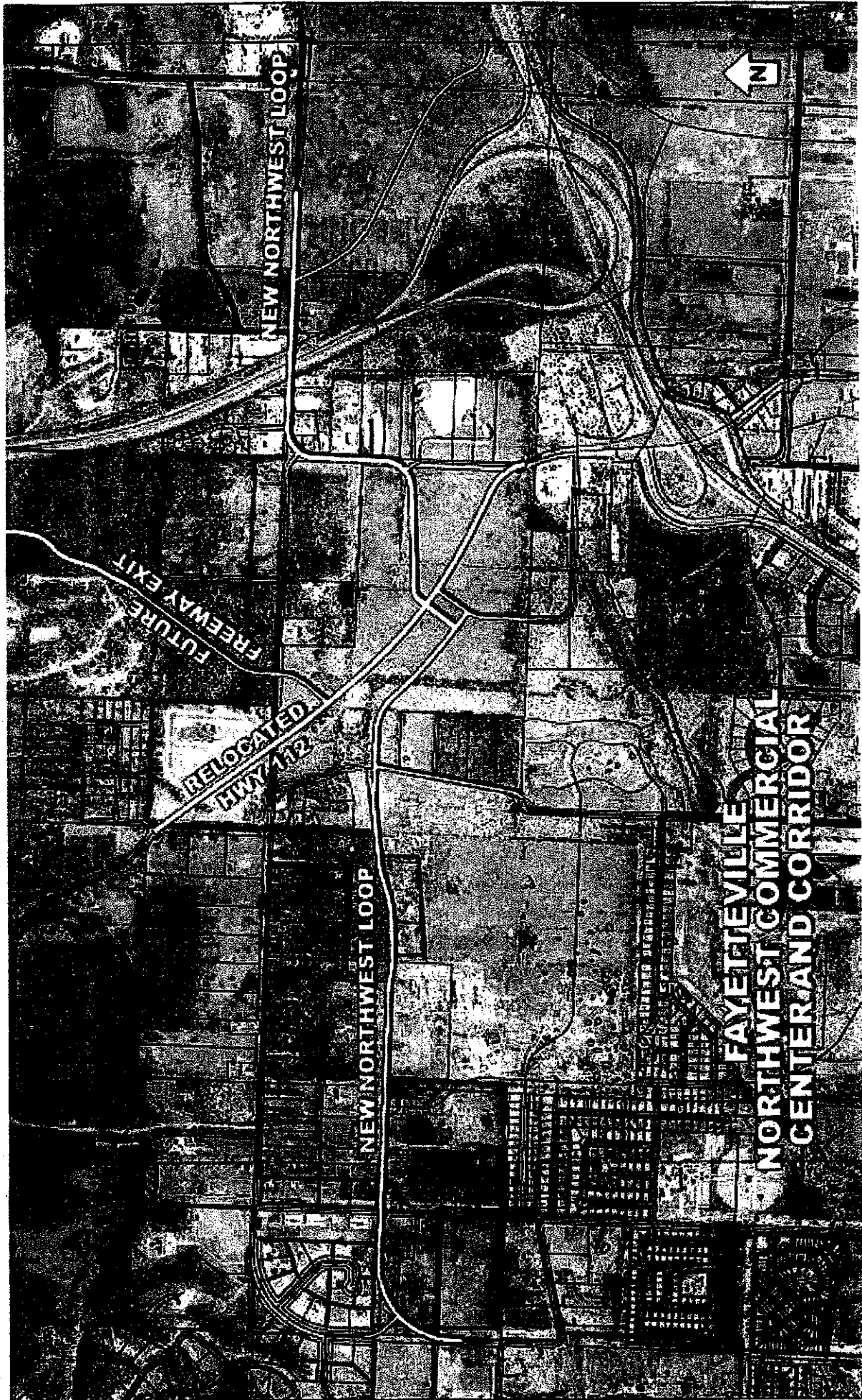
C. 2
Park West, LLC
Engineer - McKeehan Engineering 9/17/2008
Cost Share
Page 8 of 12

STREET AND DRAINAGE	
I - TOPSOIL EXCAV, C & G	
ITEM	
One Foot Covering (padding-side removal)	\$32,948.37
On-site placement/compaction of fill material (C/G) (1.5')	\$788,247.55
Underlay (up to 20" avg)	\$132,883.70
SUBTOTAL	\$954,079.62
II - A. CURB AND GUTTER	
ITEM	
2' wide standard concrete curb & gutter	\$169,871.94
SUBTOTAL	\$169,871.94
II - B. PAVEMENT SECTION	
ITEM	
Subgrade Preparation	\$15,946.04
Asphalt Base (70-22) (1.5' Base Course) (1.5' Base) (3" Curbside)	\$1,028,973.40
Regular Duty Asphalt (2" Asphalt over 6" Class 7 Base)	\$81,884.42
Jack Coat (0.10 gal/sy)	\$3,957.59
Prime Coat (0.03 gal/sy)	\$1,486.47
Base Slurry (Thermoplastic 47)	\$13,151.38
Cross Walks striping and bars	\$3,444.41
SUBTOTAL	\$1,149,843.71
III - SIDEWALKS	
ITEM	
Concrete sidewalk with MC ramps	\$97,417.60
SUBTOTAL	\$97,417.60
IV - STORM SEWER PIPE CONST.	
ITEM	
18" RCP	\$62,469.04
24" RCP	\$13,898.95
30" RCP (Park West Phase 1B area crossing)	\$33,204.62
42" RCP (Relocate Hwy 112 Crossing at Existing Hwy 112)	\$0.00
12" 5X10 RCP Culvert (East end of project existing 112)	\$0.00
Concrete Channel Lining (Park West Area)	\$0.00
Bridging Structures over SZ	\$350,000.00
SUBTOTAL	\$458,373.00
V - STORM INLETS/JUNC. BOXES	
ITEM	
Curb Inlet	\$48,795.78
Rip Rap	\$2,381.95
4" Inlet Extension (average of 12 total inlet length)	\$8,132.63
SUBTOTAL	\$59,326.36
VI - INST. PIPE END SECTIONS	
ITEM	
Endwall (West End of relocated 112)	\$7,828.20
SUBTOTAL	\$7,828.20
PART A - Streets and Drainage	\$2,886,733.43
DISCREPANCIES	
I - MISC. CONSTRUCTION ITEMS	
ITEM	
Mobilization	\$175,000.00
Right of Way Acquisition (approx. 811,300 SF new 112)	\$416,000.00 \$0.00
Right of Way Acquisition (approx. 100,000 SF old 112 to Salem Rd)	n/a
Engineering & Surveying Fees (approximate)	\$169,200.00
Permitting (DOE, AHD, ADEQ, City of Fayetteville)	\$2,500.00
Intersection Signalization	\$150,000.00
Maintenance of Traffic	\$18,000.00
Remove & Dispose Asphalt Paving	\$3,103.33
Street Lights	\$22,832.25
Culvert Crossing (4" PVC)	\$9,312.00
SUBTOTAL	\$1,365,853.47
II - LANDSCAPING	
ITEM	
Landscaping (incl street trees, wetlands)	\$264,600.00
SUBTOTAL	\$264,600.00
III - EROSION CONTROL	
ITEM	
6" Fences	\$17,587.20
Reef Rock (parallel to existing ditch)	\$15,405.00
Erosion Protection	\$2,857.32
SUBTOTAL	\$35,849.52
IV - RE-VEGETATION	
ITEM	
Seeding (Meadow, etc.)	\$3,821.10
SUBTOTAL	\$3,821.10
Subtotal	\$3,751,053.63
15% Contingency	\$562,946.37
Grand Total	\$4,314,000.00

\$3,751,053.63

\$562,946.37

\$4,314,000.00



ARKANSAS STATE HIGHWAY COMMISSION



JONATHAN BARNETT
CHAIRMAN
SILOAM SPRINGS

CARL S. ROSENBAUM
VICE CHAIRMAN
LITTLE ROCK

R. MADISON MURPHY
EL DORADO

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-2261
PHONE (501) 569-2000 FAX (501) 569-2400
WWW.ARKANSASHIGHWAYS.COM

JOHN ED REGENOLD
ARMOREL

CLIFF HOOFFMAN
NORTH LITTLE ROCK

DAN FLOWERS
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

January 4, 2008

RECEIVED

JAN 08 2008

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

The Honorable Dan Coody
Mayor of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mayor Coody:

Reference is made to your recent letter regarding a conceptual proposal for the relocation of Highway 112 north of Interstate 540.

Department staff has reviewed the proposal and found it to be acceptable from a conceptual standpoint. However, there are some issues that we need to bring to your attention.

Previously, the City had proposed widening existing Highway 112 from Interstate 540 north at no cost to the State. This latest proposal includes the possibility of developing a cost sharing agreement that would include State funds. Be advised that all Federal-aid and State highway funds have been allocated in the current Statewide Transportation Improvement Program. Therefore, there are no Federal-aid or State funds available at this time for cost sharing for this project.

This current proposal would relocate Highway 112 away from the Department's Resident Engineer's Office and the Area Maintenance Headquarters located on existing Highway 112. Access to the relocated highway would need to be maintained from these facilities. In addition, the City would have to commit to maintaining the portion of existing Highway 112 that would be functionally replaced by the proposed project. The Department would maintain the relocated section as Highway 112.

You should be aware that the Arkansas Darter, a candidate species for listing as threatened or endangered, is located in Clabber Creek and associated spring runs. Existing Highway 112 crosses Clabber Creek near the southern end of the proposed relocated section. Also, it has been reported that the creek has

ARKANSAS STATE HIGHWAY COMMISSION
Little Rock, Arkansas

Mayor Dan Coody
January 4, 2008
Page Two

overtopped the highway at this southern end. On the north end, the project appears to be located through a newly platted subdivision at the northeast corner of Howard Nickell Road and Highway 112.

These items will need to be considered during project development. It is requested that the City coordinate with the Department throughout the planning, environmental, and design phases of this project so that we can be assured that all issues are properly addressed prior to the City proceeding with construction of the proposed relocation.

Your interest in improving the transportation system in Northwest Arkansas is appreciated. I look forward to working with you and the City of Fayetteville in this effort.

Sincerely,


Jonathan Barnett
Chairman

c: Director
Deputy Director and Chief Engineer
Assistant to the Director
Assistant Chief Engineer-Planning
Assistant Chief Engineer-Design
Programs and Contracts
Environmental
Planning and Research
Roadway Design
District 4
Northwest Arkansas Regional Planning Commission

City of Fayetteville Staff Review Form

C. 3
RZN 08-3131 (Nall)
Page 1 of 16

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

12/2/2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 08-3131: (Nall, 404): Submitted by Marty and Laura Nall for property located at 1211 West James Street, southwest of Garland and Mount Comfort. The property is zoned RMF-24, Residential Multi-Family, 24 units per acre, and contains approximately 0.66 acres. The request is to rezone the subject property to R-O, Residential Office.

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

11-13-08
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

11-14-08
Date

Original Contract Date:

Original Contract Number:

Paul a. Beck
Finance and Internal Service Director

11-17-08
Date

Received in City
Clerk's Office

ENTERED
11-13-08

[Signature]
Mayor

11/14/08
Date

Received in
Mayor's Office

ENTERED
11/14/08
TH

Comments:

City Council Meeting of December 2, 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: November 13, 2008

Subject: Rezoning for Nall (RZN 08-3131)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property from RMF-24, Residential Multi-Family, 24 units/acre to R-O, Residential Office located at 1211 James Street.

BACKGROUND

The property, containing approximately 0.66 acre, is located west of the Garland and Mount Comfort intersection and north of the Harp's grocery store. The subject property contains one commercial structure constructed in 1970, according to the Washington County property data. In 1999, the Planning Commission approved the applicant's conditional use request to operate a professional office in the RMF-24 zoning district.

The applicant proposes to rezone the property from RMF-24, Residential Multi-Family, 24 units/acre, to R-O, Residential Office, in order to utilize the existing office building and to allow for the opportunity to request Planning Commission approval of a conditional use permit to operate other uses that are found to be compatible with the surrounding area, such as retail or a salon.

Staff finds in favor of the zoning request, finding that the proposed zoning would be compatible with adjacent zoning, existing and approved surrounding developments, and the future land use plan to provide low intensity nonresidential uses to serve the surrounding residential uses. Staff also finds that the request will allow the applicant to utilize the office building, which was allowed to be constructed on the subject property in 1970, without Planning Commission approval of a change of use. Furthermore, staff finds that the request will not have an adverse affect on adjacent and surrounding uses, as the property has been utilized as a professional office and church in the past.

DISCUSSION

This item was heard at the regular Planning Commission meeting on November 10, 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 08-3131, FOR APPROXIMATELY 0.66 ACRES, LOCATED AT 1211 WEST JAMES STREET, SOUTHWEST OF GARLAND AND MOUNT COMFORT FROM RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, TO R-O, RESIDENTIAL OFFICE

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

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

From RMF-24, Residential Multi-Family, 24 units per acre to R-O, Residential Office, 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

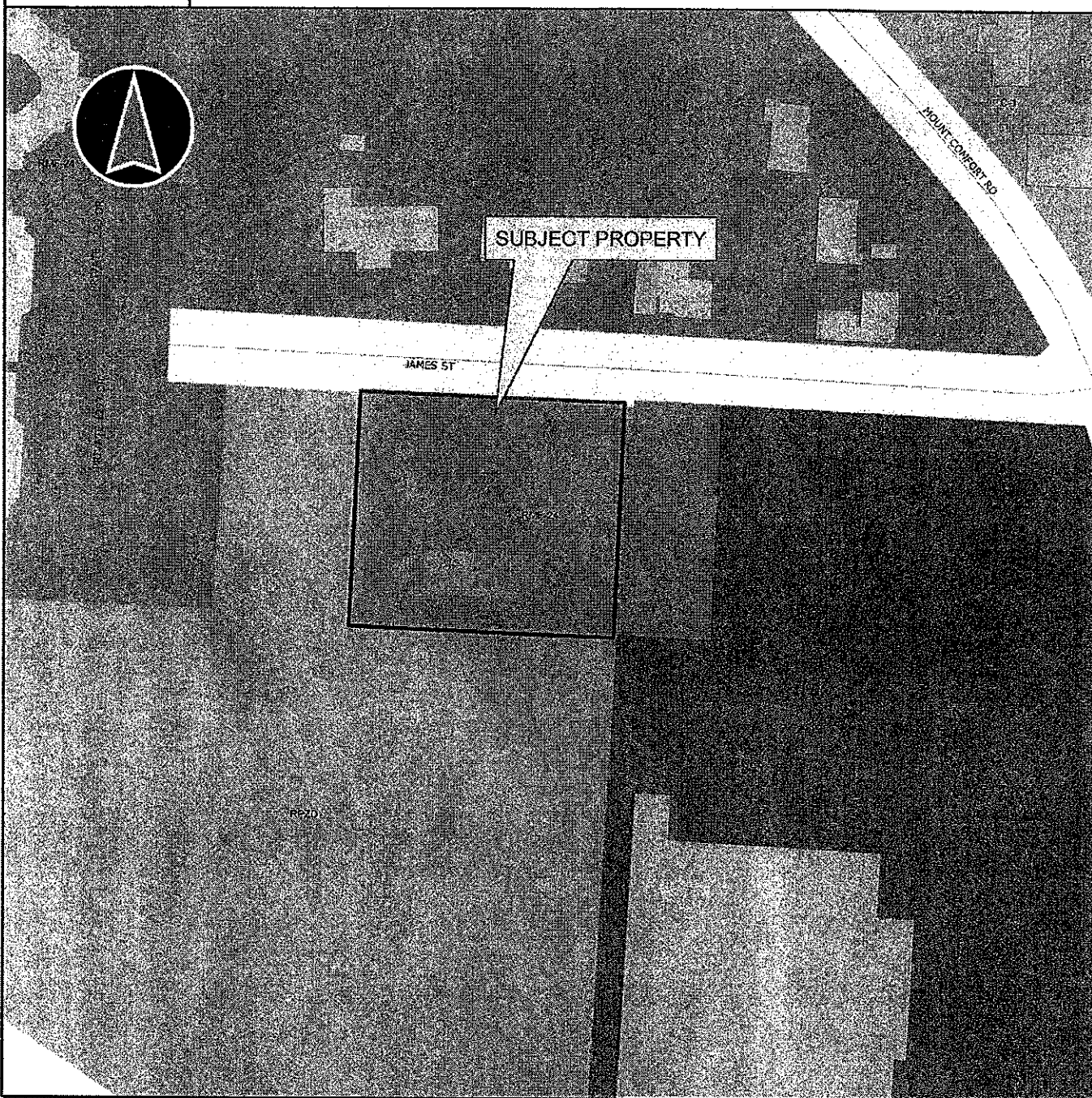
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN08-3131

NALL / JAMES STREET

Close Up View



Overview

Legend	Color
State Route	Red
County Road	Blue
Water	Light Blue
Forest	Dark Green
Urban	Light Grey
Suburban	Medium Grey
Rural	Dark Grey
Unimproved Land	White
Highway Right-of-Way	Thick Red Line
County Road Right-of-Way	Thick Blue Line
Water Right-of-Way	Thick Light Blue Line
Forest Right-of-Way	Thick Dark Green Line
Urban Right-of-Way	Thick Light Grey Line
Suburban Right-of-Way	Thick Medium Grey Line
Rural Right-of-Way	Thick Dark Grey Line
Unimproved Land Right-of-Way	Thick White Line
Highway Right-of-Way	Thick Red Line
County Road Right-of-Way	Thick Blue Line
Water Right-of-Way	Thick Light Blue Line
Forest Right-of-Way	Thick Dark Green Line
Urban Right-of-Way	Thick Light Grey Line
Suburban Right-of-Way	Thick Medium Grey Line
Rural Right-of-Way	Thick Dark Grey Line
Unimproved Land Right-of-Way	Thick White Line

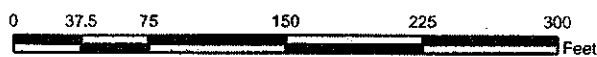


EXHIBIT "B"
RZN 08-3131

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION EIGHT (8), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID 40 ACRE TRACT; THENCE SOUTH 759.00 FEET; THENCE WEST 4361.4 FEET TO A CONCRETE MONUMENT AT THE SOUTHWEST CORNER OF LOT NUMBERED TEN (10) OF MCCORMICK ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE TRUE POINT OF BEGINNING; THENCE NORTH 160.00 FEET TO A SET IRON ON THE SOUTH RIGHT-OF-WAY OF JAMES STREET; THENCE SOUTH 89 DEGREES 49 MINUTES 20 SECONDS WEST ALONG SAID RIGHT-OF-WAY 180.00 TO A SET IRON; THENCE SOUTH 160.00 FEET TO A SET IRON; THENCE NORTH 89 DEGREES 49 MINUTES 20 SECONDS EAST 180.00 FEET TO THE POINT OF BEGINNING.



PC Meeting of November 10, 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: October 30, 2008 Updated November 13, 2008

RZN 08-3131: (NALL / JAMES STREET, 404): Submitted by MARTY & LAURA NALL for property located at 1211 W. JAMES ST., SW OF GARLAND AND MT COMFORT. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 0.66 acres. The request is to rezone the subject property to R-O, Residential Office.

Planner: Dara Sanders

BACKGROUND:

Property Description: The property, containing approximately 0.66 acre, is located west of the Garland and Mount Comfort intersection and north of the Harp's grocery store. The subject property is contains one commercial structure constructed in 1970, according to the Washington County property data. In 1999, the Planning Commission approved the applicant's conditional use request to operate a professional office in the RMF-24 zoning district.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single family	RMF-24, Residential Multi-Family, 24 units/acre
South	Harp's, undeveloped	C-1, Neighborhood Commercial, C-2, Thoroughfare Commercial, R-PZD 05-1776 (Wedington Circle)
East	Undeveloped	C-2, Thoroughfare Commercial
West	Multi-family student housing	RMF-24, Residential Multi-Family, 24 units/acre

Proposal: The applicant proposes to rezone the property from RMF-24, Residential Multi-Family, 24 units/acre, to R-O, Residential Office, in order to utilize the existing office building and to allow for the opportunity to request Planning Commission approval of a conditional use permit to operate other uses that are found to be compatible with the surrounding area, such as retail or a salon.

Public Comment: Staff has not received public comment.

Discussion: Staff finds in favor of the zoning request, finding that the proposed zoning would be compatible with adjacent zoning, existing and approved surrounding developments, and the future land use plan to provide low intensity nonresidential uses to serve the surrounding residential uses. The R-O zoning district is typically utilized as a transition between intense commercial uses and

residential uses. Rezoning the subject property from RMF-24 to R-O would provide that necessary transition from the adjacent C-2, Thoroughfare Commercial, zoning district to the east and south and the single- and multi-family uses to the north and west. Staff also finds that the request will allow the applicant to utilize the office building, which was allowed to be constructed on the subject property in 1970, without Planning Commission approval of a change of use. Furthermore, staff finds that the request will not have an adverse affect on adjacent and surrounding uses, as the property has been utilized as a professional office and church in the past.

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 James Street. James Street is a paved two lane city street. Street improvements will be evaluated at the time of redevelopment.

Water: Public water is available to the property. There is a 6" main along James Street..

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

Drainage: Standard improvements and requirements for drainage will be required for redevelopment. 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 0.5 mile from the station with an anticipated response time of 2 minutes. The Fire Department anticipates that there will be 1-2 EMS calls for service per year with this type of development. 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 not 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 rezoning the property to R-O, Residential Office, adjacent to the C-2, Thoroughfare Commercial zoning district, is appropriate at this location as the existing structure has proven to be compatible with the surrounding area since it was constructed in 1970.*

FINDINGS OF THE STAFF

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

Finding: The proposed R-O zoning is consistent with the City's City Neighborhood Area land use designation to encourage low intensity, nonresidential development. Should the rezoning request be approved, the subject property could provide nonresidential uses within walking distance from the adjacent multi-family development to the west (Garden Park Apartments) and the single- and two-family dwellings to the north, as well as the other surrounding residential neighborhoods.

Staff finds that the proposal complies with Goal 2 to discourage sprawl with compact and medium-density development that utilizes existing city infrastructure and is adjacent to a large commercial node (the Wedington and Garland intersection) that include uses that are more intense than those proposed by the applicant.

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. The commercial structure was constructed in 1970, prior to the City's current zoning requirements. In 1999, the Planning Commission granted the applicant's request for a conditional use permit to operate a professional office at the subject property, which has proven to be compatible with the surrounding uses, as staff has not received complaints. Staff finds that the low-intensity uses allowed by the R-O zoning district would contribute services that are necessary for a sustainable neighborhood and the Wedington/Garland commercial node. Staff also finds that the request will allow the applicant to utilize the office building, which was allowed to be constructed on the subject property in 1970, without Planning Commission approval of a change of 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 RMF-24 to R-O would create an increase in traffic compared with that allowed under the existing zoning. However, the property has been utilized as a Professional Office for several years without reports of complaint, and the adjacent property to the west, Garden Park Apartments, contains 188 dwelling units that can be accessed from James Street. Staff finds that the proposed zoning would not create or appreciably increase traffic danger and congestion.

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.

From: "Marty Nall" <MTN123@pgtc.com>
To: "Dara Sanders" <dasanders@ci.fayetteville.ar.us>
Date: 11/3/2008 8:50 PM
Subject: Re: 1211 James Street

This property has been vacant about 2 months . I'll okay to change the zoning request to R/O since I have no other options . Original Message -----

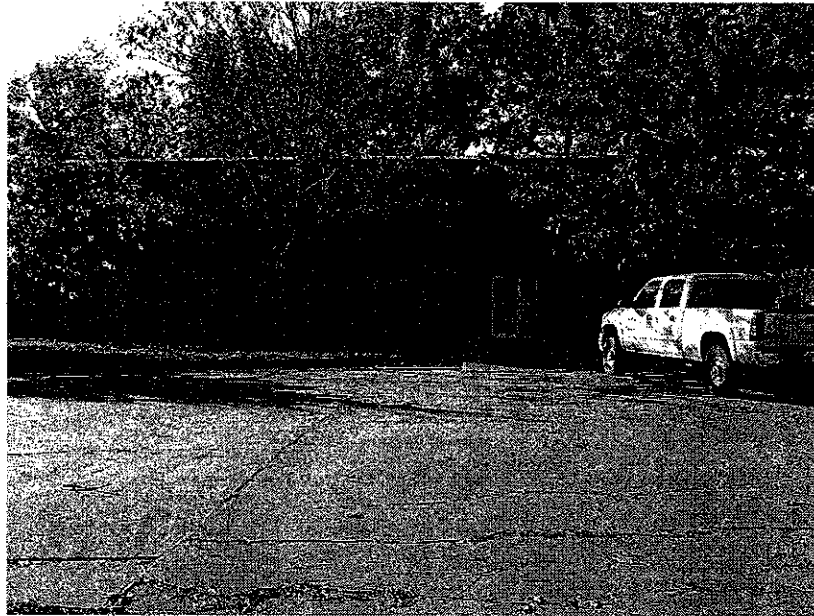
From: "Dara Sanders" <dasanders@ci.fayetteville.ar.us>
To: <mtn123@pgtc.com>
Sent: Thursday, October 30, 2008 12:22 PM
Subject: 1211 James Street

Marty,

How long has the property been vacant?

Dara Sanders
Planning Division
City of Fayetteville

RZN 08-3131 (Nall)



Existing office building



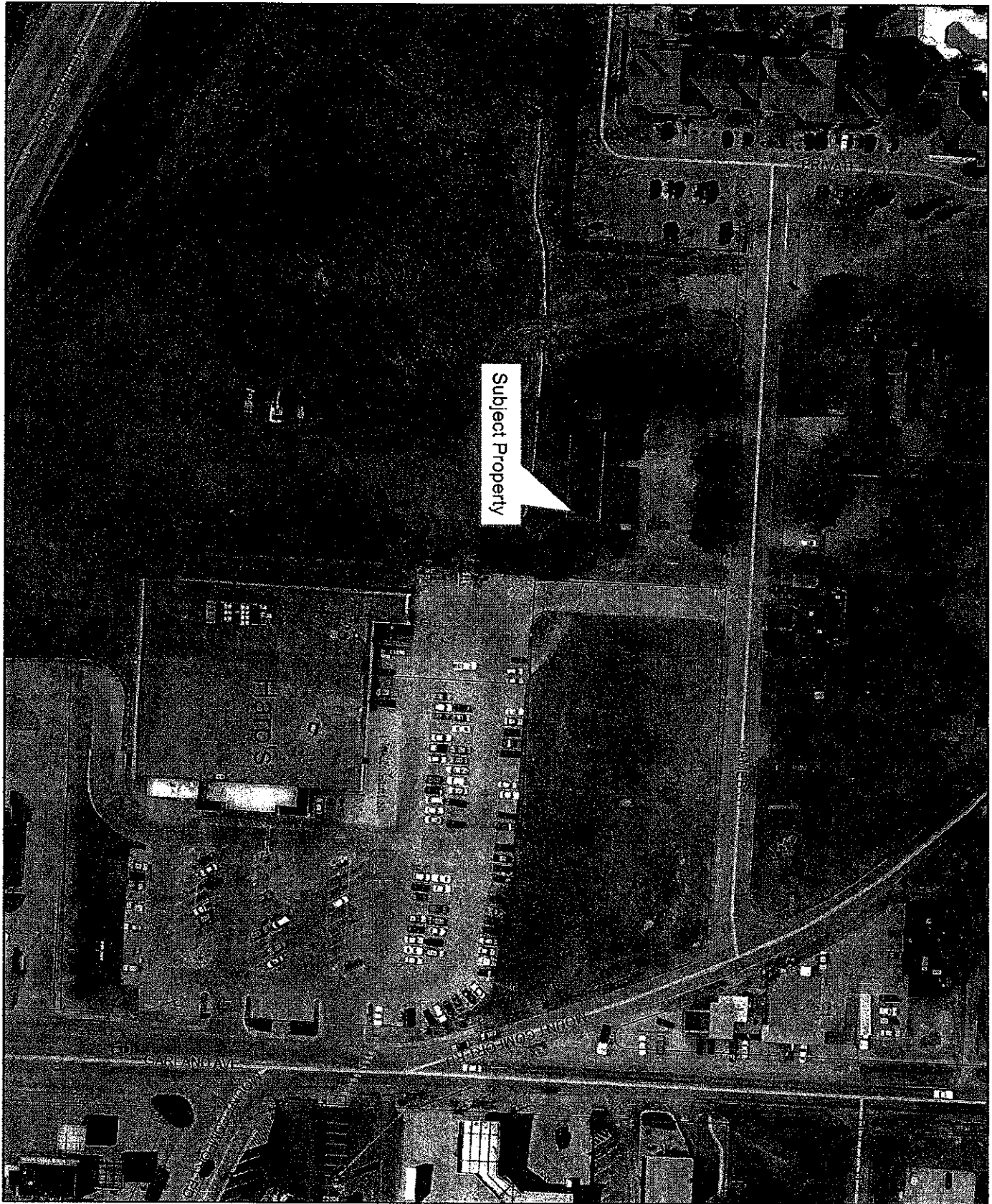
Garden Park Apartments to the west



Single-family dwellings to the north



Vacant property zoned C-2, Thoroughfare Commercial, and the Harp's parking lot to the east and south east.



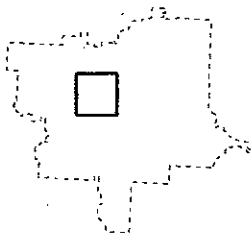
RZN08-3131

NALL/JAMES STREET

One Mile View



Overview



Legend

Subject Property

RZN08-3131

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

RZN08-3131

NALL/JAMES STREET

Future Land Use

SUBJECT PROPERTY

JAMES ST

MOUNT COMFORT RD

Legend

Future Land Use (2028)

Future Land Use 2028

Future Land Use

Future Land Use

Future Land Use

Future Land Use

Future Land Use

Future Land Use

Future Land Use

Future Land Use

Future Land Use

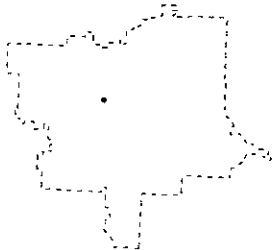
Future Land Use

Future Land Use

Future Land Use

Future Land Use

Overview



Legend

Subject Property

RZN08-3131

Boundary

Planning Area

Overlay District

Outside City

Streets

Existing

Planned

Legend

0 37.5 75 150 225 300 Feet

City of Fayetteville Staff Review Form

C. 4
C-PZD 08-3121
(Core Pet Wellness)
Page 1 of 36

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

12/2/2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 08-3121: Planned Zoning District (Core Pet Wellness, 292): Submitted by Blew and Associates, Inc. for property located at 2406 North Old Wire Road containing approximately 0.58 acres. The request is for zoning and land use approval of a Commercial Planned Zoning District for a veterinarian's office in the existing single family residential structure.

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]

11-14-08

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]

11-16-08

City Attorney

Date

Received in City
Clerk's Office

11-14-08

Paul A. Behr

11-17-08

Finance and Internal Service Director

Date

Received in
Mayor's Office

11/17/08
[Signature]

[Signature]

11/14/08

Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

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

Date: November 13, 2008

Subject: Commercial Planned Zoning District for Core Pet Wellness (C-PZD 08-3121)

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance creating a Commercial Planned Zoning District (C-PZD) for Core Pet Wellness, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a veterinarian's office on approximately 0.58 acres.

BACKGROUND

The 0.58-acre property is located at the northeast corner of Old Wire Road/Township Street. The intersection of Old Wire Road and Township Street is a very busy signalized intersection at the crossroad of two collector streets providing major north-south and east-west connectivity through north-central Fayetteville. The property is zoned RSF-4, and is developed for one single family residence that is very close to the street, addressed at 2406 Old Wire Road. The large yard on the site has a large number of mature trees and underbrush on the perimeter property lines. The property is in the immediate vicinity of Gulley Park, a 27-acre community park.

The applicant requests rezoning and land use approval of a Commercial Planned Zoning District (C-PZD) to allow for a veterinary clinic on the property. The clinic would utilize the existing house on the property. The hours of operation would be between 7:30 AM and 5:30 PM. The maximum number of employees would be five over two phases of development. Animals seen in the clinic would be small animals only, not livestock such as horses or cattle. The services would involve animal surgeries and health care, and will not permit kenneling/boarding of animals. All animals would be kept indoors.

DISCUSSION

The Planning Commission voted 7-0-0 in favor of this request on November 10, 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 COMMERCIAL PLANNED ZONING DISTRICT TITLED C-PZD 08-3121 (CORE PET WELLNESS) LOCATED AT 2406 NORTH OLD WIRE ROAD, CONTAINING APPROXIMATELY 0.58 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From RSF-4, Residential Single Family, 4 units per acre to C-PZD 08-3121, Core Pet Wellness, 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"

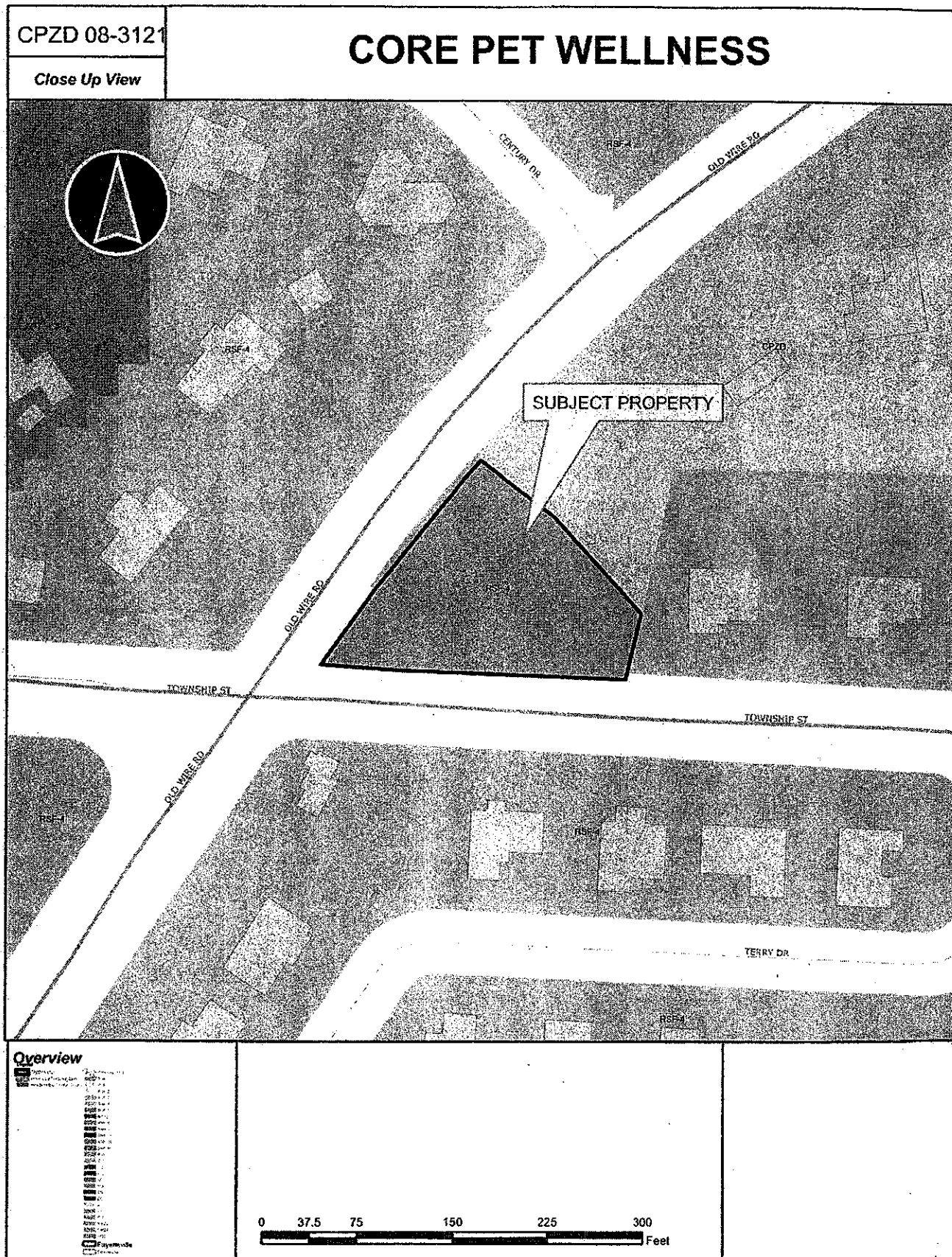


EXHIBIT "B"
C-PZD 08-3121

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST CORNER, SOUTHWEST CORNER, AND RUNNING THENCE N88°21'00"W 275.73 FEET, THENCE N12°08'51"E 30.58 FEET TO THE POINT OF BEGINNING, THENCE N89°01'28"W 176.81 FEET, THENCE N87°28'10"W 63.90 FEET, THENCE N34°24'36"E 67.88 FEET, THENCE N37°09'53"E 116.22 FEET, THENCE N40°22'21"E 20.75 FEET, THENCE S53°46'55"E 72.79 FEET, THENCE S43°28'24"E 103.38 FEET, THENCE S12°08'51"W 53.42 FEET TO THE POINT OF BEGINNING CONTAINING 0.58 ACRES MORE OR LESS.

CONDITIONS OF APPROVAL:

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Conditions of approval for C-PZD 08-3121 (Core Pet Wellness)

1. Street improvements. Township Street has been improved and Old Wire Road has been widened through the intersection, but does not have a sidewalk. *Prior to issuance of a building or construction permit the applicant shall pay an assessment for a 5-foot sidewalk along the project's Old Wire Road frontage. Based on UDC requirements of \$3/square foot of sidewalk and a total of 205 feet of frontage staff recommends an assessment amount of \$3,075.00.*
(205 ft. x 5-ft. sidewalk x \$3/sq.ft.= \$3,075.00)
2. Determination of access.
 - a. Phase I. During Phase I the applicant proposes to utilize the existing access points off of Old Wire Road and Township Street. Due to the minimal amount of vehicle trips that would access the property during this phase, staff does not feel that it is warranted to require the access on Township to be removed. However, due to the driveway's close proximity to the Old Wire/Township intersection and hilly terrain and sight issues, *staff does recommend that the driveway on Township be permitted for an exit only. Prior to opening for business the applicant shall install a sign for the driveway on Township indicating Do Not Enter or Exit Only.*
 - b. Phase II. During Phase II the applicant proposes to move the driveway on Township to the east 250 feet away from the intersection. *Staff recommends in favor of the access as proposed in Phase II, finding that the distance of the driveway from the intersection allows for adequate sight and turning movements.*
3. Determination of compatibility with City Plan 2025 and existing surrounding land uses. Staff finds that the proposed use of the site for a small animal veterinary clinic in the existing single family residential house is compatible with the surrounding residential neighborhood and two adjacent small-scale non-residential uses. This proposed project encourages infill and redevelopment of an existing corner lot at a busy intersection, consistent with the City Plan 2025, while maintaining the integrity of the surrounding residential neighborhood. *Staff finds that the proposed C-PZD would be compatible with surrounding land uses and zoning and the City Plan 2025 with the following conditions:*
 - a. *To improve the appearance of this property from the surrounding streets and to provide additional buffer between the proposed use and surrounding residences, the fenced in area for dogs to be walked shall be located away from the street and more interior to the property. The fence materials shall be a 6-foot wrought iron/decorative metal material.*
THE PLANNING COMMISSION RECOMMENDED IN FAVOR OF THE FENCE LOCATION PROPOSED BY THE APPLICANT, ADJACENT TO TOWNSHIP (11/10/08).
 - b. *To prevent views of deceased animals from adjacent properties, any deceased animals leaving the vet clinic shall be carried out to owners' vehicles in a crate, box, or other container.*
4. The zoning criteria for "Landscaping" on the plat should be revised to be consistent with the language in the booklet.
5. The maximum number of employees at any given time during Phase I shall be four (4) and during Phase II shall be five (5). One veterinarian shall be permitted during Phase I and two (2) veterinarians (one full-time and one part-time) shall be permitted during Phase II as described in the PZD booklet.
6. Prior to development of Phase I and Phase II this project will be required to go through the Site Improvement Plan (SIP) review, including an abbreviated tree preservation plan, landscape plan, parking lot permit, grading/drainage permit, as determined by staff and in accordance with the Fayetteville Unified Development Code.

CONDITIONS OF APPROVAL:

C-PZD 08-3121

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7. As part of the parking lot permit review, the existing driveways (in Phase 1) may require improvements to be brought up to code with standard driveway requirements for a single family residence including a concrete apron within the right-of-way and a greater curb return radius. This may result in slight relocation and reconstruction of the driveway, based on City ordinance.
8. Prior to issuance of a certificate of zoning compliance or Certificate of Occupancy, verification shall be provided from the applicant to the Planning Division that the structure has met City of Fayetteville Fire Department requirements and any requirements under the review of the Fayetteville Animal Services Division.
9. Expansions on the property shall be limited to providing a veterinary clinic as indicated on the PZD site plan and booklet with a maximum of 10 parking spaces and 2,200 square feet of non-residential space.
10. Any expansion of the residential structure on the property shall be reviewed by Planning staff to ensure that the architectural style is consistent and compatible with the existing house.
11. All trash receptacle(s) utilized by this structure shall be stored within the structures on-site, or, if located outside, it shall be screened on all sides with access not visible from the street or adjacent properties. If a dumpster is required or proposed, screening shall be provided that is constructed of materials that are compatible with and complimentary to the building. If applicable, staff shall review any dumpster screen or materials prior to building permit.
12. A Certificate of Zoning Compliance shall be required prior to the start of operations of the veterinary clinic.
13. As indicated in the proposed zoning criteria, signage shall be limited to one wall sign on the house (maximum of 16 square feet) and one freestanding sign (monument sign only, maximum of 4 square feet, set back 15 from the right-of-way), in accordance with Chapter 174 of the Unified Development Code for Residential Office (R-O) Districts.
14. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
16. Impact fees for police, fire, water, and sewer shall be paid in accordance with City Ordinance.



Planning Commission Meeting
November 10, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 4, 2008 *Updated November 13, 2008*

C-PZD 08-3121: (CORE PET WELLNESS, 292): Submitted by FRANK BLEW for property located at 2406 N. OLD WIRE ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.58 acres. The request is to review a Zoning and Land Use only Planned Zoning District application for a veterinarian's office in the existing single family residential structure.
Planner: Andrew Garner

Findings:

October 27, 2008 Planning Commission: This item was tabled at the October 27, 2008 Planning Commission because the applicant failed to notify all property owners within 100 feet of the project. The applicant has now met the notification requirements and the project may be forwarded to the City Council.

The applicant has made some minor changes to the project in response to some of the Planning Commission concerns:

- Animal Boarding (Use Unit 7) has been removed from the project.
- The fenced-in area for animal bathroom breaks has been reduced in size and pulled away somewhat from Township Street as shown on the plats. The applicant also proposes the fence material to be 6-foot, faux wrought iron as opposed to a standard wood privacy fence.
- A second veterinarian is proposed to be permitted as part of Phase II.

Property Description and Setting: The subject property consists of approximately 0.58 acres located at the northeast corner of intersection of Old Wire Road/Township Street. The intersection of Old Wire Road and Township Street is a very busy signalized intersection at the crossroad of two collector streets providing major north-south and east-west connectivity through north-central Fayetteville. The property is zoned RSF-4, and is developed for one single family residence that is very close to the street, addressed at 2406 Old Wire Road. The large yard on the site has a large number of mature trees and underbrush on the perimeter property lines. The property is in the immediate vicinity of Gulley Park, a 27-acre community park. Surrounding zoning and land uses are depicted in *Table 1*.

Table 1
Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Sunshine House Child Daycare (in a residential structure)	C-PZD
South and East	Single Family Residential	RSF-4
West	Office (in a residential structure)	RSF-4

Proposal: The applicant requests rezoning and land use approval of a Commercial Planned Zoning District (C-PZD) to allow for a veterinary clinic on the property. The clinic would utilize the existing house on the property. The hours of operation would be between 7:30 AM and 5:30 PM. The maximum number of employees would be five. Animals seen in the clinic would be small animals only, not livestock such as horses or cattle. The services would involve animal surgeries and health care. All animals would be kept indoors. No board of animals is proposed. Dogs will be taken outside twice daily for bathroom breaks in a fenced-in area. No animals are proposed to be left outside for any extended period of time.

Phasing: The project is proposed in two phases as follows:

Phase I. The house will remain as-is and four gravel parking spaces will be added to the back yard as shown on the site plan. The existing driveway and access onto Old Wire Road and Township Street is proposed to remain. A portion of the existing deck/porch will be enclosed to provide bathrooms in compliance with ADA. There will be one (1) veterinarian and a maximum of four (4) employees in this phase.

Phase II. The existing house would be moved to a more central location on the site. Additional space would be added to the house. The existing drive on Township Street would be moved and the new drive relocated towards the east line of the property away from the intersection. A new paved parking lot would be constructed in the northern portion of the site with a maximum of ten (10) parking spaces. There will be two (2) veterinarians (one full-time and one part-time) and a maximum of five (5) employees in this phase.

Access: In Phase I access to the site is provided to Old Wire Road and Township Street off of the existing driveway to the house. In Phase II the existing driveway onto Township Street would be relocated away from the intersection and towards the east property line.

Water & Sewer: Water and sewer lines are available to the property.

Adjacent Master Street Plan Streets: Township Street and Old Wire Road (Collector Streets).

Right-of-way Dedication: The submitted survey indicates that adequate right-of-way exists along Township Street and Old Wire Road in accordance with the Master Street Plan. No additional right-of-way dedication is required.

Tree Preservation: This PZD proposes to eventually move the existing house and construct a new 10-space parking lot. A tree preservation plan is required to be approved by the Urban

Forester prior to issuance of grading and parking lot permits. A tree preservation plan or abbreviated tree preservation plan would be required at the time of Site Improvement Plan (SIP) review, with a minimum percent canopy of 25% required.

Public Comment: At the October 2, 2008 Planning Commission meeting one member of the public was in favor and two were opposed to the project for various reasons. Comments in favor discussed that the project would remove the privacy fence in front and open up the corner, and this busy corner lot is not appropriate for single family residential. Those opposed discussed traffic and safety issues, noise, and a change in the residential character of the neighborhood.

Recommendation: Staff recommends forwarding C-PZD 08-3121 to the City Council with a recommendation for approval with the following conditions:

Conditions of Approval:

1. Planning Commission determination of street improvements. Township Street has been improved and Old Wire Road has been widened through the intersection, but does not have a sidewalk. *Staff recommends that prior to issuance of a building or construction permit the applicant pay an assessment for a 5-foot sidewalk along the project's Old Wire Road frontage. Based on UDC requirements of \$3/square foot of sidewalk and a total of 205 feet of frontage staff recommends an assessment amount of \$3,075.00.* (205 ft. x 5-ft. sidewalk x \$3/sq.ft.= \$3,075.00)

THE PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (11/10/08).

2. Planning Commission determination of access.
 - a. Phase I. During Phase I the applicant proposes to utilize the existing access points off of Old Wire Road and Township Street. Due to the minimal amount of vehicle trips that would access the property during this phase, staff does not feel that it is warranted to require the access on Township to be removed. However, due to the driveway's close proximity to the Old Wire/Township intersection and hilly terrain and sight issues, *staff does recommend that the driveway on Township be permitted for an exit only. Prior to opening for business staff recommends that the driveway on Township have a sign installed indicating Do Not Enter or Exit Only.*
 - b. Phase II. During Phase II the applicant proposes to move the driveway on Township to the east 250 feet away from the intersection. *Staff recommends in favor of the access as proposed in Phase II, finding that the distance of the driveway from the intersection allows for adequate sight and turning movements.*

THE PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (11/10/08).

3. Planning Commission determination of compatibility with City Plan 2025 and existing surrounding land uses. Staff finds that the proposed use of the site for a small animal veterinary clinic in the existing single family residential house is compatible with the surrounding residential neighborhood and two adjacent small-scale non-residential uses. This proposed project encourages infill and redevelopment of an existing corner lot at a

busy intersection, consistent with the City Plan 2025, while maintaining the integrity of the surrounding residential neighborhood. *Staff finds that the proposed C-PZD would be compatible with surrounding land uses and zoning and the City Plan 2025 with the following conditions:*

- a. *To improve the appearance of this property from the surrounding streets and to provide additional buffer between the proposed use and surrounding residences, the fenced in area for dogs to be walked shall be located away from the street and more interior to the property. Should the Planning Commission determine the proposed location of the fence is appropriate, the materials shall be a 6-foot wrought iron materials.*

THE PLANNING COMMISSION RECOMMENDED IN FAVOR OF THE FENCE LOCATION AS PROPOSED BY THE APPLICANT (11/10/08).

- b. *To prevent views of deceased animals from adjacent properties, any deceased animals leaving the vet clinic shall be carried out to owners' vehicles in a crate, box, or other container.*

THE PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (11/10/08).

4. The zoning criteria for "Landscaping" on the plat should be revised to be consistent with the language in the booklet.
5. The maximum number of employees at any given time during Phase I shall be four (4) and during Phase II shall be five (5). One veterinarian shall be permitted during Phase I and two (2) veterinarians (one full-time and one part-time) shall be permitted during Phase II as described in the PZD booklet.
6. Prior to development of Phase I and Phase II this project will be required to go through the Site Improvement Plan (SIP) review, including an abbreviated tree preservation plan, landscape plan, parking lot permit, grading/drainage permit, as determined by staff and in accordance with the Fayetteville Unified Development Code.
7. As part of the parking lot permit review, the existing driveway may require improvements to be brought up to code with standard driveway requirements for a single family residence including a concrete apron within the right-of-way and a greater curb return radius. This may result in slight relocation and reconstruction of the driveway, based on City ordinance.
8. Prior to issuance of a certificate of zoning compliance or Certificate of Occupancy, verification shall be provided from the applicant to the Planning Division that the structure has met City of Fayetteville Fire Department requirements and any requirements under the review of the Fayetteville Animal Services Division.
9. Expansions on the property shall be limited to providing a veterinary clinic as indicated on the PZD site plan and booklet with a maximum of 10 parking spaces and 2,200 square feet of non-residential space.
10. Any expansion of the residential structure on the property shall be reviewed by Planning

staff to ensure that the architectural style is consistent and compatible with the existing house.

11. All trash receptacle(s) utilized by this structure shall be stored within the structures on-site, or, if located outside, it shall be screened on all sides with access not visible from the street or adjacent properties. If a dumpster is required or proposed, screening shall be provided that is constructed of materials that are compatible with and complimentary to the building. If applicable, staff shall review any dumpster screen or materials prior to building permit.
12. A Certificate of Zoning Compliance shall be required prior to the start of operations of the veterinary clinic.
13. As indicated in the proposed zoning criteria, signage shall be limited to one wall sign on the house (maximum of 16 square feet) and one freestanding sign (monument sign only, maximum of 4 square feet, set back 15 from the right-of-way), in accordance with Chapter 174 of the Unified Development Code for Residential Office (R-O) Districts.
14. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

Standard Conditions of Approval:

15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
16. Impact fees for police, fire, water, and sewer shall be paid in accordance with City Ordinance.

Planning Commission Action: ☐ Denied ☐ Tabled ☒ Forwarded to C.C.

Motion: Lack

Second: Cabe

Vote: 7-0-0

Meeting Date: November 10, 2007

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with C-PZD 08-3121 (Core Pet Wellness).

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

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

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

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The Future Land Use Plan adopted as part of City Plan 2025 designates this vicinity Residential Neighborhood Area. Rezoning this property to C-PZD 08-3121 for a veterinary facility to be operated out of the existing single family residence on the property is consistent with the land use plan and compatible with land uses in the vicinity including single family residential, a day care facility, a law office and park uses. The proposed veterinary clinic can help provide a piece of a complete neighborhood. The proposed business would retain the general appearance of a single family residence with a large yard and some contiguous areas of tree canopy and vegetation. This property is located at the busy intersection of Old Wire Road and Township Street less than a quarter mile from Gulley Park, a 27-acre regional park. In addition this property is located across the street from a professional office being operated out of a residential structure (log cabin) and is adjacent to a small child day care facility (Sunshine House) also being operated out of a residential structure. The parking area would generally be located behind the house, and would be screened from the street with trees and shrubs. The existing infrastructure and public services are adequate to support a veterinary facility on this busy roadway.

Staff has concerns with the proposed location of the privacy fence for the dog walking area. The fence is proposed adjacent to the right-of-way along Township. To improve the appearance of the street and provide additional buffer between the outdoor space for animals and the single family residences, staff recommends the fence be located away from the street and more interior to the property.

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

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

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the

provision of public facilities, at the cost of the developer. As stated in Finding No. 1, public services are adequate to serve the veterinary facility on the property. Existing public services are currently provided to the existing single family residence on the property. Staff is recommending assessment for sidewalk improvements to Old Wire Road, based on an anticipated increase in use/traffic on the property from that of a single family residence.

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

FINDING: The rezoning request, combined with the Master Development Plan, would allow a small-animal veterinary facility to be operated out of the existing residential structure on the property, with adequate parking for client and employee parking. As stated in Finding No. 1, staff has concerns that the privacy fence in front of the house is not compatible with surrounding land uses. Staff recommends conditions of approval to offset impacts regarding this issue.

The proposed signage allowed under the zoning would be an unobtrusive two-foot by two-foot monument sign and a four-foot by four-foot sign on the building. A maximum of five (5) employees, 2,200 SF of nonresidential space and 10 parking spaces would be allowed under this zoning. This lot is fairly isolated and buffered from other residences as it is located at a very busy intersection and is surrounding by nonresidential uses on two sides, and mature tree canopy on a third side. There is an adjacent single family residence to the east, however this residence is generally buffered by existing dense tree canopy. The single family residences to the south are fairly isolated from this property because of Township Street and the homes do not face or access onto Township.

There is a high volume of traffic on Old Wire Road and Township Street, Collector Streets. Staff finds that the proposed PZD would generally provide compatibility and transition with the surrounding uses in this area. This veterinary facility would complement the existing residential and non-residential uses in the neighborhood, with the conditions recommended.

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

FINDING: The subject property is developed for one single family residence on approximately 0.58 acres. The site is not large enough to accommodate a full-scale veterinary operation generally found within commercial districts. However, limiting the use to one (1) veterinarian, small-animals, and no boarding/kenneling will provide a much lower intensity of use that is suitable for this property. The appearance of residential use of the property would generally be retained with project, with exception of the parking area. The parking area would be screened with trees and shrubs in a minimum 15 foot buffer adjacent to Old Wire Road. The natural environment is suitable for the type of development proposed.

- (6) Whether the intended land use would create traffic congestion or burden the

existing road network;

FINDING: The intended land use, veterinary facility, will result in minimal impacts to the existing traffic conditions. During Phase I of the development where the existing house would be improved slightly to 1,300 square feet and a maximum of four gravel parking spaces would be provided, staff anticipates the traffic impact would be generally comparable to the existing single family residence of about 10 average daily vehicle trips. During Phase II of the development where the existing house is moved to the central portion of the site, is expanded to 2,200 square feet and a new 10-space parking lot is constructed, increased traffic beyond that of a single family residence would result. Staff recommends in favor of the applicant's proposal to allow the existing driveway to be utilized for Phase I as an exit only on Township, and that the driveway be relocated away from the intersection in Phase II. As both Old Wire Road and Township are improved in this location, the only street improvement recommended is for a sidewalk assessment for the un-constructed sidewalk along the property's Old Wire Road frontage.

- (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 Core Pet Wellness PZD provides for a veterinary facility in a busy residential area at the intersection of Old Wire Road and Township Street, Gulley Park, a professional office, and a child day care facility. Access would be provided through the existing driveway onto Old Wire Road and Township Street. The location of the

existing driveway on Township Street does not provide adequate sight distance to the east and west along Township Street. However, due to the proposed low volume of traffic that would be accessing this driveway, staff does not find that it is appropriate to require this curb cut and driveway be removed with Phase I, with the addition of signage to identify it as an exit only. The driveway on Township would be moved away from the intersection with Phase II, when traffic to the site would increase, providing adequate sight and stacking distance at the intersection, in accordance with UDC requirements.

There is a large amount of existing tree canopy, and as indicated in the PZD booklet the canopy on the east and north sides of the site will be largely retained. A tree preservation plan and landscape plan will be required prior to issuance of permits to develop the parking lot, and will ensure that tree preservation is maximized and the parking lot is screened with trees and shrubs. Providing a veterinary facility in this largely residential area will provide needed services to the residential and non-residential uses in the neighborhood and greater Fayetteville area. The proposal retains the residential appearance of the property to ensure this project's compatibility and transition with surrounding land uses.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening and landscaping will be required for the new parking lot in accordance with ordinance requirements. The parking lot will be screened with trees and shrubs in a minimum 15-foot greenspace adjacent to Township Street and Old Wire Road. A landscape and tree preservation plan will be required to be submitted prior to issuance of construction permits for the parking lot. The large amount of tree canopy on the perimeter and throughout the perimeter is not anticipated as being impacted, due to the minimal amount of development proposed.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such

considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: As stated in Finding B.1, access to the veterinary facility will be provided to Old Wire Road and Township Street as indicated on the site plan. As part of the parking lot permit review, the existing driveway may require improvements to be brought up to code with standard driveway requirements for a single family residence including a concrete apron adjacent to the right-of-way and larger curb return radii. This may result in slight relocation and reconstruction of the driveway, based on City ordinance.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking will be provided for the veterinary facility in accordance with City ordinance.

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

FINDING: This requirement has been met.

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

FINDING: Sidewalk requirements will be met in accordance with Fayetteville Unified Development Code Section 171.12. Staff recommends contribution of money in lieu for the sidewalk. Staff recommends that the contribution be provided prior to development.

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

FINDING: This PZD is not subject to the street light requirements at this time.

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

FINDING: Public water lines are available along Old Wire Road.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are available to the property.

(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 applicant does not propose public or private streets.

- (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: Not applicable. This is not a residential PZD.

- (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 is required prior to issuance of construction permits for the parking lot, and prior to any subsequent development on the property. Tree canopy to be preserved shall be a minimum of 25%, pursuant to Chapter 167 of the Unified Development Code

- (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 proposed zoning criteria specifies that the existing house will be retained. Any future additions to the house will be required to be reviewed for consistency and compatibility with the existing house and with surrounding properties.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structure proposed is consistent with that allowed in surrounding RSF-4 zoning districts.

(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. 161.29 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 this proposal meets the intent of many of the parameters of the City Plan 2025, as well as the above ten criteria, including compatibility, transition of land use, harmony, and flexibility to mix a veterinary facility with this neighborhood, and to provide supporting services for the surrounding residential and non-residential land uses. The addition of a veterinary facility in this location helps meet the intent of the Guiding Policy for Residential Neighborhood Areas to provide complete neighborhoods. Staff recommends conditions of approval to ensure compatibility with the surrounding residential neighborhood.

(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.

(D) C-PZD, Commercial Planned Zoning District

- (1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

- (a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas.
- (b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.
- (c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.
- (d) To encourage commercial development which is consistent with the city's General Plan.
- (e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

FINDING: Staff is recommending approval of this application with conditions, finding the proposed PZD meets the intent of the PZD ordinance as noted above, and is consistent with the city's General Plan/City Plan 2025 as discussed in Finding No. 1.

- (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 commercial or office use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.

FINDING: The majority of uses are principally commercial, with the entire square footage of the existing structure being listed in the zoning criteria for use as a veterinary facility.

(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: Not applicable. This is a proposed commercial zoning. The existing house would be allowed to be utilized as a residence. No additional residential units would be permitted on the 0.58-acre parcel under the proposed zoning.

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

FINDING: Building setbacks proposed are similar to the surrounding RSF-4 zoning, with the exception of a reduced front building setback to bring the existing house into compliance as it is very close to the street. It should be noted that one additional structure, a storage shed, is included in the Master Development Plan for this C-PZD, but shall meet the established setbacks herein.

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

FINDING: Building heights proposed for this project are typical of single family development in the area and identical to RSF-4 zoning.

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

FINDING: The lot coverage or building area on this project (25%) is less than the lot coverages in the surrounding RSF-4 zoning (40%), to ensure that the additional greenspace is provided.

***Required Findings for Rezoning Request.**

Land Use Plan: *The City Plan 2025 Future Land Use Plan designates this site as Residential Area. Rezoning this property to C-PZD 08-3121, with the associated Master Development Plan, meets this designation, in that a low-intensity non-residential use is being provided at a corner intersection to provide services to surrounding residents. The proposed veterinary facility will be operated out of the existing single family residence. The appearance of the property will be retained as residential, although the veterinary facility will be available to the neighborhood and greater Fayetteville area. The large amount of tree canopy and location of this lot at a busy intersection of two Collector Streets make it an appropriate location for a veterinary facility. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new or re-developed property.*

FINDINGS OF THE STAFF

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

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for Residential Neighborhood Area this proposal meets. Rezoning the property will accommodate a veterinary facility in this area near two busy Collector Streets providing major north-south and east-west connections through this area of the City. A veterinary facility can help provide a piece of a complete residential neighborhood. The proposed zoning allows for needed non-residential services in this predominantly residential area near a regional park, a small professional office, and a small child day care facility.

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

Finding: Rezoning of this property for a neighborhood-scale veterinary facility in this largely residential area of Fayetteville is justified, based on the findings herein.

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, as discussed in Finding No. E.6. a majority of the surrounding street frontages are improved, however, an assessment for sidewalk along Old Wire Road is recommended.

4. A determination as to whether the proposed zoning would alter the population density

and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The potential population density would be decreased slightly from that which currently exists. The 0.58-acre parcel could potentially support two single family residences and the zoning would not allow any new residences to be constructed.

Engineering: Public water is available to the property. There is a 2" water main across the property and a 6" main on the west side of Old Wire Road. The capacity of the existing main may need to be evaluated at the time of development

Sanitary sewer is available to the site. There is a 6" sewer main on the south side of Township. Sewer may need to be extended through the property at the time of development.

The site has access to Old Wire Road and Township Street. Old Wire Road is a partially improved paved two lane city street. Township is an improved three lane city street in this location.

Standard improvements and requirements for drainage will be required for the development.

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

Fire: This project is 1.5 miles from Station 5 located at 2729 Crossover Road with an anticipated response time of four (4) minutes. Adverse impacts to response times or call volumes are not anticipated.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

C.4
C-PZD 08-3121
(Core Pet Wellness)
Page 28 of 36

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
From: David Williams, Battalion Chief
Date: November 3, 2008
Re: C-PZD 08-3121 Core Pet Wellness

This development will be protected by Station 5 located at 2979 Crossover Road. It is 1.5 miles from the station with an anticipated response time of 4 minutes to the beginning of the development.

The Fire Department anticipates 1-2 EMS calls for service each year with this type of development. The Fayetteville Fire Department does not feel this development will affect our calls for service or response times.

We have not received the measured hydrant flow in this area from the water department yet.

If you have any questions please me.

David Williams

David Williams
Fire Marshal
Fayetteville Fire Department

Police Comments

Date 10/2/08

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 C-PZD 08-312: (Core Pet Wellness, 292) Submitted by Frank Blew for property located at 2406 Old Wire 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 0.58 acres.

It is the opinion of the Fayetteville Police Department that this C-PZD will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This C-PZD will not create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

R-PZD 08-3116: (THE SUMMIT, 560/561): Submitted by APPIA CENTER FOR DESIGN for property located at THE S END OF ROSE AND PARIS AVENUES, S OF 6TH STREET AND E OF RAZORBACK RD. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE AND RMF-40, MULTI FAMILY - 40 UNITS PER ACRE and contains approximately 19.39 acres. The request is for zoning, land use and development approval for a Residential Planned Zoning District with 293 multi-family dwelling units and a church. Planner: Jesse Fulcher

Public water is available to the property. There is a 6" main along Paris Avenue. Water will need to be extended through the property at the time of development to provide domestic service and fire protection. A water system study will need to be performed to determine whether off-site improvements will be required to properly serve this development.

Sanitary sewer is available to the site. There is a 6" public main along Paris Avenue. Sewer will 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. Off-site improvements are expected.

The site has access to Paris Ave. Rochier St. and Rose Ave. Paris Ave is a narrow paved two lane city street. Rochier St. is a narrow paved two lane city street. Rose Ave. is a narrow paved two lane city street. Off-site improvements are recommended for Rochier St. along the project frontage and for Paris Ave. from Sixth St. south to the site. Rose Ave. will also be constructed from Rochier St. up to the subject property.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

Engineering Comments

C-PZD 08-3121: (CORE PET WELLNESS, 292): Submitted by FRANK BLEW for property located at 2406 N. OLD WIRE ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.58 acres. The request is to review a Zoning and Land Use only Planned Zoning District application for a veterinarian's office in the existing structure. Planner: Andrew Garner

Public water is available to the property. There is a 2" water main across the property and a 6" main on the west side of Old Wire Rd. The capacity of the existing main may need to be evaluated at the time of development

Sanitary sewer is available to the site. There is a 6" sewer main on the south side of Township. Sewer may need to be extended through the property at the time of development.

The site has access to Old Wire Road and Township Street. Old Wire road is an partially improved paved two lane city street. Township is an improved three lane city street in this location. 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.



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

CC: Andrew Garner, Planner

From: Greg Howe, Urban Forester

Date: October 22, 2008

ITEM #: C-PZD 08-3121: Planned Zoning District (Core Pet Wellness)

TREE PRESERVATION PLAN

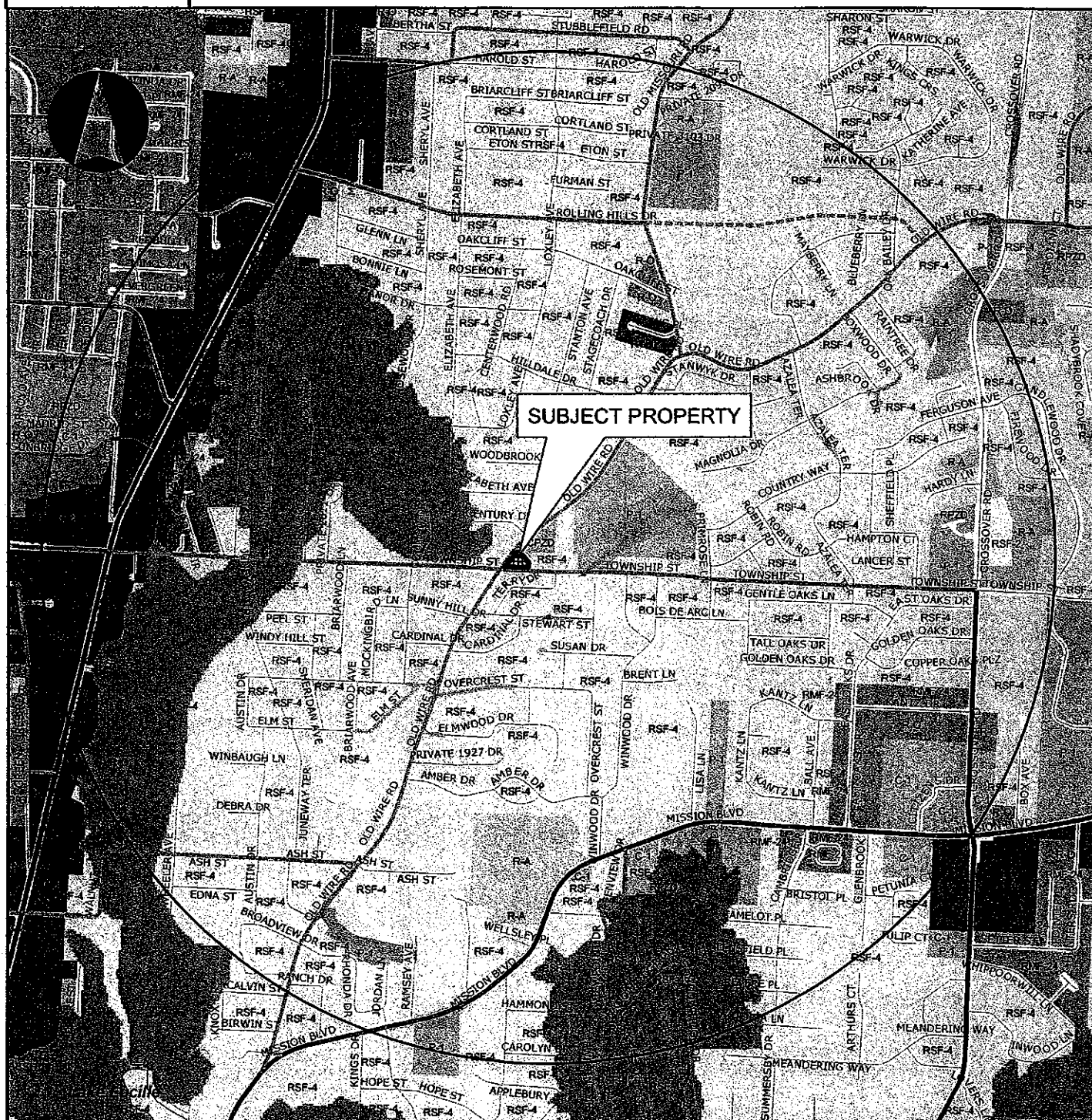
1. The Urban Forester has no objections to the Phase 1 conceptual plan indicated on the plan submitted.
2. An Abbreviated Tree Preservation Plan will be required when the development comes through the permitting process. This should include but will not be limited to:
 - a. A full tree inventory of all significant trees;
 - b. Canopy calculations including existing canopy, preserved canopy and removed canopy; and
 - c. A survey of the location of trees that will have critical root zones directly affected by the development.
3. The site has existing canopy, mostly along fence lines. The development should be designed to work around as many existing trees as possible,
4. Phase 2 development submittals will require a full review by the Urban Forester and compliance with the Tree Preservation and Protection requirements in place at the time of plan submittal. The following comments are informational only and are based on the current Tree Preservation and Protection Ordinance;
 - a. Attempt to re-locate the basement and structure further to the northwest, towards the setback line. It appears by shifting the structure in this way it will
 - i. pull the structure away from trees to the southeast
 - ii. allow for the shifting of the drive off Old Wire Rd way from trees, and
 - iii. pull the parking area away from the trees along the northern boundary.

- b. Move parking spaces 9 and 10 further to the northwest out from under tree canopy.
- c. If possible, eliminate parking space 8 since it is only 6ft from a tree trunk as depicted on the plan.

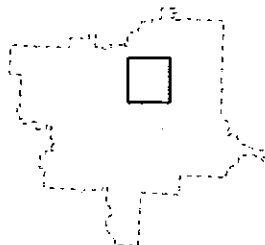
CPZD08-3121

CORE PET WELLNESS

One Mile View



Overview



Legend

Subject Property



Boundary

 Planning Area☐ Outside City

Legend

Hillside-Hilltop Overlay District



0

0.25

0.5

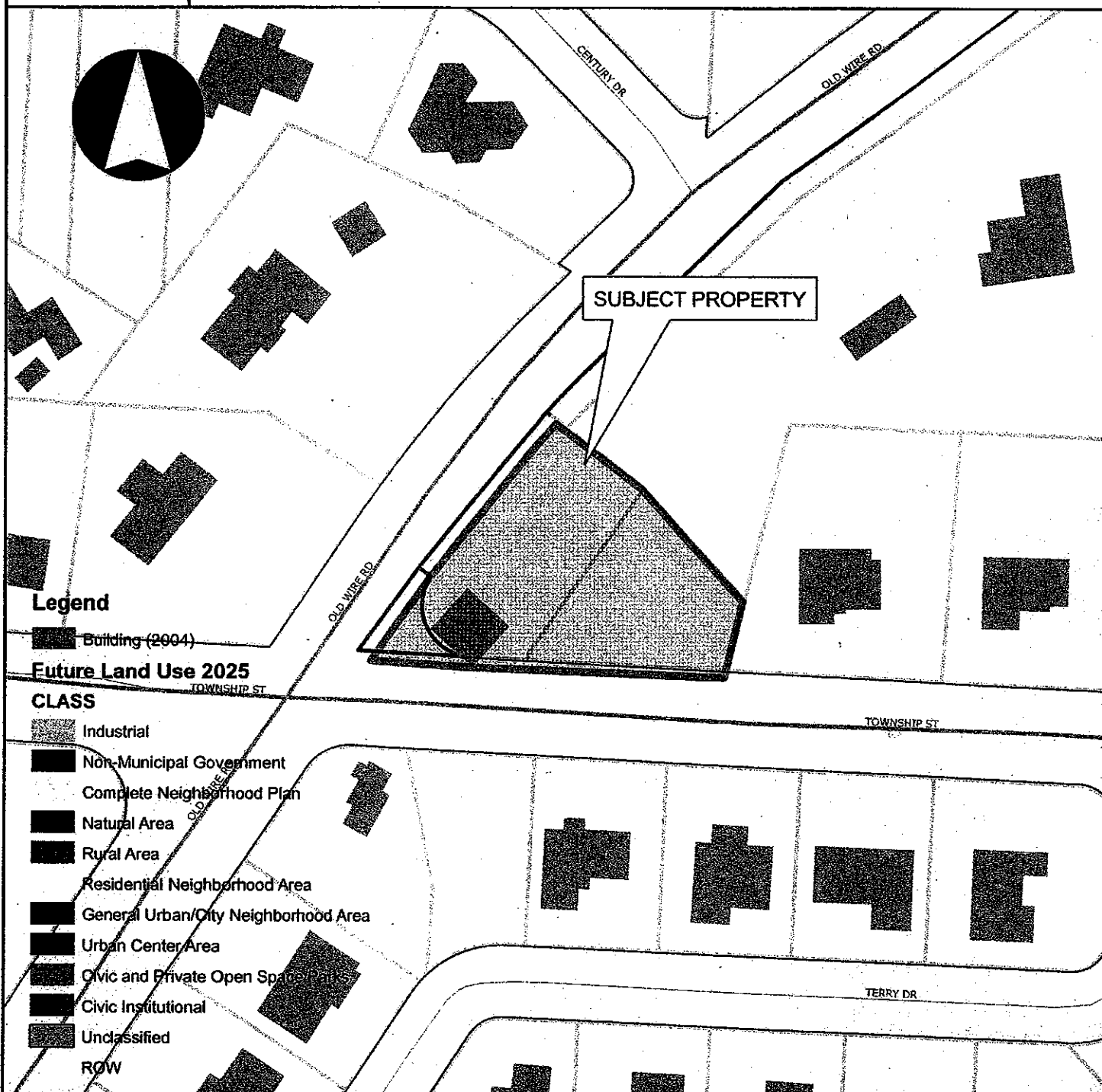
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Miles

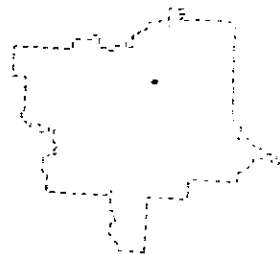
CPZD08-3121

CORE PET WELLNESS

Future Land Use



Overview



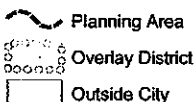
Legend
 Subject Property
 CPZD08-3121



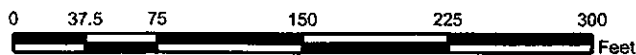
Streets



Boundary



Legend



City of Fayetteville Staff Review Form

C. 5
VAC 08-3136
(CMN Business Park II)
Page 1 of 20

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

12/2/2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 08-3136: (CMN Business Park II, 173): Submitted by McClelland Consulting Engineers for property located at CMN Business Park II, Lots 8 and 14, northeast corner of Steele Boulevard and Van Asche Drive. 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 ☐

[Signature]

11-14-08

Department Director

Date

Previous Ordinance or Resolution #

[Signature]

11-16-08

City Attorney

Date

Original Contract Date:

Original Contract Number:

Paul a. Bahr

11-17-08

Finance and Internal Service Director

Date

Received in City
Clerk's Office



11-14-08

[Signature]

11/18/08

Mayor

Date

Received in
Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning X

Date: November 13, 2008

Subject: Utility Easement Vacation for CMN Lots 8 & 14 (VAC 08-3136)

RECOMMENDATION

Staff recommends approval of an ordinance vacating a portion of a utility easement on the subject property.

BACKGROUND

The subject property consists of Lot 8 and Lot 14 of CMN II Phase I and II respectively. The lots are located at the northeast corner of Van Asche Drive and Steele Boulevard and are currently undeveloped. The 0.61-acre easement is centered on the lot line between lots 8 and 14 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 easement vacation. This item was heard at the regular Planning Commission meeting on November 10, 2008 and forwarded by vote of 7-0-0 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 08-3136 SUBMITTED BY MCCLELLAND CONSULTING ENGINEERS FOR PROPERTY LOCATED AT CMN BUSINESS PARK II, LOTS 8 AND 14, NORTHEAST CORNER OF STEELE BOULEVARD AND VAN ASCHE DRIVE TO VACATE A PORTION OF A UTILITY EASEMENT, A TOTAL OF 0.61 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.

PASSED and APPROVED this day of , 2008.

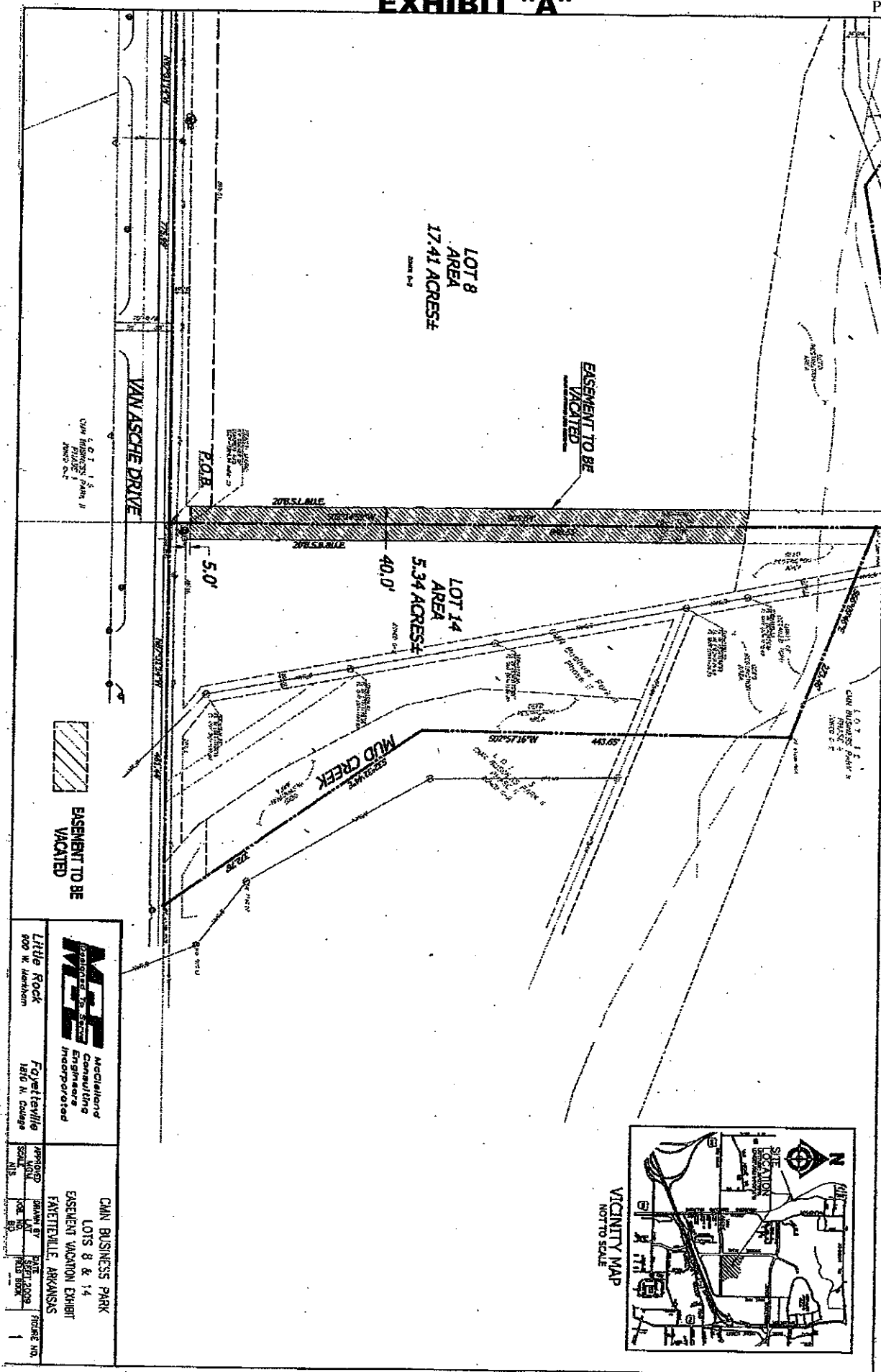
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

EXHIBIT "A"



EASEMENT TO BE
VACATED



Mediapolis
Consulting
Engineers
Incorporated

Little Rock
800 W. Main
Fayetteville
1810 N. College

CMN BUSINESS PARK
LOTS 8 & 14

EASEMENT VACATION EXHIBIT
FAYETTEVILLE, ARKANSAS

APPROVED BY: [Signature]
DATE: 10/1/2009
SCALE: AS SHOWN
FIGURE NO. 1

EXHIBIT "B"
VAC 08-3136

A PART OF LOTS 8 AND 14 OF CMN BUSINESS PARK II, PHASE I TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM THE SOUTHEAST CORNER OF SAID LOT 8, THENCE NORTH 2°00'50" EAST ALONG THE EAST LOT LINE OF SAID LOT 8 A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING, THENCE NORTH 87°31'14" WEST - 20.00 FEET TO A POINT ON THE WEST LINE OF AN EXISTING 20 FOOT PLATTED UTILITY EASEMENT; THENCE ALONG SAID WEST LINE NORTH 2°14'58" EAST - 670.36 FEET TO A POINT ON THE SOUTH LINE OF A DEED RESTRICTION AREA AS SHOWN ON CMN BUSINESS PARK II, PHASE I SUBDIVISION PLAT; THENCE SOUTH 80°16'49" EAST - 20.17 FEET TO A POINT ON THE WEST LOT LINE OF SAID LOT 14; THENCE CONTINUING SOUTH 80°16'49" EAST 20.17 FEET TO A POINT ON THE EAST LINE OF AN EXISTING 20 FOOT PLATTED UTILITY EASEMENT, SAID POINT BEING ON THE SOUTH LINE OF A DEED RESTRICTION AREA AS SHOWN ON CMN BUSINESS PARK II, PHASE I SUBDIVISION PLAT; THENCE ALONG THE EAST LINE OF SAID EXISTING 20 FOOT PLATTED UTILITY EASEMENT SOUTH 2°14'59" WEST - 665.27 FEET; THENCE NORTH 87°31'14" WEST 20.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.61 ACRES, MORE OR LESS.



PC Meeting of November 10, 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: ~~November 4, 2008~~ Updated November 13, 2008

VAC 08-3136: (CMN Business Park II, Lots 8 & 14): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at CMN BUSINESS PARK, LOTS 8 & 14, NE CORNER OF STEELE BLVD. AND VAN ASCHE DR. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 22.75 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 consists of Lot 8 and Lot 14 of CMN II Phase I and II respectively. The lots are located at the northeast corner of Van Asche Drive and Steele Boulevard and are currently undeveloped. The 0.61-acre easement is centered on the lot line between lots 8 and 14 and contains no existing utility lines.

Request: The applicant is requesting to vacate a portion of the existing 40' 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 08-3136 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: Winston

Second: Lack

Vote: 7-0-0 (consent agenda)

**UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 09/25/08Utility Company: American Electric Power CompanyApplicant Name: Mike Morgan (McClelland Consulting Engineers) Applicant Phone: 479-443-2377

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.)

Only Easement to be vacated is between
lot 28 and lot 12 of CMN Business Park II
Phase I

No objections provided the following conditions are met:

Don Sargent
Signature of Utility Company Representative

Engineer I
Title

**UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 09/25/08Utility Company: OZARKS ELECTRICApplicant Name: Mike Morgan (McClelland Consulting Engineers) Applicant Phone: 479-443-2377REQUESTED 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. *THIS IS IN AEP SERVICE AREA*
- ☐ 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

Lead Staking Tech

Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 09/25/08

Utility Company: ARKANSAS WESTERN GAS

Applicant Name: Mike Morgan (McClelland Consulting Engineers) Applicant Phone: 479-443-2377

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:

[Signature]
Signature of Utility Company Representative

FAVETTEVILLE ASSISTANT OPERATING MANAGER
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 09/25/08

Utility Company: Cox Communications

Applicant Name: Mike Morgan (McClelland Consulting Engineers) Applicant Phone: 479-443-2377

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:

Any damage or relocation of existing facilities will be at the developers expense.

Signature of Utility Company Representative

Field Engineer

Title

Jan,

Please see below from Sue Clouser with AT&T SWBT.

I hope this will suffice enough for this project to be placed on the next agenda.

Let me know if you need any additional information at this time.

I will be forwarding along Tom Hubbard's comment form later this afternoon.

Thanks,

Leslie

From: CLOUSER, SUSAN K (ATTSWBT) [mailto:sc9783@att.com]
Sent: Wednesday, October 22, 2008 12:18 PM
To: ltabor@mcclelland-engrs.com
Cc: HARTSFIELD, KENNY (ATTSWBT)
Subject: FW: Easement Vacation Request, CMN Business Park Lots 8 & 14

Hi Leslie,

I have gotten out to take a look at this and I don't see any apparent conflicts. If ATT has facilities present in the area to be vacated any damage to or relocation of these facilities will be at the owner/ developer's expense. I will forward your information to our ROW department. You will receive paper work from them which will need to be recorded at the county court house for the vacation to be official.

Thanks much,

Sue

From: Leslie Tabor [mailto:ltabor@mcclelland-engrs.com]
Sent: Thursday, September 25, 2008 11:22 AM

To: CLOUSER, SUSAN K (ATTSWBT); michael.moore3@cox.com; lwinkler@aep.com; gmcgee@ozarksecc.com; bpugh@ci.fayetteville.ar.us; jason.combs@cox.com; kpeters@swn.com; james_boyd@swn.com; jhsargent@aep.com; 'Tom Hubbard'; tgulley@ci.fayetteville.ar.us; HILL, JOHN D (ATTSWBT)
Cc: mmorgan@mcclelland-engrs.com; 'Chris Suneson'
Subject: Easement Vacation Request, CMN Business Park Lots 8 & 14

Submitted for your review and approval is the easement documentation for the above-mentioned project. Our client is seeking to have the easement in question (please see attached exhibits) vacated. I have attached a legal description of the easement to be vacated and a complete survey of Lots 8 & 14. I have also included a utility approval form made available by the City of Fayetteville.

Please review and let me know if any of you have any questions/concerns, or need any additional information at this time.

Thanks,

Leslie

Leslie (Munzner) Tabor

McClelland Consulting Engineers

1810 N.College Ave.

Fayetteville, Arkansas 72702

Phone. (479) 443 2377

Website: www.mcclelland-engrs.com

Notice: This e-mail may contain privileged and/or confidential information and is intended only for the addressee. If you are not the addressee or the person responsible for delivering it to the addressee, you may not copy or distribute this communication to anyone else. If you received this communication in error, please notify MCE immediately by telephone or return email. Please also delete the message from your system in a prompt manner.

**UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 09/25/08

Utility Company: Fayetteville Solid Waste + Recycling

Applicant Name: Mike Morgan (McClelland Consulting Engineers) Applicant Phone: 479-443-2377

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 P. [Signature]
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

**UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 09/25/08

Utility Company: Fayetteville Water + Sewer

Applicant Name: Mike Morgan (McClelland Consulting Engineers) Applicant Phone: 479-443-2377

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. Location is Van Ar + Steel
- ☐ 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

Title

Water + Sewer Ops Mgr

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 09/25/08

Utility Company: FAYETTEVILLE TRANSPORTATION DIVISIONApplicant Name: Mike Morgan (McClelland Consulting Engineers) Applicant Phone: 479-443-2377

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:

Signature of Utility Company Representative

ASSISTANT TRANSPORTATION MANAGER

Title

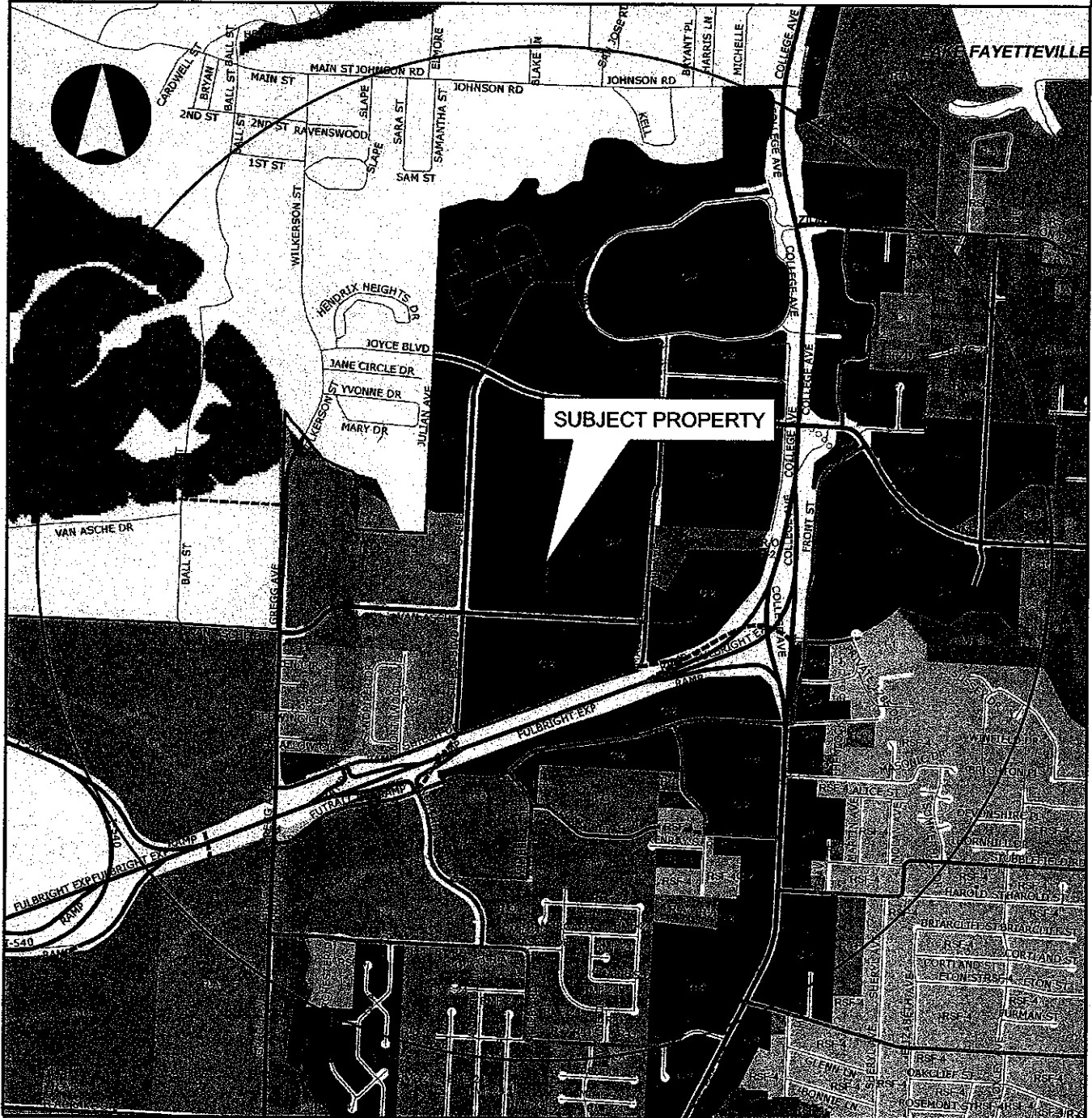
EASEMENT VACATION DESCRIPTION

A part of Lots 8 and 14 of CMN Business Park II, Phase I to the City of Fayetteville, Washington County, Arkansas, more particularly described as follows: From the Southeast corner of said Lot 8, thence North 2°00'50" East along the East lot line of said Lot 8 a distance of 25.00 feet to the POINT OF BEGINNING, thence North 87°31'14" West - 20.00 feet to a point on the West line of an existing 20 foot platted utility easement; thence along said West line North 2°14'58" East - 670.36 feet to a point on the South line of a Deed Restriction Area as shown on CMN Business Park II, Phase I Subdivision Plat; thence South 80°16'49" East - 20.17 feet to a point on the West lot line of said Lot 14; thence continuing South 80°16'49" East 20.17 feet to a point on the East line of an existing 20 foot platted utility easement, said point being on the South line of a Deed Restriction Area as shown on CMN Business Park II, Phase I Subdivision Plat; thence along the East line of said existing 20 foot platted utility easement South 2°14'59" West - 665.27 feet; thence North 87°31'14" West 20.00 feet to the POINT OF BEGINNING, containing 0.61 acres, more or less.

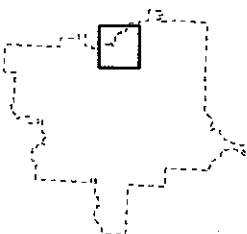
VAC08-3136

One Mile View

CMN BUSINESS PARK, LOTS 8 & 14



Overview



Legend

Subject Property

VAC08-3136

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. 6
VAC 08-3130 (Sisemore)
Page 1 of 22

City Council Agenda Items
and
Contracts, Leases or Agreements

12/2/2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 08-3130: (Sisemore, 556): Submitted by Donna Stewart for property located at 1326 South China Berry Lane. 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

☐

[Signature]
Department Director

11-14-08
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

11-16-08
Date

Original Contract Date:

Original Contract Number:

Paul A. Becher
Finance and Internal Service Director

11-17-08
Date

Received in City
Clerk's Office

11-14-08

Don Cody
Mayor

11/18/08
Date

Received in
Mayor's Office

ENTERED
11/18/08
PH

Comments:

City Council Meeting of December 2, 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: November 13, 2008

Subject: Vacation for Sisemore (VAC 08-3130)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance vacating a portion of a utility easement on the subject property.

BACKGROUND

The subject property is located at 1326 South China Berry Lane, north of Sixth Street and west of the Lowe's. The 0.29 acre property is bound by utility easements at the west, east, and south property lines and contains one single-family dwelling, which was constructed in 2000. Based on the submitted survey, the structure encroaches approximately 2' into the 10' utility easement located along the south property line.

The applicant is requesting to vacate a portion (approximately 81.6 square feet) of the easement at the south property line to bring the house into compliance.

DISCUSSION

Notification was provided to the City with no objections to the requested utility easement vacation. This item was heard at the regular Planning Commission meeting on November 10, 2008 and forwarded by vote of 7-0-0 on the consent agenda to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 08-3130 SUBMITTED BY DONNA STEWART FOR PROPERTY LOCATED AT 1326 SOUTH CHINA BERRY LANE TO VACATE A PORTION OF A UTILITY EASEMENT ON THE SUBJECT PROPERTY, A TOTAL OF 81.6 SQUARE FEET.

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 redevelopment or improvements to the property shall comply with all zoning development regulations including building setbacks from the property lines and Master Street Plan right-of-way, height restrictions, and so forth.

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"

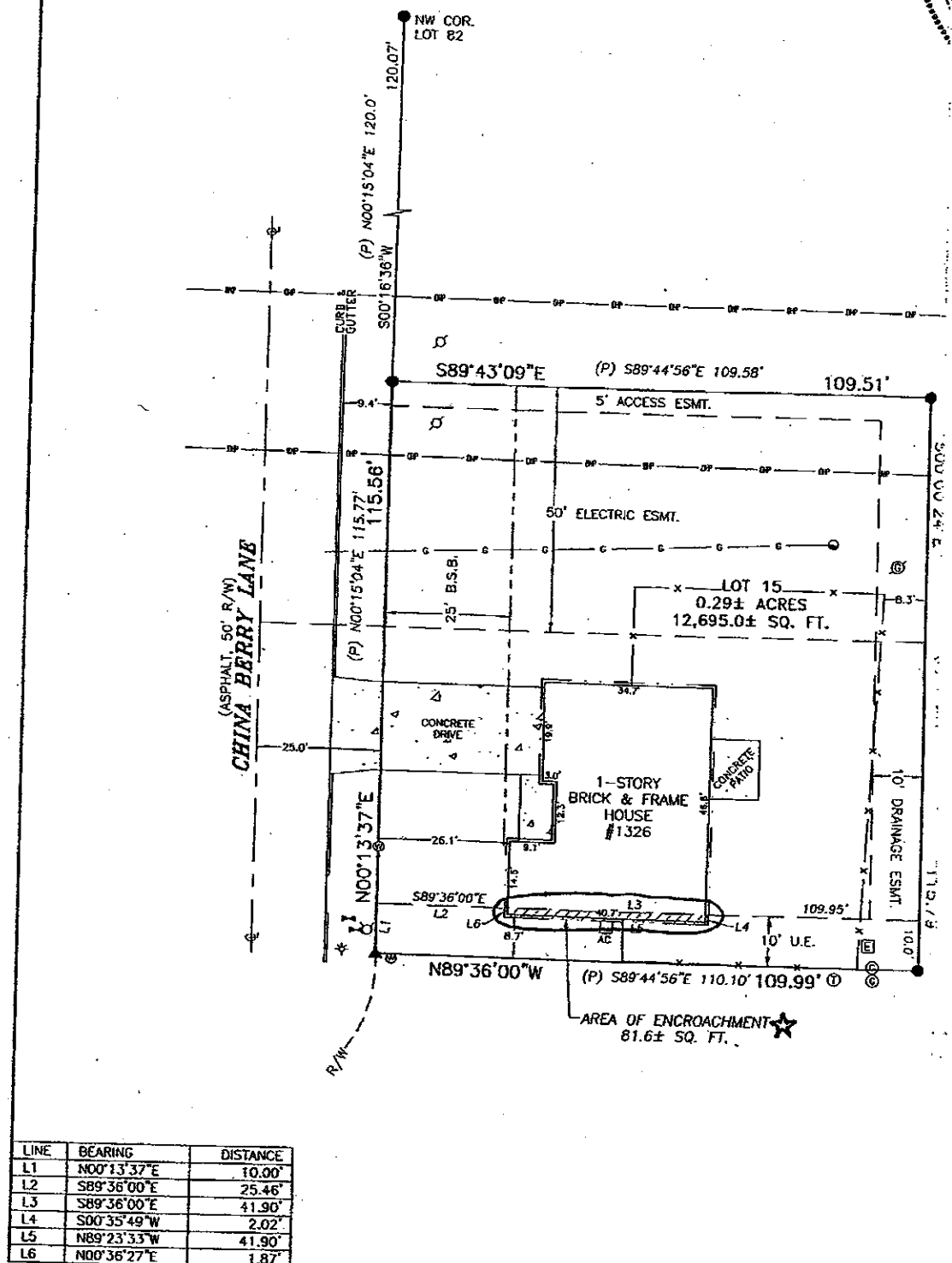


EXHIBIT "B"
VAC 08-3130

A PART OF LOT FIFTEEN (15), MAGNOLIA CROSSING, A SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER THE FINAL PLAT OF SAID SUBDIVISION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT FIFTEEN (15), SAID POINT BEING AN EXISTING NAIL; THENCE N 00 DEGREES 13'37"E 10.00 FEET ALONG THE WEST LINE OF SAID LOT FIFTEEN (15) TO A POINT ON A NORTH LINE OF AN EXISTING TEN (10) FOOT WIDE UTILITY EASEMENT; THENCE S 89 DEGREES 36'00"E 25.46 FEET ALONG THE NORTH LINE OF SAID EASEMENT TO THE TRUE POINT OF BEGINNING. SAID POINT BEING ON THE WEST ROOF OVERHANG OF AN EXISTING HOUSE; THENCE S 89 DEGREES 36'00"E 41.90 FEET ALONG THE NORTH LINE OF SAID EASEMENT TO A POINT ON THE EAST ROOF OVERHANG OF SAID HOUSE; THENCE S 00 DEGREES 35'49"W 2.02 FEET TO THE INTERSECTION OF THE EAST ROOF OVERHANG AND THE SOUTH ROOF OVERHANG; THENCE N 89 DEGREES 23'33"W 41.90 FEET ALONG THE SOUTH ROOF OVERHANG TO THE INTERSECTION OF THE SOUTH ROOF OVERHANG AND THE WEST ROOF OVERHANG; THENCE N 00 DEGREES 36'27"E 1.87 FEET TO THE POINT OF BEGINNING, CONTAINING 81.6 SQUARE FEET, MORE OR LESS.



PC Meeting of November 10, 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: ~~October 31, 2008~~ Updated November 13, 2008

VAC 08-3130: (SISEMORE / CHINA BERRY LN., 556): Submitted by DONNA STEWART for property located at 1326 S. CHINA BERRY LANE. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 0.29 acres. The request is to vacate a portion of a utility easement on the subject property.

Planner: Dara Sanders

Findings:

Property Description: The subject property is located at 1326 South China Berry Lane, north of Sixth Street and west of the Lowe's. The 0.29 acre property is bound by utility easements at the west, east, and south property lines and contains one single-family dwelling, which was constructed in 2000. Based on the submitted survey, the structure encroaches approximately 2' into the 10' utility easement located along the south property line.

Request: The applicant is requesting to vacate a portion (approximately 81.6') of the easement at the south property line to bring the house into compliance.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer	No Objection
Transportation	No Objection
Solid Waste	No Objection

UTILITIES

RESPONSE

Ozarks Electric	No Objection
Cox Communications	No Objection
Southwestern Electric Power Company	No Objection

Arkansas Western Gas

No Objection

AT&T Arkansas

No Objection

Public Comment: Staff has not received public comment.

Recommendation: Staff recommends forwarding VAC 08-3130 to the City Council with a recommendation of approval with the following conditions of approval:

1. Any redevelopment or improvements to the property shall comply with all zoning development regulations including building setbacks from the property lines and Master Street Plan right-of-way, height restrictions, and so forth.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: x Forwarded ☐ Denied ☐ Tabled

Date: November 10, 2008

Motion: Winston

Second: Lack

Vote: 7-0-0

September 29, 2008

City of Fayetteville
Planning Commission

RE: Description of Request

Please accept this letter as a written description of the request we are making regarding the attached application.

The property located at 1326 S. China Berry Lane, Fayetteville, Arkansas, had a survey performed and it was discovered that the dwelling encroached onto/over a utility easement along the South side of the property. The dwelling was built approximately 2000; however, a survey had not been requested prior to March, 2007. Since the encroachment has been discovered, we are making application to vacate that portion which the dwelling is built over/onto the existing easement.

I have had the surveyor locate the encroaching area, notified all surrounding owners, utility companies and city officials required with no objections for any of the above.

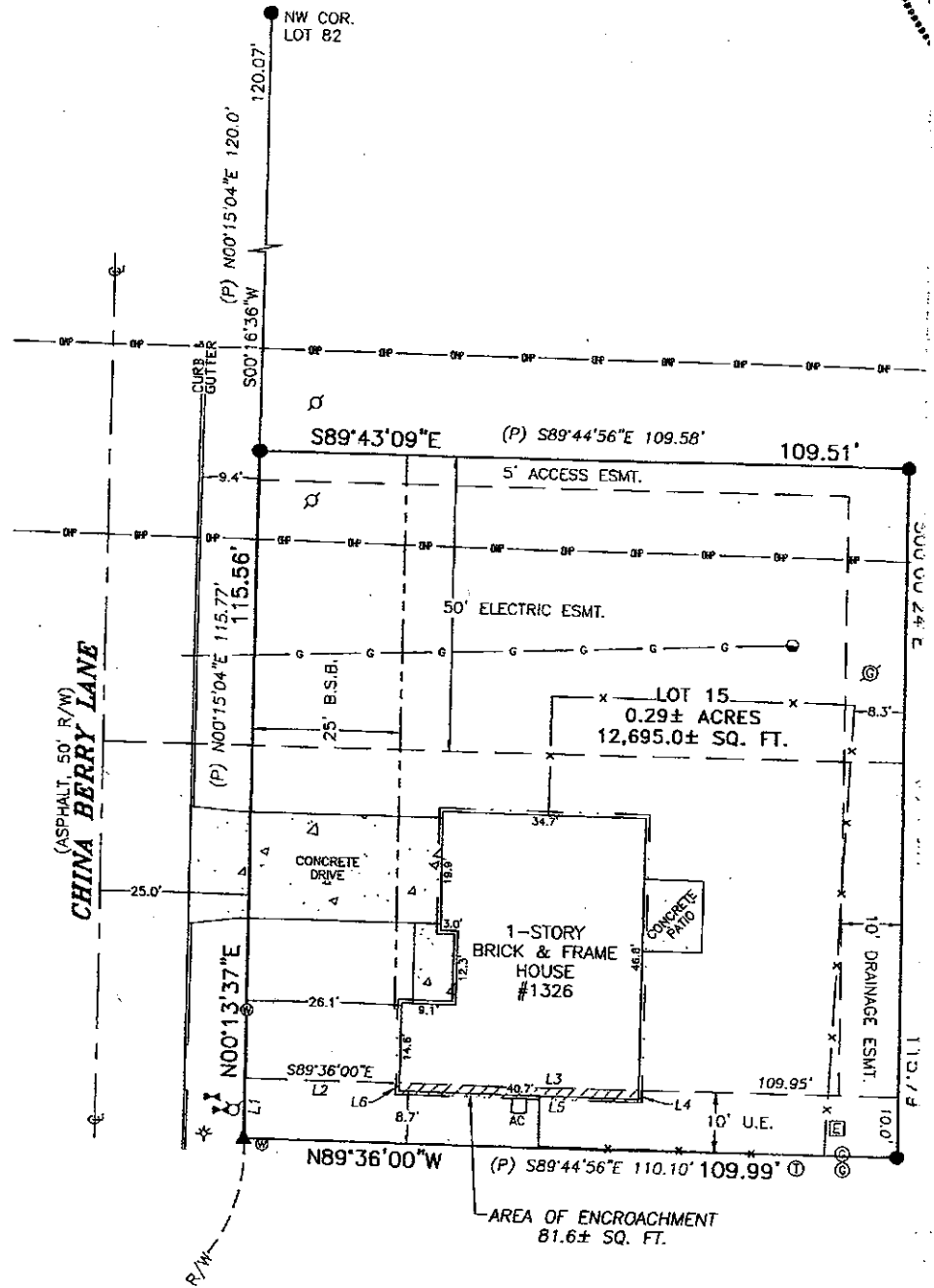
With said application being submitted, we are requesting that the vacation of the encroached area be granted as it has been this way for approximately 8 years and current owner inherited the issue. The city inspectors' office did not notate an encroachment at the time the dwelling was under construction and inspected, as all inspections were passed and approved prior to the Certificate of Occupancy being granted.

Thank your for your time and consideration of this application and request.

Sincerely,



Donna J. Stewart
Representative for Jonathan and Amber Sisemore



LINE	BEARING	DISTANCE
L1	N00°13'37"E	10.00'
L2	S89°36'00"E	25.46'
L3	S89°36'00"E	41.90'
L4	S00°35'49"W	2.02'
L5	N89°23'33"W	41.90'
L6	N00°36'27"E	1.87'

PETITION TO VACATE AN EASEMENT LOCATED IN LOT 15, MAGNOLIA
CROSSING, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all the owners of the real estate which includes the utility easement hereinafter sought to be partially abandoned and vacated, lying in Lot 15, Magnolia Crossing, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate part of an easement which is described as follows:

See Attached Description

That the real estate affected by said partial vacating of said easement only effects Lot 15, Magnolia Crossing, City of Fayetteville, which is used by the utility companies and they have indicated that the vacating of that portion encroaching, further described above, would not effect the property adversely nor their ability to access utilities located within said easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the current property owners as already deeded and provide by law.

WEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to the balance of said utility easement.

Dated this 10th day of July, 2008.

Jonathan Sisemore



Amber Sisemore



ADJACENT PROPERTY OWNER NOTIFICATION FORM FOR EASEMENT VACATION

Date: July 15, 2008

Address of Property: 1326 S. China Berry Lane,
Fayetteville, Arkansas 72704

Legal Description of
Subject Property: Lot 15 Magnolia Crossing Subdivision
Fayetteville, Washington County, Arkansas

Adjacent Property Address: 1265 S. CHINA BERRY LANE
Fayetteville, AR 72704

REQUESTED VACATION:

I have been notified of the petition to vacate encroachment of dwelling onto/over existing
utility easement:

See attached survey for highlighted detail of encroachment

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested request to vacate and decline to comment.
- ☒ I do not object to vacating that portion of dwelling encroaching onto/over shown
utility easement.
- ☐ I do object to the request to vacate because:

Rensyin Chen / Ping Zhao

Name of Adjacent Property Owner (printed)

[Signature]
Signature of Adjacent Property Owner

[Signature]
Applicant Name: Jonathan Sisemore and Amber Sisemore

ADJACENT PROPERTY OWNER NOTIFICATION FORM FOR EASEMENT VACATION

Date: July 15, 2008

Address of Property: 1326 S. China Berry Lane,
Fayetteville, Arkansas 72704

Legal Description of
Subject Property: Lot 15 Magnolia Crossing Subdivision
Fayetteville, Washington County, Arkansas

Adjacent Property Address: 1274 S. CHINA BERRY LANE
Fayetteville, AR 72704

REQUESTED VACATION:

I have been notified of the petition to vacate encroachment of dwelling onto/over existing
utility easement:

See attached survey for highlighted detail of encroachment

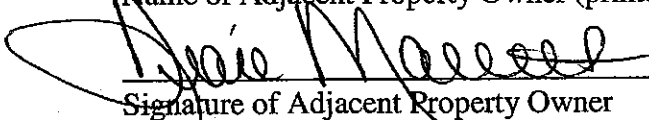
ADJACENT PROPERTY OWNERS COMMENTS:

☐ I have been notified of the requested request to vacate and decline to comment.

☒ I do not object to vacating that portion of dwelling encroaching onto/over shown
utility easement.

☐ I do object to the request to vacate because:

DIANE MALLET
Name of Adjacent Property Owner (printed)


Signature of Adjacent Property Owner

Applicant Name: Jonathan Sisemore and Amber Sisemore

**ADJACENT PROPERTY OWNER NOTIFICATION FORM FOR EASEMENT
VACATION**

Date: July 15, 2008

Address of Property: 1326 S. China Berry Lane,
Fayetteville, Arkansas 72704

Legal Description of
Subject Property: Lot 15 Magnolia Crossing Subdivision
Fayetteville, Washington County, Arkansas

Adjacent Property Address: 1332 S. CHINA BERRY LANE
Fayetteville, AR 72704

REQUESTED VACATION:

I have been notified of the petition to vacate encroachment of dwelling onto/over existing
utility easement:

See attached survey for highlighted detail of encroachment

ADJACENT PROPERTY OWNERS COMMENTS:

☐ I have been notified of the requested request to vacate and decline to comment.

☒ I do not object to vacating that portion of dwelling encroaching onto/over shown
utility easement.

☐ I do object to the request to vacate because:

Condace J. Dixon
Name of Adjacent Property Owner (printed)

[Signature] 7/17/08
Signature of Adjacent Property Owner

Applicant Name: Jonathan Sisemore and Amber Sisemore



CONCURRENCE TO REDUCE A DEDICATED UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS that Southwestern Bell Telephone Company, d.b.a. AT&T Arkansas, hereby concurs in the abandonment of a portion of a dedicated utility easement, to-wit:

The northernmost two feet (2') of a ten foot (10') dedicated utility easement located along the southern lot line of Lot 15 of the Magnolia Crossing Subdivision to the City of Fayetteville, Washington County, Arkansas

Signed and executed this 12th day of September, 2008.

By: _____

F. Jean Davis

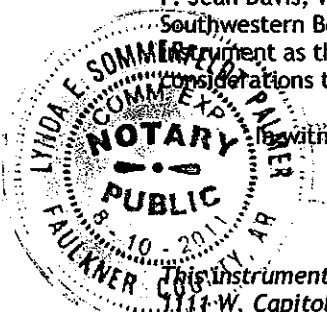
Director-Engineering/Construction

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF PULASKI

On this the 12th day of September, 2008, before me, the undersigned authority, duly commissioned and qualified in and for the state and county set forth above, personally came and appeared F. Jean Davis, who, after being duly sworn, declared that he is the Director-Construction/Engineering for Southwestern Bell Telephone Company, d.b.a. AT&T Arkansas, and that he executed the foregoing instrument as the act and deed of said company of his own free will and for the purposes and considerations therein expressed and with due authority.

In witness whereof I hereunto set my hand and official seal.



This instrument prepared by AT&T
111 W. Capitol, Room 941
Little Rock, AR 72201 (501-373-5255)

Lynda E. Sommerfeldt Palmer
Lynda E. Sommerfeldt Palmer
Notary Public in & for Faulkner Co., AR
My commission expires August 10, 2011

UTILITY APPROVAL FORM FOR RIGHT-OF-WAY, ALLEY
AND UTILITY EASEMENT VACATIONS

DATE: 09/16/08

UTILITY COMPANY: Southwestern Bell Telephone Co. d.b.a. AT&T Arkansas

REQUESTED VACATION:

UTILITY EASEMENT

I have been notified of the petition to vacate the following right-of-way in Fayetteville:

Described as follows:

The northernmost two feet (2') of a ten foot (10') dedicated utility easement located along the southern lot line of Lot 15 of the Magnolia Crossing Subdivision to the City of Fayetteville, Washington County, Arkansas

UTILITY COMPANY COMMENTS:

No objections to the vacation described above.

Signature of this form does not constitute a release of easement. The attached Concurrence must be recorded at the Washington County courthouse in order for this release to be complete and legal.

Signature of AT&T Company Representative:


Lynda E. Sommerfeldt Palmer, Mgr.-Engr. (ROW)

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 7/15/07

UTILITY COMPANY: AEP/SWEP CO

APPLICANT NAME: Jonathan Sisemore APPLICANT PHONE: 479-595-9597
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**)

** 1326 S. CHINA BERRY LANE, FAYETTEVILLE AR 72704

(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 OBJECTION TO VACATING THAT PORTION OF EASEMENT BEING
ENCROACHED, PROVIDING THE REMAINING EASEMENT IS RETAINED

- No objections provided the following conditions are met:

Sammy Winkler
Signature of Utility Company Representative

RIGHT / WAY AGENT
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 7/15/07

UTILITY COMPANY: Coa Communications

APPLICANT NAME: JONATHAN SISEMORE APPLICANT PHONE: 479-595-9597
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**)

** 1326 S. CHINA BERRY LANE, FAYETTEVILLE AR 72704

(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 VACATIONSDATE: 7/15/08UTILITY COMPANY: ARKANSAS WESTERN GAS COMPANYAPPLICANT NAME: JONATHAN SISEMORE APPLICANT PHONE: 479-595-9597
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**)

** 1326 S. CHINA REARY LANE, FAYETTEVILLE AR 72704

(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.)

Release the North 1'6" of existing 10' utility easement The
remainder of the easement will remain

- No objections provided the following conditions are met:


Signature of Utility Company RepresentativeNorthwest Regional Manager
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 7/15/08

UTILITY COMPANY: OZARKS Electric

APPLICANT NAME: JONATHAN SISEMORE APPLICANT PHONE: 479-595-9597

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**) _____

**** 1326 S. CHINA BERRY LANE, FAYETTEVILLE AR 72704**

(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] OZARKS Electric
Signature of Utility Company Representative

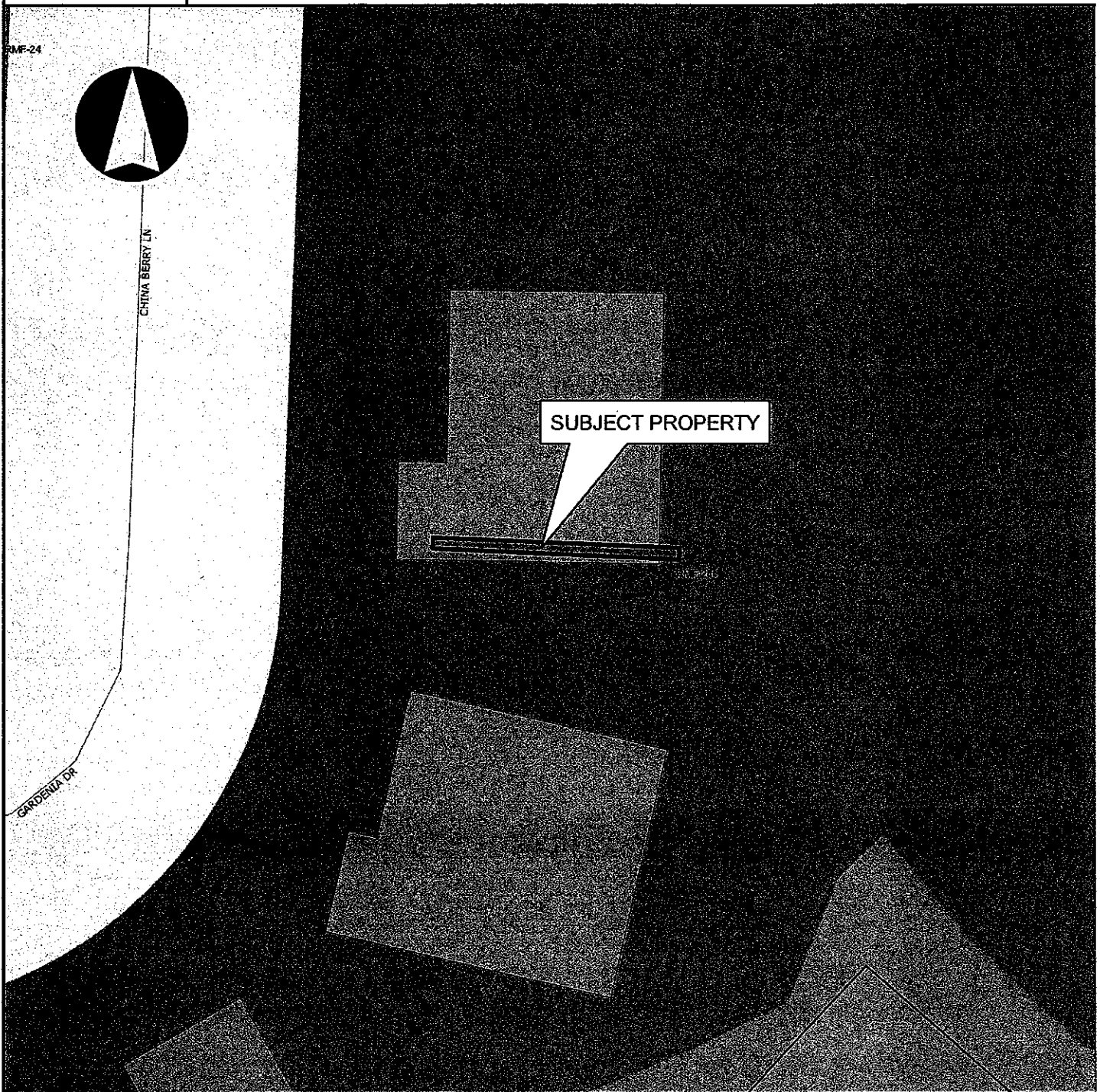
Lead Staking Tech
Title

*This address is NOT IN OZARKS service area, AEP serves this address with electric.

VAC08-3130

Close Up View

SISEMORE/CHINA BERRY LN



Overview

- [illegible]



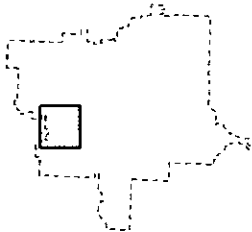
VAC08-3130

SISEMORE/CHINA BERRY LN

One Mile View



Overview



Legend

Subject Property

VAC08-3130

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. 7
I-PZD 08-3062
(Westside Storage)
Page 1 of 92

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

12/2/2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

I-PZD 08-3062: Planned Zoning District (Westside Storage, 400): Submitted by Steve Clark for property located at 1192 North Ruppel Road containing approximately 0.77 acres. The request is for a zoning and land use only application for an additional climate controlled storage building, a new entrance from Wedington Drive with new management buildings at that entrance.

<u>Cost of this request</u>	\$ <u> </u>	<u>Category / Project Budget</u>	<u>Program Category / Project Name</u>
<u>Account Number</u>	\$ <u> </u>	<u>Funds Used to Date</u>	<u>Program / Project Category Name</u>
<u>Project Number</u>	\$ <u> </u>	<u>Remaining Balance</u>	<u>Fund Name</u>

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

11-14-08
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

11-16-08
Date

Original Contract Date:

Original Contract Number:

Paul A. Beebe
Finance and Internal Service Director

11-17-08
Date

Received in City
Clerk's Office



11/14/08

[Signature]
Mayor

11/18/08
Date

Received in
Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning 

Date: November 13, 2008

Subject: Industrial Planned Zoning District for Westside Storage (I-PZD 08-3062)

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance creating an Industrial Planned Zoning District (I-PZD) for Westside Storage, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a self storage facility on approximately 0.77 acres.

BACKGROUND

Westside Storage development totals approximately 5.05 acres with frontage on Ruppel Road and Wedington Drive. The northern part of the property is zoned C-2, Thoroughfare Commercial and the southern portion is zoned R-O, Residential Office.

Background: The City Council rezoned approximately 3.5 acres of the property on July 17, 1990 with a Bill of Assurance that limited the property as follows: 1) the 3.5-acre tract shall be limited to mini-storage development only; 2) at least 60% of all existing trees with a caliper of 8" or more are to be preserved; 3) and access to the 3.5-acres shall be restricted to Ruppel Road. There are currently 12 mini-storage buildings located on this portion of the property.

The property owner returned in 2000 with a request to rezone the remaining 1.5 acres to C-2. The request was denied by the Planning Commission, but was appealed to the City Council. During discussions with the City Council, the applicant amended the request to rezone only 0.52 acres to allow one additional storage building. The City Council returned the amended rezoning request to the Planning Commission for additional review. The Planning Commission then forwarded the amended rezoning request to the City Council with a recommendation for approval and the City Council approved the request on January 23, 2001 with a Bill of Assurance that limited the property as follows: 1) the 0.52-acre tract shall be limited to a climate controlled storage facility and/or mini-storage facility; and 2) screening shall be approved by the Planning Commission.

The Planning Commission and City Council noted several times that although rezoning 0.52 acres to C-2 would lead to an additional storage unit, there would still be sufficient room along Wedington Drive to construct a building in the future that would screen the storage facility from the street.

City Council Meeting of December 2, 2008
Agenda Item Number

On November 04, 2008 the City Council, by Resolution No. 204-08, approved a settlement with Westside Storage, Inc. for right-of-way and easement acquisition for the Ruppel Road widening project. As part of this approval, the City Council also officially permitted access to the development from Wedington Drive which had been restricted by a Bill of Assurance offered by the property owner in 1990, subject to the applicant/City agreement on a negotiated right-of-way purchase.

The applicant requests rezoning and land use approval of an Industrial Planned Zoning District (I-PZD) to allow for one additional self storage building, manager's office and sleeping quarters.

DISCUSSION

The Planning Commission voted 7-0-0 in favor of this request on November 10, 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 AN INDUSTRIAL PLANNED ZONING DISTRICT TITLED I-PZD 08-3062 WESTSIDE STORAGE, LOCATED AT 1192 NORTH RUPPLE ROAD, CONTAINING APPROXIMATELY 0.77 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-O, Residential Office to I-PZD 08-3062 Westside Storage 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

WESTSIDE STORAGE



SUBJECT PROPERTY

WESTINGTON, N.J.

[illegible]

0 37.5 75 150 225 300 Feet

EXHIBIT "B"
I-PZD 08-3062

A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°34'19"E 267.00 FEET ALONG THE WEST LINE THEREOF, THENCE S87°05'17"E 373.10 FEET TO A FOUND 5/8" REBAR, THENCE S02°28'31"W 92.20 FEET TO THE POINT OF BEGINNING, THENCE S86°49'36"E 254.23 FEET, THENCE S03°21'48"W 131.38 FEET, TO THE EXISTING NORTH RIGHT-OF-WAY OF WEDINGTON DRIVE (ARKANSAS STATE HIGHWAY #16), THENCE N87°19'16"W 252.18 FEET, ALONG SAID ROW, THENCE N02°28'31"E 133.56 FEET TO THE POINT OF BEGINNING, CONTAINING 0.77 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT-OF-WAY OF WEDINGTON DRIVE (ARKANSAS STATE HIGHWAY #16) ON THE SOUTH AND TO ALL OTHER EASEMENTS AND RIGHT-OF-WAYS OF RECORD.

CONDITIONS OF APPROVAL:

I-PZD 08-3062

Page 1 of 2

The Planning Commission and staff recommend the following conditions of approval associated with I-PZD 08-3062 (Westside Storage).

Conditions of Approval Adopted by the City Council:

Streets and Right-of-Way

1. Planning Commission determination of design standards. Staff generally finds in favor of the proposed building elevations as submitted. *However, in an effort to present a building that serves as a screen for the remainder of the storage facility, the applicant shall utilize a varying parapet or other feature to vary the building façade and conceal the low sloping roof often associated with storage facilities.*
2. Right-of-way dedication in the amount of 48.5' feet from centerline along Wedington Drive shall be dedicated by warranty deed prior to building permit approval. If right-of-way for Ruppel Road has not been obtained, the applicant shall dedicate 53.5' of right-of-way from centerline prior to building permit.
3. The two existing driveways on Ruppel Road shall be limited to exit only and shall be clearly marked with signage indicating such restriction. At the time of project development, all remaining parking spaces shall be removed adjacent to Ruppel Road.
4. Landscaping along Wedington Drive and Ruppel Road shall be installed to meet the requirements of the Landscape Ordinance. A landscape plan will be reviewed at the time of development. As part of the Ruppel Road widening, approximately six trees may be required to be removed. The City will attempt to protect the trees in front of the storage building along Ruppel Road. However, because their survival can not be guaranteed due to the proximity of the new sidewalk, the City has agreed to pay Mr. Caudle \$3,000.00 for these trees. If the trees survive and are in good health at the time of development of the PZD, these trees may be counted for the total required along Ruppel Road.
5. Signage within the I-PZD zoning district shall be in accordance with the R-O zoning district.
6. In addition to the requirement of the Bill of Assurance to preserve 60% of all existing trees with a caliper of 8" or more, the development shall also be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a minimum of 25% canopy.
7. Though this PZD is conceptual only, the Urban Forester has visited the property and assessed the condition of the existing trees. Many are in poor condition, and their removal is recommended with development. However, the Urban Forester is recommending that at the time the development plan is submitted, the applicant shall evaluate reducing the building size and/or placement to potentially protect additional trees that are in good health (#9-14), in addition to those currently being planned for protection. Final recommendations will take place at the time of development review. Please see the attached comments from the Urban Forester for more information.
8. Large scale development approval shall be obtained within one year from the date of City Council approval of the Planned Zoning District and prior to the commencement of construction. A final

CONDITIONS OF APPROVAL:

I-PZD 08-3062

Page 2 of 2

certificate of occupancy shall be obtained within three years from the date of large scale development approval.

9. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan -- Planned Zoning District by the City Council shall also be binding.

Standard Conditions of Approval:

10. All mechanical and utility equipment on the wall and/or on the ground shall be screened. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening to the structure utilizing materials compatible with the supporting building. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. A note shall be added to all construction documents indicating as such.
11. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Architectural elevations for these structures shall be submitted for review prior to issuance of a building permit.
12. 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.
13. 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).
14. Provide a CD containing the proposed Large Scale Development drawings in AutoCad or similar digital format.
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. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.



Planning Commission Meeting
November 10, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 4, 2008 Updated November 13, 2008

I-PZD 08-3062: (WESTSIDE STORAGE, 400): Submitted by STEVE CLARK for property located at 1192 N RUPPLE ROAD. The property is zoned R-O, Residential Office and contains approximately 0.77 acres. The request is to review a zoning and land use only application for an additional climate controlled storage building, a new entrance from Wedington Drive with new management buildings at that entrance.

Planner: Jesse Fulcher

Findings:

Property Description: Westside Storage development totals approximately 5.05 acres with frontage on Ruppel Road and Wedington Drive. The northern part of the property is zoned C-2, Thoroughfare Commercial and the southern portion is zoned R-O, Residential Office.

Background: The City Council rezoned approximately 3.5 acres of the property on July 17, 1990 with a Bill of Assurance that limited the property as follows: 1) the 3.5-acre tract shall be limited to mini-storage development only; 2) at least 60% of all existing trees with a caliper of 8" or more are to be preserved; 3) and access to the 3.5-acres shall be restricted to Ruppel Road. There are currently 12 mini-storage buildings located on this portion of the property.

The property owner returned in 2000 with a request to rezone the remaining 1.5 acres to C-2. The request was denied by the Planning Commission, but was appealed to the City Council. During discussions with the City Council, the applicant amended the request to rezone only 0.52 acres to allow one additional storage building. The City Council returned the amended rezoning request to the Planning Commission for additional review. The Planning Commission then forwarded the amended rezoning request to the City Council with a recommendation for approval and the City Council approved the request on January 23, 2001 with a Bill of Assurance that limited the property as follows: 1) the 0.52-acre tract shall be limited to a climate controlled storage facility and/or mini-storage facility; and 2) screening shall be approved by the Planning Commission.

The Planning Commission and City Council noted several times that although rezoning 0.52 acres to C-2 would lead to an additional storage unit, there would still be sufficient room along Wedington Drive to construct a building in the future that would screen the storage facility from the street.

Surrounding zoning and land uses are depicted in *Table 1*.

Table 1
Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	The Links at Fayetteville	R-PZD
South	Airways Freight	R-O
East	Undeveloped	R-A
West	Shopping Center	C-1

Proposal: The applicant requests rezoning and land use approval of an Industrial Planned Zoning District (I-PZD) to allow for one additional self storage building, managers office and sleeping quarters.

Access: Access to the site is currently limited by a Bill of Assurance to Ruppel Road. The existing curb-cut on Wedington Drive was constructed by the Highway Department and the driveway was installed for emergency access only.

At this time Ruppel Road is being widened as part of the improvements associated with The Links at Fayetteville project located to the north of the subject property. The street widening will reduce the length of the entrance drive from approximately 85' to 45'. The property owner has stated that the reduced driveway length will result in moving trucks and trailers not being able to fully exit the roadway while awaiting the security gates to open. This could result in a dangerous situation for the truck drivers and general vehicular traffic on Ruppel Road. Consequently, the applicant is requesting that the City Council amend the Bill of Assurance from 1990 to allow access from Wedington Drive, as part of a negotiated agreement for purchase of additional right-of-way. This item is currently on the consent agenda of the City Council at its November 6, 2008 meeting.

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

Adjacent Master Street Plan Streets: Wedington Drive (Principal Arterial) and Ruppel Road (Principal Arterial Parkway)

Tree Preservation: The subject request is for zoning and land use approval and therefore a detailed tree preservation plan has not been presented. However, the applicant is still required to maintain 60% of all existing trees with a caliper of 8" or more pursuant to the Bill of Assurance from 1990, and the applicant is required to preserve 25% of the existing canopy on the subject property pursuant to Chapter 167 Tree Preservation, for a PZD.

Public Comment: Staff has not received comments from surrounding property owners.

Police and Fire Service: The Fayetteville Police and Fire Departments reviewed this rezoning request and concluded that adverse impacts to provision of service would not occur.

Recommendation: In general, a self storage development on the subject property is not consistent with the goals and policies of City Plan 2025, or the Future Land Use Plan for a City Neighborhood pattern of development. However, previous policy decisions recommended by the Planning Commission and

adopted by the City Council have permitted the development of a self storage facility at this site over the majority of the property, which at the time was also inconsistent with the City's adopted General Plan. It was anticipated that there would be sufficient room between the last storage building and Wedington Drive to permit the development of a structure that would screen the storage facility. It appears that this could be accomplished; however, it is unlikely that a sufficiently sized building could be located on the site to serve as an effective screen, with sufficient parking provided and in compliance with tree preservation requirements. Ultimately, a well designed storage building in this location could also serve as a screen, meeting the goal of previous city boards, and solve the access issues that are the result of a much needed street improvement project. In addition, the existence of the storage facility is well-established as a land use on this property. The present request does not introduce a new land use that is deemed incompatible to surrounding properties. Therefore, staff recommends forwarding **I-PZD 08-3062** to the City Council with a recommendation for approval with the following conditions:

Conditions of Approval:

1. Planning Commission determination of design standards. Staff generally finds in favor of the proposed building elevations as submitted. *However, in an effort to present a building that serves as a screen for the remainder of the storage facility, staff recommends that a gable, hipped, other roof style, or varying parapet be utilized in place of the low slopping roofs often associated with storage facilities.*

11/10/08: THE PLANNING COMMISSION FOUND IN FAVOR OF DESIGN STANDARDS WITH THE REQUIREMENT THAT SOME TYPE OF PARAPET FEATURE BE INSTALLED. MODIFICATIONS TO THE ROOF STYLE WERE NOT RECOMMENDED.

2. Right-of-way dedication in the amount of 48.5' feet from centerline along Wedington Drive shall be dedicated by warranty deed prior to building permit approval. If right-of-way for Ruppel Road has not been obtained, the applicant shall dedicate 53.5' of right-of-way from centerline prior to building permit.
3. The two existing driveways on Ruppel Road shall be limited to exit only and shall be clearly marked with signage indicated such restriction. At the time of project development, all remaining parking spaces shall be removed adjacent to Ruppel Road.
4. Landscaping along Wedington Drive and Ruppel Road shall be installed to meet the requirements of the Landscape Ordinance. A landscape plan will be reviewed at the time of development.
5. Signage within the I-PZD zoning district shall be in accordance with the R-O zoning district.
6. In addition to the requirement of the Bill of Assurance to preserve 60% of all existing trees with a caliper of 8" or more, the development shall also be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of

development, with a minimum of 25% canopy.

7. Though this PZD is conceptual only, the Urban Forester has visited the property and assessed the condition of the existing trees. Many are in poor condition, and their removal is recommended with development. However, the Urban Forester is recommending that at the time the development plan is submitted, the applicant shall evaluate reducing the building size and/or placement to potentially protect additional trees that are in good health (#9-14), in addition to those currently being planned for protection. Final recommendations will take place at the time of development review. Please see the attached comments from the Urban Forester for more information.
8. Large scale development approval shall be obtained within one year from the date of City Council approval of the Planned Zoning District and prior to the commencement of construction. A final certificate of occupancy shall be obtained within three years from the date of large scale development approval.
9. 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.
10. The following revisions shall be completed to the booklets/plats prior to re-submittal for City Council consideration:
 - a. Provide the percentage of lot area covered by buildings and paved areas for the entire 5.05 acre site.
 - b. Booklet. Page 3 and 4. The permitted uses listed on Page 3 do not match those listed in the zoning comparison chart on Page 4. Remove Use Unit 8.

Standard Conditions of Approval:

11. All mechanical and utility equipment on the wall and/or on the ground shall be screened. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening to the structure utilizing materials compatible with the supporting building. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. A note shall be added to all construction documents indicating as such.
12. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Architectural elevations for these structures shall be submitted for review prior to issuance of a building permit.
13. 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.
14. 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).

15. Provide a CD containing the proposed Large Scale Development drawings in AutoCad or similar digital format.
 16. 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.
 17. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
-

Planning Commission Action: ☐ Denied ☐ Tabled ☒ Forwarded to C.C.

Motion: Anthes

Second: Winston

Vote: 7-0-0

Meeting Date: November 10, 2008

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature _____

Date _____

Findings associated with MDP I-PZD 08-3062 (Westside Storage)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

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

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

FINDING: Staff finds that the application is not consistent with many of the goals and objectives of City Plan 2025, but is generally in compliance with the requirements of the Unified Development Code. The development is an expansion of an existing mini-storage facility that has been in operation since the 1990's. As a result, the goals of City Plan 2025, which are to: 1) make appropriate infill and revitalization a priority; 2) discourage urban sprawl; 3) make traditional town form the standard; 4) grow a livable transportation network; 5) assemble an enduring green network; and 6) create attainable housing, are a challenge to fulfill and may not be as applicable in this instance. The land use on the property has been well established for about two decades now; this land use was extended by approval of the Planning Commission and City Council within the past decade. As a policy decision, staff has taken the position that mini-storage units do not contribute to a desirable neighborhood form or development pattern. In this particular case, however, the form and development pattern are already well established. Additional property to expand this use, if it is to be expanded, is not available. It is staff's opinion, after researching Planning Commission and City Council minutes and records, that the greatest concern was the view of the storage units from the street. With specific attention to the façade of the structure facing the street, the proposed building can meet commercial design standards much as any other use on this site would be required to do. For that reason, and the fact that the proposed use is not establishing a new land use within the context of an existing neighborhood, staff recommends in favor of the proposed planned zoning district.

The Unified Development Code notes that a PZD may be 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. *The proposal incorporates living quarters, office space and mini-storage.*
- (2) Compatibility. Providing for compatibility with the surrounding land uses. *The proposed building will be compatible with the existing shopping center and mini-storage facility. However, additional screening will be required adjacent to the undeveloped, residential property to the east.*
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community. *The proposal is for an expansion of the*

existing storage facility.

- (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. *The proposal provides living quarters for an on-site manager.*
- (5) No negative impact. Does not have a negative effect upon the future development of the area. *Expanding the existing facility should not have a negative effect on 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. *The facility has been developed over the past 15-20 years and has not been coordinated with surrounding developments to a great degree.*
- (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. *The development has not incorporated recreational areas, but has preserved at least 60% of all existing 8" caliper trees, in excess of the City's requirements.*
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities. *Tree preservation has been provided throughout the development in accordance with ordinance requirements.*
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan. *The proposal is not necessarily innovative planning or design, rather, it focuses on the expansion of a use on existing property, the catalyst of which the applicant states is the change to access brought about by the City's purchase of additional right-of-way for the Ruppel Road expansion..*
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape. *Large species trees have been preserved along the boundary of the development.*

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

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

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The general impact of the development will be very minimal given the use and size of the expansion. Comments from the Fire and Police Departments are included.

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

FINDING: The existing storage facility consists of 13 buildings on approximately four acres and has been in operation for approximately 15 years. Rezoning the property to allow for one additional storage building will not be incompatible with surrounding land uses. Additionally, an appropriate designed building could serve as a visual buffer between the right-of-way and the existing storage facility. Care should be taken to ensure the future development of the residential property to the east is not adversely affected by the project expansion.

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

FINDING: The land is suitable for the intended land use and with tree preservation requirements the building expansion will be compatible with the natural environment.

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

FINDING: In general, storage facilities generate very little traffic. Constructing an additional storage building will not noticeably increase vehicle trips, or create traffic congestion.

- (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: Developing the subject property with 14 storage units today would likely be incompatible with surrounding land uses, and would not enhance the neighborhood or further the health, safety and welfare of the community. However, the current proposal is to construct only one additional storage building on the property, essentially realizing full build-out on the remaining property owned by the applicant at this location. Staff finds that if designed appropriately, the new building will serve as a screen for the existing storage facility, ultimately enhancing the property.

- (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: Landscaping along Wedington Drive is required by ordinance and will be installed around existing trees. Screening is required adjacent to the residential properties to the north and east; however, the north property line is currently screened by a row of existing pine trees. Screening along the east property line shall be evaluated at the time of development review and will likely include an opaque fence, vegetative buffer, or a combination of the two.

- (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: Access to the site was limited to Ruppel Road by the Bill of Assurance accepted in 1990. Due to the planned widening of Ruppel Road and subsequent reduction in driveway length, a full access driveway will need to be allowed on Wedington Drive. The two existing driveways on Ruppel Road will be restricted to exit-only drives.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking will be provided for the storage facility in accordance with City ordinance.

- (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 for the area of expansion.

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

FINDING: There is an existing 5' sidewalk along Wedington Drive. Staff will evaluate at the time of development whether a new sidewalk will be required. Sidewalks along Ruppel Road will be constructed with the ongoing street widening project.

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

FINDING: Street lights are required to be installed at all intersections and with a maximum spacing of 300 feet along. The requirement for additional street lights shall be evaluated at the time of development review.

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

FINDING: Public water is available to the property and shall be extended to serve the development.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer is available to the property and shall be extended to serve the development.

- (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
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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 applicant does not propose public or private streets.

- (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: Not applicable. This is not a residential PZD.

- (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 is required to be submitted at the time of development review. In addition to the requirements of the tree preservation ordinance, the development is subject to the Bill of Assurance from 1990, requiring 60% preservation of all existing trees with greater than an 8" caliper.

- (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: In an effort to provide a functional storage building, but that is also attractive from the public realm, the applicant is proposing a brick facade with all of the garage doors on the rear of the building.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views have been identified.

(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. 161.29 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: By presenting an attractive façade to street, limiting the garage doors to the rear of the structure, preserving many of the large species trees and installing screening along the east property line, the applicant should be able to expand the storage facility in a manner that is harmonious and compatible with surrounding properties.

(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.

(D) I-PZD, Industrial Planned Zoning District

- (1) *Purpose and intent.* The I-PZD is intended to accommodate industrial parks and single use industrial developments that are determined to be more appropriate for a PZD application than a general industrial rezone. The legislative purpose, intent and application of this district include, but are not limited to, the following:
 - (a) To provide for manufacturing activities in a manner compatible with the surrounding area.
 - (b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.
 - (c) To maximize manufacturing potential without adversely affecting the living environment of the community.
 - (d) To encourage industrial development that is consistent with the city's General Plan.

FINDING: Staff is recommending approval of this application, finding that the proposed use is more appropriate for a PZD application than a general industrial rezone. Compatibility with surrounding properties can be achieved through proper building design, tree preservation, and screening.

- (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 industrial use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.

FINDING: The majority of the facility will be used for self storage, with a small portion dedicated to office use and sleeping quarters.

(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 proposal is for an industrial planned zoning district with an accessory dwelling unit permitted for on-site management quarters. The densities of surrounding developments are varied, but tend to be multi-family due to the location along Wedington Drive. The existing zoning district (R-O) would allow several types of residential dwelling units.

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

FINDING: The proposed building setbacks are consistent with the setbacks required in the R-O zoning district.

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

FINDING: The building height proposed for this project is less than that allowed in the R-O 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 lot coverage or building area should be less than the lot coverage in the R-O zoning district, where there is a 60% maximum building area

***Required Findings for Rezoning Request.**

Land Use Plan: *The City Plan 2025 Future Land Use Plan designates this site as City Neighborhood Area. Rezoning this property to I-PZD 08-3062, with the associated Master Development Plan, is generally inconsistent with this designation. However, the majority of the property has already been developed for mini-storage use and been in operation for many years. An appropriately designed building that does not resemble a conventional storage building would conceal the remainder of the storage facility and increase the level of compatibility with surrounding developments.*

FINDINGS OF THE STAFF

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

Finding: The proposed zoning and mini-storage use are not consistent with most land use planning objectives or policies, especially as they relate to existing or proposed neighborhoods. However, the use proposed on this property is an established one that is viable and functional for surrounding residents. Expansion of the use at this location by one building is more desirable and consistent with land use plans than a proposal for a new facility within an existing or proposed neighborhood. An appropriately designed building could conceal the intended use of the building and generally meet the same design standards required of uses already allowed within this area.

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

Finding: The proposed zoning is justified and needed at this time. The current entrance to the development is from Ruppel Road, as was required by the Bill of Assurance from 1990. However, additional right-of-way has to be obtained along the property frontage to allow for the widening and construction of Ruppel Road. This construction project will render the existing entrance unsafe for the larger moving vehicles (U-Haul, Allied Van Lines, etc), since the length of the vehicles will be longer than the resulting driveway. Consequently, the entrance is proposed to be relocated to the Wedington Drive side of the property. Relocating the entrance drive also requires relocating the manager's office. The applicant has stated that the only way to recoup the cost of the building a new office is to construct one additional storage building that will generate revenue.

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

Finding: The addition of one additional storage building will not appreciably increase traffic danger or congestion.

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

Finding: The proposed development will not undesirably increase the load on public services.

Engineering: Public water service is only available to the site along Ruppel Road. Service will need to be extended through the site to serve the proposed building.

Sanitary sewer service is available to the site along both Ruppel Road and Wedington. A sewer tap will need to be purchased from the City of Fayetteville at the time of building permit.

The site has access to Wedington and Ruppel. Wedington is a fully improved five lane state highway. Ruppel Road is planned to be a four lane boulevard with five-lanes near the Wedington intersection. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

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

Fire: The subject property is located 0.3 miles from the Engine 7 located at 835 Ruppel Road, with an estimated response time of 1 minutes. No adverse impacts on call volume or response time are anticipated.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: The widening of Ruppel Road could adversely affect the subject development if access to Wedington Drive is not permitted. Relocating the entrance creates the need to relocate the office, so that the facility can remain secure and customers can access the site. The owner has stated that a new office creates an expense, but results in no revenue. The only way that the owner can justify the new office is to construct additional self storage units that will produce an income to cover the initial costs.



THE CITY OF FAYETTEVILLE, ARKANSAS

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

TREE PRESERVATION REPORT

To: Fayetteville City Council

Copy: Jesse Fulcher, Planning Division

From: Greg Howe, Urban Forester

Date: November 6, 2008

Subject: Westside Storage Tree Protection

It is the understanding of the Urban Forester that the widening of Ruppel Rd. is adversely affecting Westside Storage through no direct fault of owners. This road widening will enhance traffic from The Links, Oakbrook and other subdivisions adjacent to Ruppel Rd. Due to this widening a new entrance, other infrastructure and office need to be moved from the Ruppel Rd. side of Westside Storage to the Wedington Dr. side. This shift in on-site development will require the removal of several of trees.

The Urban Forester is recommending approval of this project with the following conditions;

1. Recommend transplanting, on-site trees #1-4. If this can not be accomplished suggest replacing 4 trees along the exterior structure wall facing Wedington Dr. similar to how these trees are planted now.
2. Trees #5-8 and #15 are in poor health and should be removed which is consistent with the plan dated 7/03/08. Since the road widening is generating the need for tree removal no mitigation trees will be required. However, the Urban Forester highly recommends to the owner to replace these trees if the project budget will allow it.
3. Tree #14 is a very large tree in good condition. The Urban Forester recommends retaining this tree. This will require the sidewalk currently planned to the east of the new building to be removed and a stem wall or other special construction at the corner of the structure. This will also allow for the retention of Tree #13.
4. Trees #9-14 need to be retained and standard tree protection measures put in place as outlined in the Landscape Manual. Root pruning is advisable on Trees #13 and 14.

These recommendations are based on the plan dated 7/3/08 which does not show any utility easements impacting the trees to be retained.

Date 8/4/08

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 C-PZD 08-3062: (Westside Storage, 400): Submitted by Steve Clark for property located at 1192 N. Ruppel 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 5.05 acres.

It is the opinion of the Fayetteville Police Department that this C-PZD would not substantially alter the population density, and may possibly create an appreciable or undesirable increase in the load on police services. This C-PZD may possibly create an appreciable increase in traffic danger and congestion with an entrance from Wedington Drive. With the management office being relocated to the Wedington entrance, this may cause traffic to back up onto Wedington which is a major thoroughfare.

Sincerely,

Captain William Brown
Fayetteville Police Department



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701
Phone (479) 575-8365 Fax (479) 575-0471

C. 7
I-PZD 08-3062
(Westside Storage)
Page 10 of 92

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
From: David Williams, Battalion Chief
Date: November 4, 2008
Re: C-PZD 08-3062: (WESTSIDE STORAGE, 400):

Submitted by STEVE CLARK for property located at 1192 N. RUPPLE ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 5.05 acres.

The request is for an additional climate controlled storage building, a new entrance from Wedington Drive with new management buildings at that entrance.

This development will be protected by Station 7 located at 835 Rurple RD. It is .3 miles from the station with an anticipated response time of 1 minute to the beginning of the development.

The Fire Department anticipates 1(0 EMS – 1 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 – 18 months, after the development is started, before maximum build-out occurs.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

Measured hydrant flow in this area is "Unknown" gallons per minute.

If you have any questions please me.

David Williams

David Williams
Fire Marshal
Fayetteville Fire Department

C-PZD 08-3062: (WESTSIDE STORAGE, 400): Submitted by STEVE CLARK for property located at 1192 N. RUPPLE ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 5.05 acres. The request is for an additional climate controlled storage building, a new entrance from Wedington Drive with new management buildings at that entrance. Planner: Jesse Fulcher

Public water service is only available to the site along Ruppel Road. Service will need to be extended through the site to serve the proposed building.

Sanitary sewer service is available to the site along both Ruppel Road and Wedington. A sewer tap will need to be purchased from the City of Fayetteville at the time of building permit.

The site has access to Wedington and Ruppel. Wedington is a fully improved five lane state highway. Ruppel Road is planned to be a four lane boulevard in this area. 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.

RZN 08-3065: (HEDGE, 481): Submitted by RICHARD HEDGE for property located at 1201 E. HUNTSVILLE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.0 acre. The request is to rezone the subject property to NC, Neighborhood Conservation. Planner: Andrew Garner

Public water is available to the property. There is an 8" water main along Huntsville on the north side of the roadway.

Sanitary sewer is available to the site. There is a 6" sewer main along Huntsville on the south side of the roadway. 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 is currently an un-improved two lane paved city street. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

CIVIL / ENVIRONMENTAL ENGINEERING

August 15, 2008

Mr. Jeremy Pate
City of Fayetteville, Planning Division
113 West Mountain Street
Fayetteville, AR 72701

Re: Westside Storage I-PZD 08-3062
Rupple Road
Fayetteville, Arkansas

Dear Mr. Pate

This letter is submitted in response to the August 13, 2008 staff comments on the referenced project. We have revised our plans and project booklet in accordance with the comment except as follows.

9. The east access drive is being proposed, to allow closer access to the entry doors on that side of the building. Based on the owner's experience his customers prefer to have immediate access to the building. If they have to walk a distance to enter the building and then walk down a hallway they will go to a alternate facility for their needs. The owner believes this convenient access is necessary for the successful operation of the facility.
10. The previous building has four runs of storage rooms but also is accessible from the north and south sides. This allowed for a single central hallway to access the climate controlled storage areas.

With the proposed building there will be 5 runs of rooms and access to the south side of the building has been eliminated. This will require that two interior hallways be constructed with storage rooms on either side of the halls. This configuration does not lend itself to a 60 foot wide building. In fact the owner originally wanted a 75 foot deep building but the size was reduce to provide additional separation from the trees that are being preserved.

11. We understand that the project has expanded beyond the original plan approved in 1990. However, the number of trees required to be preserved on the original project are still there. In fact there are numerically more trees preserved than were originally required.
12. The owner recognizes that this expansion request is not consistent with his previous agreements from 1990 and 2001. However the only reason we are bringing this proposal to the Planning Commission and City Council is to attempt

to mitigate the damages being caused by the widening of Ruppel Road. If the City was not acquiring all of the Ruppel Road Right-of-Way from the east side of the road the owner would not be requesting this expansion.

The existing access into the West Side Storage will not be adequate nor will it be safe for large moving trucks after the widening project is completed. There will be approximately 43 feet between the gate and the sidewalk, which is not sufficient for a truck to exit the roadway and wait for the security gate to open. The best solution that is available is to relocate the entrance to the Wedington Road side of the property.

From an operational standpoint it is important that the office and manager's apartment be located adjacent to the entrance. This requires relocating these spaces to the Wedington Drive side of the complex. Due to this relocation the owner will incur a significant expense.

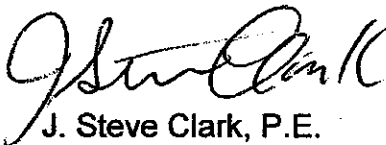
In order to amortize those costs, additional storage spaces will be needed. The owner considered constructing a office retail building, however since he is not setup to lease or maintain retail space it seemed like constructing additional climate controlled storage would be a better option.

In order to overcome the City's past reservations on self storage units the owner elected to design the street side of this new building with a brick and column facade. From Wedington Drive side the building will not look like a self storage facility. There will not be any roll-up type doors visible from Wedington Drive.

As an additional point if retail or office were proposed on this site the parking lot would extend to the normal 15 foot buffer from the ROW. By constructing the climate controlled storage facility we are able to provide a 50+' green space buffer between the building and the ROW.

Please call with questions.

Sincerely,
Clark Consulting



J. Steve Clark, P.E.

City Council
November 6, 2008
Westside Storage, Inc. Right-of-Way Acquisition

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:


City Attorney

10/21/08
Date

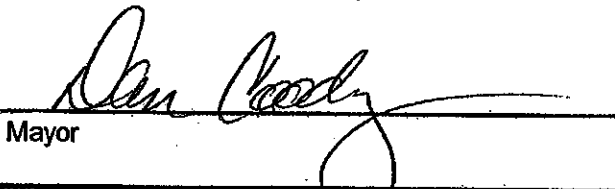
Original Contract Number:


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 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.

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 Rurple Road Widening Project.

PASSED and APPROVED this ____ day of November, 2008.

APPROVED:

ATTEST:

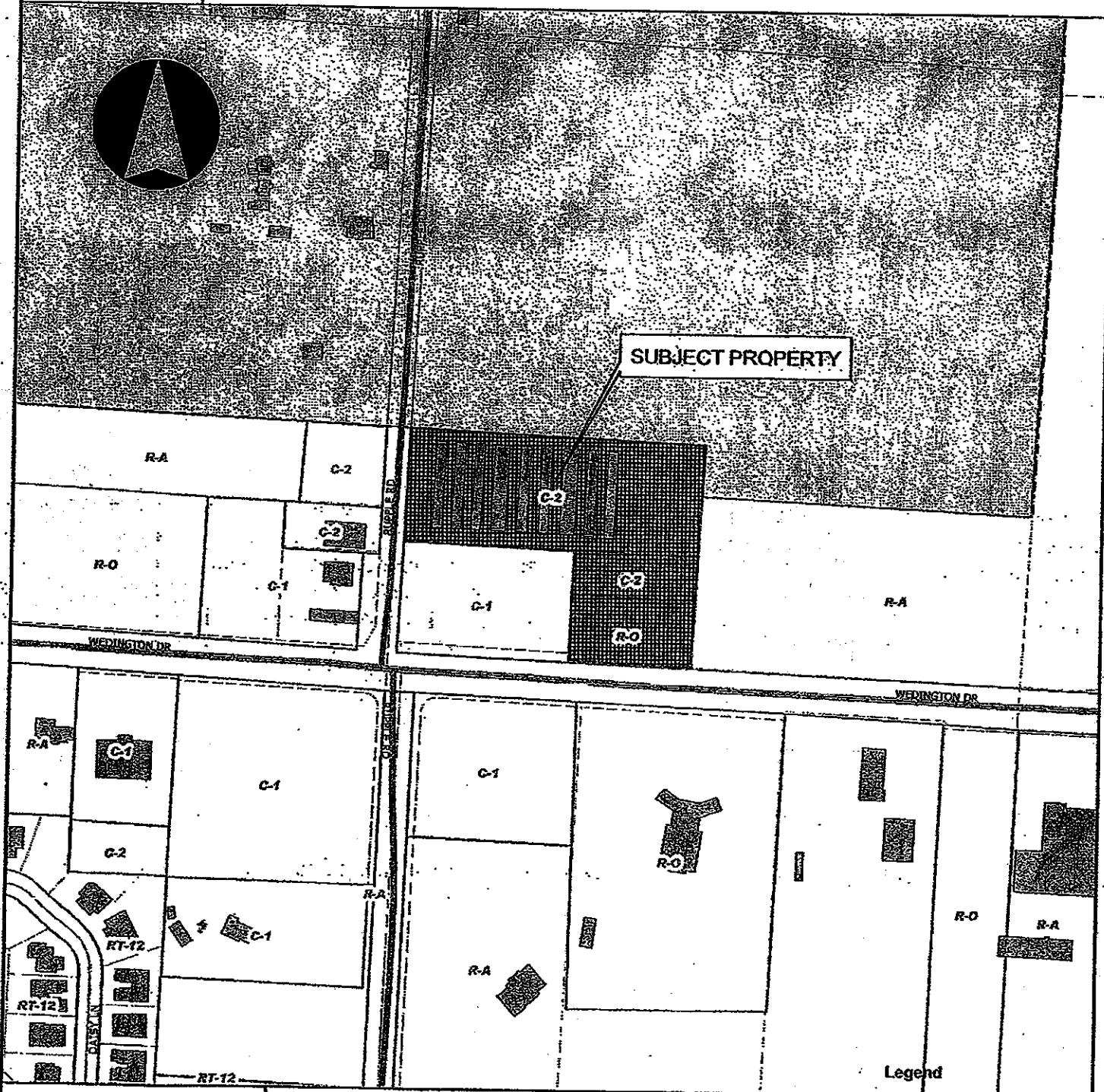
By: _____
DAN COODY, Mayor

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

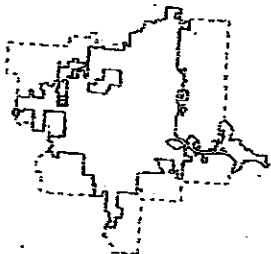
ADM 05-1441

Close Up View

WESTSIDE STORAGE



Overview



Legend

Subject Property

CUP04-10.00

Streets

Existing
Planned

Boundary

Planning Area
Overlay District
City Limits
Outside City

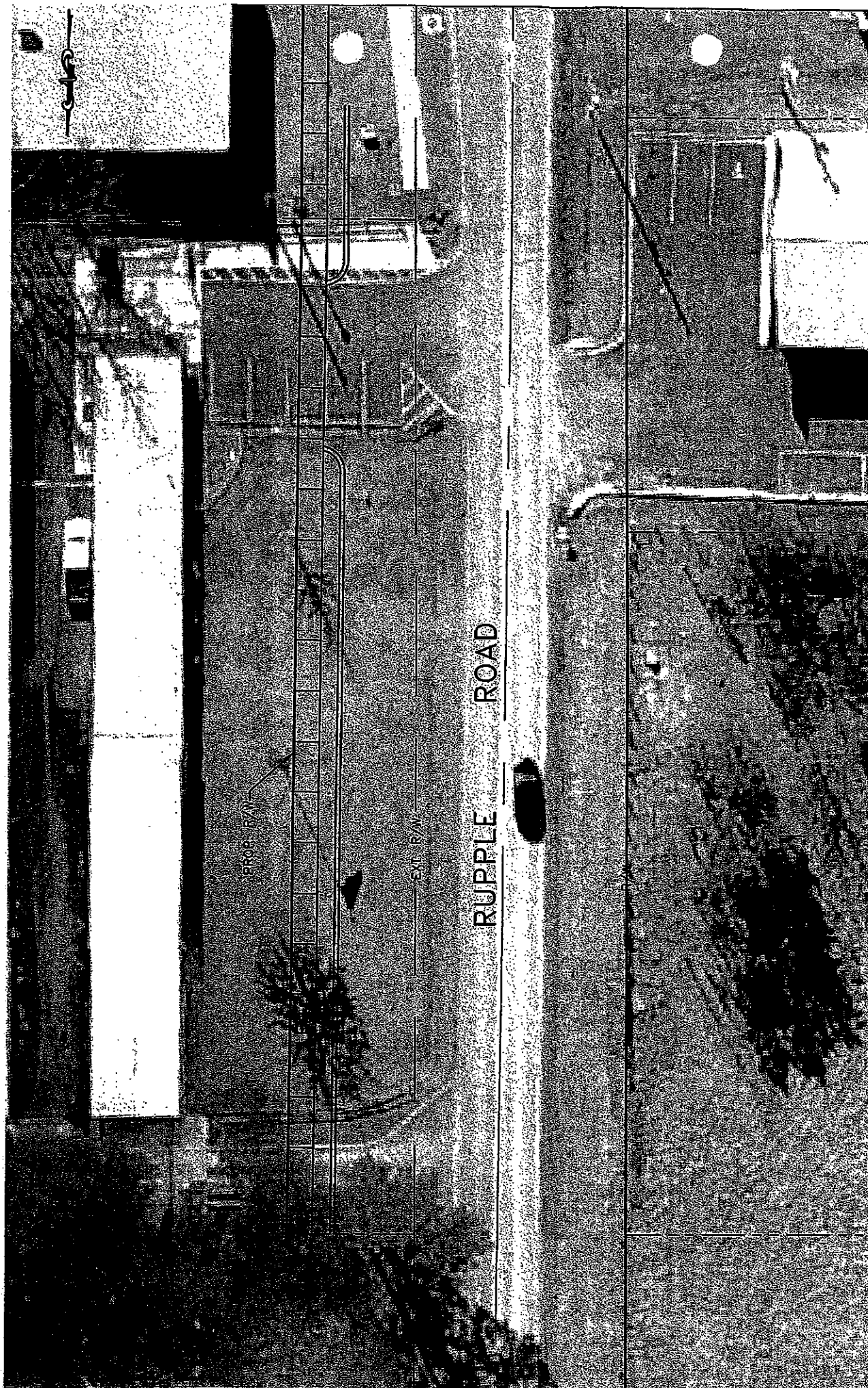
Master Street Plan

Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector



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. 72938
Phone (479) 650-4778
Fax (479) 675-3162**PROPOSAL**

Proposal No.: 08180801

Date: August 18, 1908

C 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.

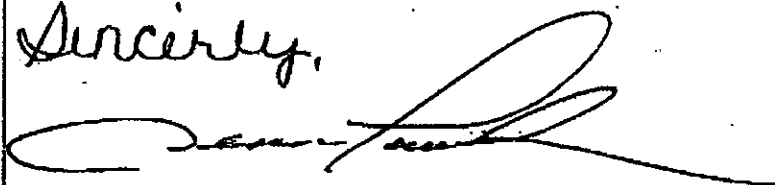
The two (2) trees located in our
yard on Ruppel would be retained
with sidewalk (walks) working
around those trees. Water lines
to be re-established large enough
to service existing location and

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

Fayetteville AR 72704

479-444-7177 (phone)

479-444-6755 (fax)

FILED FOR REC.

MICROFILMED

90 AUG. 8 PM 3 55

BILL OF ASSURANCE
WASHINGTON CO AR
A. KOLLMEYER

North of t ngton,
East of R le Road
R90-14 Rezoning
Candle

G.7
Westside Storage Inc.
11 of 18
(Westside Storage)
Page 45 of 92

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 aforesaid 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 1270 117

March 14, 2005
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,

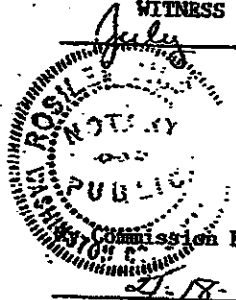

DALE W CAUDLE

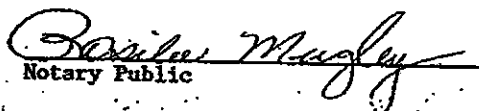
ACKNOWLEDGEMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON)SS:

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.

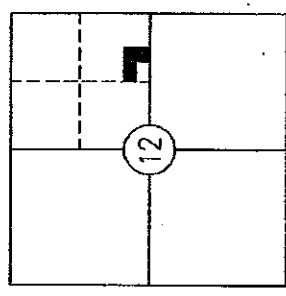
WITNESS my hand and seal on this _____ day of _____, 2008.

MY COMMISSION EXPIRES:

Notary Public



80 40 0 80
 BASIS OF BEARING: ARKANSAS STATE PLANE
 COORDINATE SYSTEM, NORTH ZONE, NAD 83
 HORIZONTAL DATUM AND NGVD 29 VERTICAL DATUM
 DETERMINED BY GPS OBSERVATION ON THE CITY OF
 FAYETTEVILLE CONTROL MONUMENTS USING THEIR
 PUBLISHED VALUES.



T16N, R31W

N 00°25'00" E 502.10'

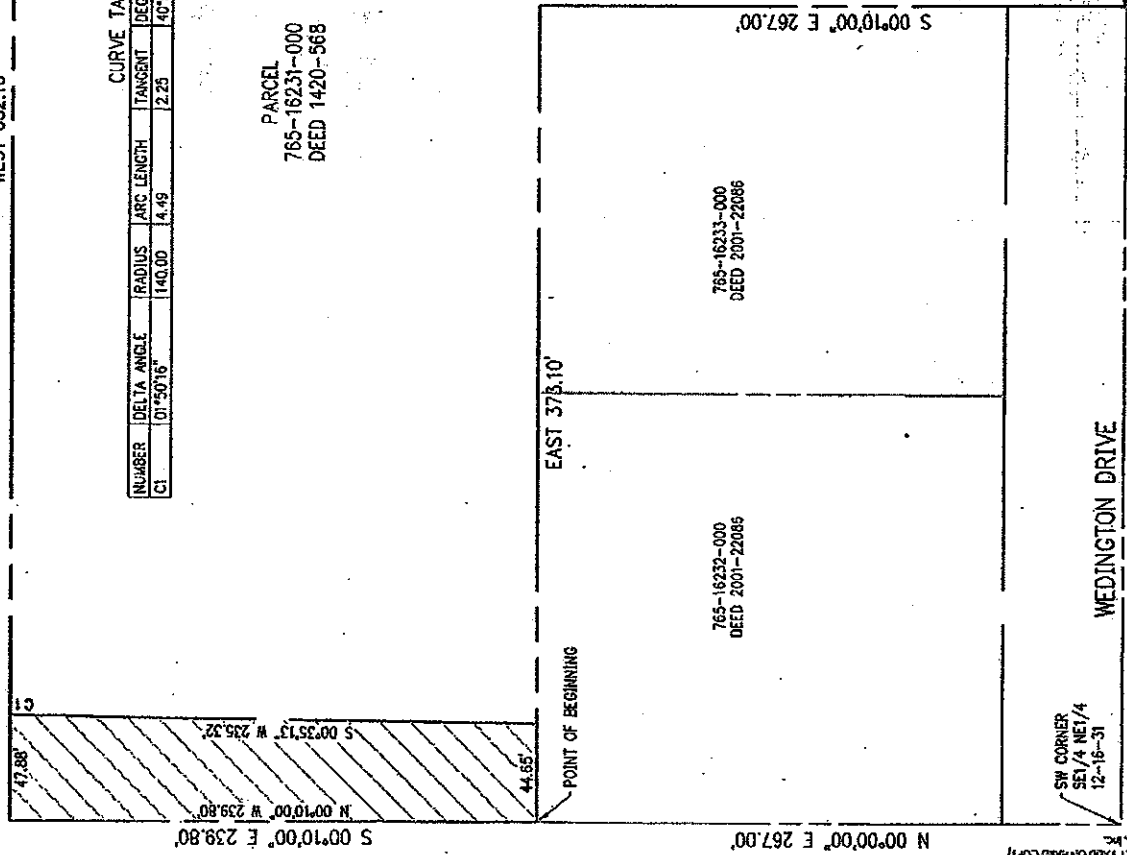
EXHIBIT A

WEST 632.10'

CURVE TABLE

NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	TANGENT	DEGREE OF CURVE	CHORD DIRECTION	CHORD LENGTH
C1	101°50'16"	140.00	4.49	2.25	40°55'32"	S 01°30'21" W	4.49

PARCEL
 765-16231-000
 DEED 1420-568



EAST 253.60'

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

LEGEND

PROPERTY LINE
 PROPERTY LINE ADJUNCTION
 EXISTING RIGHT-OF-WAY
 RIGHT-OF-WAY PER THIS DOCUMENT

Crafton, Tull, Sparks & Associates, Inc.
 901 N. 47th Street, Suite 200, Rogers, AR 72756
 479.836.4838 FAX: 479.831.6224
 www.craftontullsparks.com
Architects, Engineers & Surveyors

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.

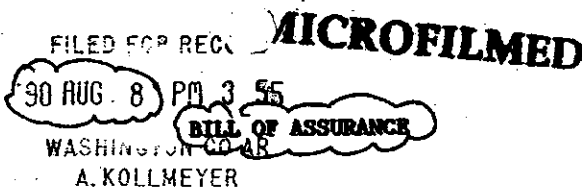
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ 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

Background Information
Planning Commission Minutes
City Council Minutes
Bills of Assurance



North of V ngton,
East of R e Road
R90-14 Rezoning
Caudle

C. 7
I-PZD 08-3062
(Westside Storage)
Page 53 of 92

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.

-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.



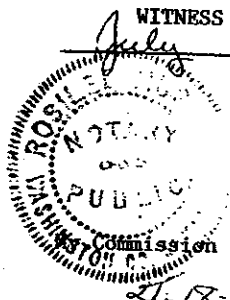
DALE W CAUDLE

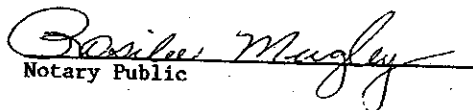
ACKNOWLEDGEMENT

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

BILL OF ASSURANCE

This declaration of a Bill of Assurance made this 8th day of January, 2001 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 Council to amend the Fayetteville zoning map and rezone the above
described 0.52 acres that adjoins the existing storage facility to the north from R-0, Residential Office
to C-2, Thoroughfare Commercial; and

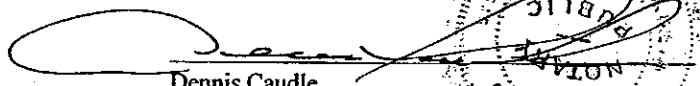
WHEREAS, the owners have promised and agreed to subject the development of said real
estate pursuant to certain covenants and restrictions pertaining to same; and

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:

* The use of the 0.52 acres that adjoins the existing storage facility to the north shall be limited to
a climate controlled storage facility and/or mini-storage facility and shall contain screening to be
approved by the Planning Commission.

WITNESS my hand and seal this 8th day of January, 2001


Dennis Caudle
ACKNOWLEDGMENT

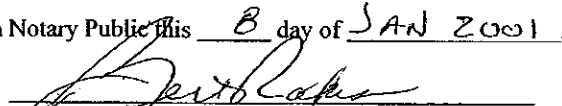
STATE OF ARKANSAS)

)SS.

COUNTY OF WASHINGTON)

Now on this 8 day of JANUARY, 2001, came before me, the undersigned
Notary Public within and for the aforesaid County and State, Dennis Caudle, 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 8 day of JAN 2001,
2001.


Notary Public

Planning Commission
October 23, 2000
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RZ 00-25.00: Rezoning (Caudle, pp 400) was submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Odom: The next item that we have on tonight's agenda is a rezoning RZ 00-25.00 submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial. The recommendation of the staff is for denial of the requested rezoning based on the findings as included as a part of this report. Staff, did you want to go over that or do you have anything further?

Conklin: Sure. Staff is recommending denial of this rezoning. Back in 1999 this tract was included as part of a larger tract for C-2 zoning. At that time, Planning Commission recommended it and the City Council rezoned only the northern part of this property as C-2. That same year the Large Scale Development was processed for a mini storage and a Conditional Use at that time, if you've read the minutes, it talks about keeping this piece of property R-O and developing it with an office type development which is compatible with the neighborhood. Also, at that time, there was a bill of assurance that was offered to save 60% of the trees with eight inch diameter. I have met with the applicant this afternoon and went over that bill of assurance also restricted access from Wedington. Overall this property is near commercial there is a vacant C-1 property to the west staff is not recommending approval of additional commercial property in this area. If the Planning Commission did rezone it to commercial, C-1 zoning would be more appropriate than C-2. C-2 zoning allows used car sales with all type of businesses as conditional use. Dance halls and that type of use. About a month ago we did change our allowable uses in C-1 to provide more neighborhood commercial uses. The purpose of the C-2 zoning request is to be able to come back to the Planning Commissioner with a Conditional Use request for additional storage facilities on this piece of property. Staff is not in favor of additional storage facilities located in this area on this piece of property. If you have any questions, I would be more than happy to answer them.

Odom: Staff you touched on the bill of assurance that was offered. You said 1999, but you meant 1990 when that originally came through. You mentioned the bill of assurance and that 60% of the trees would remain or something to that affect and that there would be restricted access. What is the current status of how well that bill of assurance has been maintained?

Conklin: With regard to 60% of the trees being left on the site, after meeting with the applicant

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today, it is difficult for me to determine whether or not that has been met. There were large pine trees located on the north and south property lines that were saved as part of the large scale development. That was approved by the Planning Commission. Those are existing. There were some trees shown, the number was twelve trees shown up in front of this facility on Ruppel Road. Those have all died in the past ten years according to the applicant. With regard to the existing trees on this property that we are looking at today, I am not sure whether or not that bill of assurance with regard to the 60% of the tree preservation would apply to those trees. The bill of assurance did apply to this piece of property that we are looking at tonight but I'm not sure what the total number of trees that were existing on the site prior to development and what remains out there today. That's going to take additional research. The applicant may be able to give more information on that. With regard to the access off of Wedington, there has been a curb cut that has been installed on Wedington and a gravel drive and gate installed on this facility. According to the applicant that gate is only used three to four times a year to bring in large moving vans onto this site. The bill of assurance is clear. It states that there shall be no access from Wedington. I did talk to the applicant today about this issue and he feels that three to four times year and the gate is locked most of the time, doesn't count as access. A strict interpretation of that bill of assurance means no access to that facility so that would be in violation of that bill of assurance.

Odom: I would ask the applicant to please come forward at this time. Do you have any presentation that you would like to make?

Caudle, Dennis: I'll answer some of the questions that he brought up there. As far as the original bill of assurances that were given. The facility is more than did that on the trees, we kept more like 70%. There is 193 trees right not on a three and a half acre development that is there today. The number of trees was far in excess of the original request. As far as the road that was put in at the same time the new highway was being built out there which was completed the other day, to put access to that property that was the time, speaking with the state, that the road needed to be cut in there because there would be no access to that property if we didn't put in a road. Something will be built on the property sooner or later of some type. The state indicated that would be the proper time to put in the road so a road was put in. As far as use, all the use is off of Ruppel. Just several months ago we put in a we had two gates off of Ruppel and we put in another gate off of Ruppel, both electronic gates for one is a entrance gate and one is an exit gate. There is no access off of Wedington and is not to be used for that purpose. As far as the zoning that we are asking for,

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the Large Scale was approved ten years ago was just completed this year. It was a long term. We put the buildings in as the area grew and as the need was. That was just completed this year. The thing that we are looking at came up with some people that rent there recently. I drove up to Bentonville and Bella Vista and Springdale and looked at the facility there. There are no climate control facilities in the City of Fayetteville of this type. All the residents of the City are forced to go to Springdale or further depending on whether they are full. What we were proposing was to put in a climate controlled facility which is exactly like the same type of building as what is there now except it will be climate controlled with heat and air. It would require going just in front of the existing buildings toward the highway, not even half way to the highway to put in the one building which would be a climate controlled facility. There was a stated by several tenants that recently had to move out because the FDA passed a law that they had to be in climate control. Now they live in Fayetteville and they are forced to go to Springdale. That's why we would like to build another building to serve the people for that purpose which would be the same thing than what is there now. It would look the same and be the same. All it's access would be off of Ruppel with the two gates. That is the purpose of why we would like to do this, it does require a C-2 is what I understand for the storage business. That's why we are asking for C-2. That's the purpose of what we are looking to do.

PUBLIC DISCUSSION:

Odom: Thank you Mr. Caudle. Let me ask now, is there any member of the audience that would like to address us on this rezoning request?

COMMISSION DISCUSSION:

Odom: Seeing none, I will close the floor to public discussion and bring it back to the applicant for questions and comments of the Planning Commission.

Ward: Not that we have much around here but I noticed in Bentonville and Rogers areas that they are putting in a lot of really nice looking office complex on the front of the road with nice looking buildings glass and brick and stone. With the large climate controlled self-storage attached to them behind them for the vendors of Wal-Mart. Those have really been filling up fast I noticed. It's a very nice looking facility from the road because it is office type areas all along the front of the road attached to it, behind it is part climate controlled storage units that these businesses can use or whatnot for

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warehousing that would be something I would consider more towards than I would just a self storage property out there on Wedington Drive.

Caudle: I looked at facilities in Springdale and I've looked at them in Bentonville, I haven't been to Bella Vista or that far north. I've been as far as Bentonville and looked at the facilities. I've been to the ones in Springdale, as far as there is two different type of buildings between the two I have seen and then talking with the builder that built the one in Bentonville, which is also the one that built all the buildings that I've built over the years. That's the one that I looked at and the one he was describing. I did look at the one in Springdale which he did not build but they are a entirely different type.

Hoffman: If everybody is done speaking I have some questions too. Let me start with staff. I understand the need for expanded storage area however, I am quite opposed to having it the front on Wedington. Have you looked at the possibility of instead of rezoning, doing a Conditional Use that carries with it certain guarantees that what is constructed is not visible from Wedington along the lines of Commissioner Ward's statement either by landscaping, screening or by a more attractive office type of building. Is that possible to do instead of just rezoning? I couldn't be comfortable with rezoning it for the storage units to face Wedington. We are really trying to take care with this important corridor because it's just going to continue to grow and you have all the references and cross-references to College Avenue and quite frankly self-storage facilities are not the most attractive buildings in the world but there is a good need for them. That's my question for staff on the Conditional Use, when he has addressed that, I would like to ask if you considered just conditioning the existing buildings? Tim, could you go first?

Conklin: Mini storage or storage units require a Conditional Use in C-2. They are not allowed in C-1 zoning. They are not Neighborhood Commercial use. The Conditional Use part of it you can not apply for unless it's zoned C-2. This issue came up ten years ago and Mr. Caudle walked with a bill of assurance to build a mini storage on the back part that's zoned C-2. We have had what you talked about built in Fayetteville. The Keating's built some mini storage over by Brahm's on College Avenue with office and retail space up front. It's been built on Highway 265 also. I think Mr. Wilkins has built some offices up front, mini storage in the back. Overall, I'm concerned about our Commercial Design Standards and trying make it an attractive commercial area for the residents that live out on Wedington Drive. When you have a storage building it's difficult to have anything other than just a metal building due to the cost involved. I'm all in favor to have that type of mixed use if we could have some type of office or retail up front but just stand alone, I do not support that.

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Page 59

Hoffman: Back to the applicant, have you considered conditioning your existing buildings?

Caudle: As far as what we are talking about there, like I said I was only coming out a little not even near close to half way to the highway. This new building would only go out a little ways out from the existing fence now. The fence would be moved in front of that building and there is still the large lot, probably close to an acre. Just a fraction under probably for something would be built in the front whether it be an office. As far blocking the view, there is still plenty of room there that something can be built on the front of the property. As far as this building here where all the other, if you are driving down Wedington, you see all the ends of every one of them and you can see up the alleys. This building would face east and west which would block most of the buildings on that end with that one building instead of all the buildings on the end this would be blocked with the one building. As far as the way of prettying it up, if it's possible to do that, I would consider some kind of prettying up that side of the building if that would be something you would be interested in looking at because I just have to talk to the builder and see what could be done. Whether you can put a side on that side of the building that faces the highway that is more attractive, I would be willing to look at that for sure. Definitely something will be built in front of it, facing from this building to the highway in the future. That was one concern ten years ago.

Hoffman: They only thought is for expansion then?

Caudle: The what?

Hoffman: The only request then is for expansion, you had not considered the retro fitting of the conditioned space in the existing buildings?

Caudle: The additional space?

Hoffman: Conditioning the existing space.

Caudle: I talked to the builder, it would almost be impossible to do due to the electricity. These do require air and heat and it's just like your living room as far as humidity what they go by. Climate control factors. As far as asking about reconditioning something that we got and he said it probably could be done but is an impractical item.

Hoffman: Okay. My final question for the applicant, on the east side of the property, it looks like there is an area that is vacant and has no buildings, could that be a location for what you are proposing? On our little site plan on page 4.17, I don't know if you have the same

Planning Commission

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sheet or not.

Conklin: Since this data was received from the City with regard to building footprints, two additional storage buildings have been built. There is no additional room. They built that at the Large Scale Development plan that was approved ten years ago.

Hoffman: That's all the questions I have. Thank you very much.

Conklin: I would like to just to inform you as a Commission and the applicant and public that when I did meet with the applicant today, we did talk about the existing trees on this site. I did encourage Mr. Caudle to get with our Tree and Landscape Administrator with regard to the existing oak trees on this piece of property for consideration of this development and future developments on this piece of property. I will work with Kim Hesse and go over the bill of assurance with her to make sure that it was met in 1990 and today and look at any remedies that we have to take to make sure it's not being violated.

Ward: Mr. Caudle, what is the size of the lot? Do you know what the depth is?

Caudle: From Wedington back to where the C-2 starts is 254 feet, I believe.

Ward: You are planning on using 125 feet of that?

Caudle: Far less than that. The building where the other units are 20 wide or 30 wide and fairly long, the climate control has to be a lot wider building because of they way this is handled as far as the heat and air. This building will be 60 feet wide, twice as wide as any building there facing the other direction, it would be approximately 170 long.

Ward: So you really only need 70 feet?

Caudle: Approximately 70, what I was looking at it would be from the front of the building facing Wedington to where the fence would be re-erected there would be approximately twenty-five feet to drive around the building so you are looking at about 85 to 90 feet probably toward Wedington.

Ward: I'm just trying to work with you, in my case, I would not rezone the frontage on Wedington anything but R-0, which it is right now. We do allow a lot more uses in R-0 than we used to. There is a possibility that, I can't speak for anybody else but I would be maybe interested in helping you. I do think there is a need for some climate control

Planning Commission

October 23, 2000

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warehouse type of buildings out there and we can maybe zone C-2 a small parcel back there for you, 70 or 80 feet of it. As far as changing the whole thing to C-2, it's not going to happen tonight, I know that. Those are some ideas that you might think about.

Caudle: It's zoned half way to the highway to accomplish this building so the climate control could be completed. Again I'm trying to fulfil the need that I've had a lot of requested for. As far as the frontage, I don't intend to put a storage building out on Wedington up against the highway. I never have. When the Large Scale was done there is no more property in the C-2 area and it was just a case of there are times of the year when storage units are hard to find around the City of Fayetteville. This building here was to accomplish that.

Ward: I don't feel like I can support your change to what you need. I think it would be smart to table it or come back with a different proposal than what you have tonight for sure.

Caudle: Not only going part way to the highway?

Ward: We can't.

Odom: Since we are throwing, I'm going to go ahead and let you know, I'm not going to be in favor of that proposal as well. I think a lot of concession were made originally when this property was zoned C-2 with the bill of assurances and the R-0 up front. I think all this negotiation has already taken place and the work has already been done. I think we have plenty of C-2 Commercial inside the city limits of Fayetteville and so if there is a need for this type of facility I think that there are plenty of areas that this type of facility could go. So I'm not going to be in support of any proposal to accommodate this piece of property any further. I think you need to know that up front before you decide to start negotiating or doing anything of that nature. You may want to get the feel of the rest of the members of the Commissioner. Anybody else?

Marr: I agree with you completely.

Allen: As do I.

Bunch: As do I.

Hoffman: In your proposal you said you would have a 60 foot wide building with about a 25 foot drive aisle and you only have 1.5 acres here so that to me implies that would be taking up a greater part of it. In the sixty foot wide building would that be a double loaded

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building with the garage doors facing Wedington and facing the other side? In other words, doors from the north and from the south?

Caudle: The facility I've seen in Bentonville, it's climate control is inside the center. There is an outer border.

Hoffman: Right. So you would have garage doors facing Wedington.

Caudle: Yes. In that facility I've seen up there. That is what I was talking about what to do on the front of it there.

Hoffman: That being the case, I always hate to be negative toward a need but I would suggest you to look elsewhere and find some land that is already zoned appropriately for this because this is an important aesthetic issue to this corridor. It was addressed ten years ago. I too would deny a zoning vote tonight.

Marr: Do we need a motion?

Odom: Yes.

Hoffman: Unless he wants to withdraw the request.

Odom: We can move to approve, we can move to deny or if we don't take any action...

Conklin: You do need to take action on it. I think our ordinance states that if you don't take any action you can deem as approved. I want you to take action on it this evening.

Odom: Not only that, it give the applicant something. We are nothing more than a body that recommends something anyway. Even if we approve it, he's got to go to the City Council. If we deny it, it give him a right to appeal it. For the applicants sake, I think we owe him the courtesy of doing something.

MOTION

Marr: I would like to move to deny RZ00-25.00 based on the comments that you have heard.

Allen: Second

Odom: We have a motion by Commissioner Marr, second by Commissioner Allen, RZ 00-

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25.00.

Caudle: The comment that was made a short time ago as far as possibly tabling it and resubmitting with only partial for this building.

Odom: You can certainly do that if you want to but I'm here to tell you right here, right now, it doesn't sound as though that's even going to fly.

Caudle: You are telling me that's not going to work either.

Odom: That's right. You have only one member even talking in favor of that. I would think you would be better served to go ahead and accept the denial and negotiate with the City Council if they are willing to do that. I don't know if they would be. I wouldn't delay your project any further, if I was you but that is your call. If we deny you tonight, you have the right to appeal that to the City Council.

Hoffman: If the City Council denies his request, is it six months or one year?

Conklin: It's one year.

Hoffman: It would be then another year before you could bring another idea forward.

Odom: No. That's not necessarily true. You could bring another idea forward. You can't C-2 the whole thing.

Conklin: You could modify your request and bring it forward.

Hoffman: I just want to make sure you understand what to expect.

Odom: Any further discussion? Call the roll.

ROLL CALL:

Upon roll call RZ 00-25.00 is denied by an unanimous vote of 6-0-0.

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RZ 00-25.00: Rezoning (Caudle, pp 400) was submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Hoffman: The final item on our agenda is a Rezoning for Caudle submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial. I believe that we have seen this item before and Tim could you let us know. Before you get started, Mr. Caudle do you understand that you also need five positive votes to approve this rezoning. Appeal on a rezoning request goes to City Council not District Court.

Conklin: It's going to go City Council. That's correct.

Hoffman: You still need five positive votes.

Conklin: Yes. If you don't recommend it with five positive votes then they have to appeal to the City Council. That's how they get before the City Council.

Hoffman: I think I misstated it when I was talking earlier that everybody had to go to District Court, that's not the case with you.

Conklin: On October 23, 2000, the Planning Commission heard a request for .52 acres along with adjacent property so they heard this request this evening of .52 acres with adjacent property. That total property was 1.5 acres. The request was from R-0 to C-2. Staff did not recommend that rezoning request. The Planning Commission voted unanimously 6-0-0 to deny the request. I do have those minutes attached. The applicant appealed the decision to City Council and on November 21, 2000, the City Council heard this appeal request at that time they addressed an amended request with the applicant that he did not want to rezone the entire 1.5 acres but a smaller portion, .52 acres. The City Council did request that this .52 acres be brought back to the Planning Commission for your consideration and recommendation to them. Keep in mind the applicant originally requested the C-2 in order to apply for a conditional use permit to build additional storage on this property. That is his same intent at this time. Staff's original recommendation still stands with regard to denial. We are bringing this back to you because the City Council would like for you to take a look at this rezoning. The main difference is it's a smaller area, it's 90 feet in width, 253.6 feet long rectangle that adjoins the West Side Mini Storage facility located on Ruppel Road. Just at the last Planning Commission meeting, when we did hear this item, there was concern about the

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Bill of Assurance and I just want to make sure the applicant didn't misunderstand what I said at the Planning Commission and that was I was going to go out there with out Landscape Administrator to make sure that there weren't any violations of that Bill of Assurance. We have gone out there. We counted the trees. There are substantial numbers of pine trees that are along the north/south and west/east property line. Based on those numbers and the size of those trees, that Bill of Assurance has not been violated. He's meeting that requirement to save those trees on that site. With regard to the access from Wedington Road, that access has been barricaded and is not being used for this facility. Those were the two things in the Bill of Assurance, tree preservation and the access from Wedington. Both of those, for me, are not being violated. Kim Hesse and I have taken a look at the trees and it's meeting that requirement. I just wanted to clarify any misunderstandings that the Commission may have had on that Bill of Assurance or the applicant or myself.

Hoffman: Before we get to you, Tim I have a question about that. Are you referring to the entire site or just to the subject now up for us for rezoning?

Conklin: When I talked about the Bill of Assurance, the Bill of Assurance was for the entire 5 acres.

Hoffman: So we do have a good buffer between Wedington and the site?

Conklin: With regard to trees, it's interesting, the Bill of Assurance reads 60% of the trees. He has pine trees that are spaced probably five feet apart, approximately 200 along the south, north and east property line. Overall, when you look at the total number of trees just because those pine trees are soldiered up along the property lines, he's meeting that ordinance. With regard to our current Tree Preservation Ordinance, that's something that Kim Hesse would have to take a look at with regard to the existing oak trees that are on this property that are remaining.

Hoffman: Okay. Thank Tim. Do you have a presentation that you would like to make? Tell us your name please.

Caudle: Can I give you a copy of that?

Hoffman: Yes. You need to tell us who you are even though we know.

Caudle: At the time that this came up the first time in Planning Commission meeting, the original property that was rezoned ten years ago was originally 5.5 and they rezoned the back

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portion and we built the storage facilities. At the time there was an indication that there was an need for them in the area and they were right, there has definitely been a need. There has been a lot of houses built out there over these last ten years. What we find now, we came to the little piece there on the front that turns back towards the highway, kind of a backwards L, we built as many buildings as we were originally designed to do from the ten years ago plan. The thing that's come up is a need for storage in the area. The climate control is a big factor that we come up with is the fact that there is no climate control inside the City of Fayetteville. We thought we could build a building to supply the need for the people that need that type of service. Right now there are several people that have to go to Springdale. There was six people that we were renting the facility for the last several years that the FDA passed a new law that their stuff had to be in climate control, so they have all been forced to go to Springdale because there is none in the City of Fayetteville. What I was proposing was to build a building that would provide the climate control type storage facility. The original request was to just simply rezone all the lot to C-2 because it was C-2 in the back. We brought in sewer several years ago to put storage buildings on all of it. First of all, storage buildings doesn't need sewer so that money will be wasted. The original request was to be able to have just enough area there to put in this one building. As far as being declined on the entire C-2 request well that was probably asking for too much. I should have probably done it like this in the first place because we did bring in the sewer, we didn't intend to build storage buildings out front anyway. To go back 90 feet toward the highway would allow us to build this one building which is right next to what's already there, that you see on the drawing there. There are twelve buildings that sit on the property now. This will be no different, as far as appearance, than what's there. There was some concern in the Planning Commission meeting from the 23rd as far as the appearance, whether or not they like them. The lot on the front of the drawing there, on the corner of Ruppel, I think it's called Wedington Plaza, I talked with them the other day and apparently they are starting construction next month which will take up a large coverage of where we are at in the front there as far as exposure to Wedington. One thing I said in the City Council meeting was that we would be more than willing to put in a privacy fence, a nice one that has brick pillars and privacy in between them in front of this building which would separate it from Wedington and there is still plenty of room on the front of Wedington, approximately 177 feet.

Hoffman: Is that to the building or to the line of the zoning demarcation, that 177 feet?

Caudle: The length of the property, back to where it's currently R-0, is 267 as is shown on the drawing there. To rezone 90 feet forward still leaves 177 feet before we reach the Wedington Highway. We brought in the sewer and paid for it several years ago. It is

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set up for an office environment and that's probably what would be built there in time. Like I said, we have no plans at this point to build anything out front. To be allowed the 90 feet in conjunction with what is already there, does allow us to build this building that there is no question there is a need for it because the people do not have an access to this type of service in this city.

Hoffman: This 90 feet gives you access completely around the building and then have some room for the fence that faces Wedington?

Caudle: The corner once you come along the bottom, the 373 corner, if you just gotten out of the line that is currently C-2 extends straight on across 253 feet at that corner, we are proposing to turn south 90 feet and then go back 253 which would allow this building to go in right next to the 12 that's already there.

Hoffman: Got it thanks.

Caudle: Like I said, it's just a case that there is a need and it is inside the existing facility with the building that's fixed to be built and the privacy fence. One of the people that had a concern about that, about allowing me to build this new building, that would be part of the concern that was stated as far as the visibility. That takes out a lot of visibility but it does make for a nice facility that offers a full service.

Hoffman: Anything else you want to say?

Caudle: No.

PUBLIC COMMENT:

Hoffman: Is there any member from the public that would like to comment on this? I see one person back there. No? Thanks.

COMMISSION DISCUSSION:

Hoffman: I'll bring it back to the Commission and the applicant for further discussion. Anybody?

Hoover: I have a question for staff. Just because I didn't get to read the comprehensive plan before I got here but my understanding is that our future thought on this area is R-0 and that we are only putting C-2 at the nodes?

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Conklin: That is correct and with regard to the Community Commercial designation on our Future Land Use Plan, I will recommend as we have for the past five years that it be C-1 zoning which will not allow for the additional warehousing or storage facilities as a conditional use. Even if it was shown as that commercial, we would still be recommending for C-1 and not the C-2. Mr. Caudle, I do have one question, how many square feet will the storage building contain?

Caudle: Approximately 10,000 in the new building. It is climate control. It's a different design than the other buildings, it does require a lot of different type of construction to accomplish the climate control facility.

Marr: Where exactly is the access to this building proposed to be, is it off of Highway 16 or is it coming from this?

Caudle: On the drawing you see the twelve buildings going down through there, on each end of that first building, originally there was access with a controlled computer type gate on the south side of that building. In the last year, we put in an access at the north end of that building for an exit-only gate. There is an in and an out basically onto Ruppel from the facility. The building we are proposing, like I said, if you just extend that 273 straight across, it picks up right on the border of what is now C-2 and R-0. It's just enough to put in that building and you come right in the facility when you get down to that point, you look left at your buildings or you look right at this new building. All the access is off of Ruppel and like I said we put in an extra gate, having this many buildings and this much people coming and going, we did open up the other gate and put in another computer access gate to help with the flow of the traffic. There are times on weekends, a pretty day, you will have several people out there so it did help the flow.

Marr: Help me understand too, where exactly when you talk about a proposed brick privacy combination fence to screen this.

Caudle: Again on my little drawing the building that I put on the drawing, the proposed building, it says 175 feet on it, move directly out in front of it approximately 20 feet.]

Marr: Would it go the whole distance of this or just the length of that building?

Caudle: It would go in front of the building is the way it's proposed. There is drainage on the other area there. There is a designed drainage ditch where all the buildings are drained to a point, the water that comes off the buildings and between the alleys and that is a drainage ditch that was designed for that purpose.

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Marr: The reason for my questions are not to do approval of design here because I understand this is a rezoning but one of the things that would certainly make me consider it is the ability that when it did come through for design that it would be completely screened because I go back to Chairman Odom's comment when we heard this back on the 23rd that I certainly believe and agree with you that there is a need for this in the City of Fayetteville but I also believe that there are locations of commercial C-2 space to be able to do this within the city already. More importantly I want to stay consistent with the Land Use Plan of developing that into R-0. If we did this, what's important to me is the ability to take it out of sight. This is much more appealing to me, not to say I will vote for it still but much more appealing to me than what was originally presented.

Ward: I think I would be, instead of putting up a wood privacy fence, I think that south side of the building, in my case, I think it needs to be some type of, meet our Commercial Design Standards for articulation and using some type of split face block and some things like that instead of metal. I would be much more for it then than just putting up a metal building out there. I'm talking about strictly the south side of the building with some articulation and some type of material that fits into our Commercial Design Standards like block, brick and other type of products. That way you wouldn't have to be worried about putting up fences and all that type of stuff.

Caudle: I would be more than willing to look at, from the manufacturer's to what could be done as far as to brick that side of it or something to that affect. Again, your visibility right now when you drive down Wedington you look over there, this is what you see. You see those buildings as they are today. You are not going to be seeing anything different than what you are seeing today. If we did what you propose we can look into bricking that side of it, that would improve it. Whether it was a privacy fence, because there was a concern about it, the distance we set off the highway back in the trees alleviates that concern. This would be a whole lot better than what we are looking at right now as far as the concern of what's out there right now.

Hoffman: Staff, I have a question. I'm concerned about design on a rezoning. I wish that there were a way. I understand because this lot is contiguous with your existing property, why you want to put it here and why you don't want to go find another site.

Caudle: It was mentioned in the meeting on the 23rd, you've got economic assets that are already out there and you run a professional operation, you don't go out and buy property and build a building and expect to come out at all.

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Hoffman: The question I have for staff is that, given the discussion that we've had tonight concerning the screening of the building or the other appearance, I'm not really for Lee's idea because they are still going to have all those garage doors facing Wedington, I'm really more interested in screening the whole building. How many overhead doors will be facing Wedington in the new building?

Caudle: Approximately 16.

Hoffman: I don't know how you would meet the Commercial Design Standards. Given the fact that we've got a reasonable proposal for screening that's contiguous and has traffic flowing out to Ruppel Road and not Wedington, is there any method that we can approve a rezoning subject to the statements, can the applicant offer Bills of Assurance for instance that would help us along the way?

Conklin: --- Keep in mind, this will have to come back as a Conditional Use and may have to come back as a Large Scale Development if it's over 10,000 square feet so you will have another opportunity to place any condition on there that you feel is appropriate. Also, if you rezone, it could be any C-2 use also that could go in there from a used car lot to a night club.

Hoffman: There is no way to bring the two through at the same time like we did our Conditional Use and Large Scale Developments?

Conklin: --- Not at this time.

Caudle: Excuse me, has that not already been done 10 years ago? It was only 10 years ago.

Conklin: If the applicant would like to voluntarily offer a Bill of Assurance he can offer that as you did, I believe, 10 years ago.

Caudle: This 90 feet is for this building and that's the only plan I have whatsoever and I would definitely have no problem doing anything there. Like I said, it's just this classification does require C-2.

Hoffman: If this use and idea would go forward.

Caudle: It is there now and it is what is required to build a climate control building that is needed.

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Hoffman: You don't mind making that a condition of this?

TAPE TURNED:

Caudle: It's a survey, I don't know if it's from the right-of-way, they are calling it 267 feet and they are calling it 507 down the east side of the property which would include the R-0 and the C-2. I don't know if that's where that point of beginning is.

Conklin: With regard to that number, that is not something that we would use to map this area out. We require a legal description and we are working with Mr. Caudle to get a legal description that accurately describes that piece of property. It's clear to me that it's 90 feet south of the current C-2 zoning and that's something that we will be making sure that legal description describes, by the time we bring it forward to the City Council with an ordinance. It's 90 feet south of that existing C-2 property.

Bunch: My major concern is questioning this was to see if the remaining piece of property that I believe is currently R-0 to see if it was adequately sized to put in an R-0 development ~~complete with setbacks and utility easements and that sort of thing.~~

Caudle: It's going to be approximately 253 by 150 minimum up to 170 depending on where that starts.

Bunch: That's what I was wondering.

Conklin: It's about an acre.

Bunch: I just want to make sure that it's adequately sized for a development as zoned.

Caudle: Approximately 253 by 160 give or take a little.

Hoffman: Anybody else?

MOTION:

Shackelford: I guess my take on this is, basically what we are looking at is an extension of an existing building by the same owner. We are only talking about a 90 foot strip of land with very limited access off of Ruppel Road basically through the property that the applicant already owns. As long as the front property remains R-0 which has the Wedington frontage on it and is developed R-0 and I think we meet the intent of the 2020 plan,

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with that being said and the applicant being willing to do a Bill of Assurance, I'm going to make a motion that we recommend approval of RZ 00-25.00.

Ward: I'll second.

Hoffman: I have a motion by Commissioner Shackelford and second by Commission Ward, anybody else? Any other further discussion on this item?

Ward: This does have to come back no matter what happens?

Hoffman: Is it of sufficient size that we have to see it again, Tim?

Conklin: It depends on what size building he proposes on this property. If it's over 10,000 square feet, you'll see it as a Large Scale. You will see it as a Conditional Use.

Hoffman: We could, at that time, follow up on the discussion tonight regarding the screening and appearance and so forth.

Conklin: Yes. If the Planning Commission makes a recommendation and the City Council rezones it, most likely the conditional use recommendation is going to be for approval with Bills of Assurance.

Hoffman: Just so we are all clear, can you work with the applicant with regard to the wording of the Bills of Assurance? Since they come from the applicant, I'm not sure how to get that.

(Conklin: Sure. For clarification, we are talking about use of this property for this climate controlled storage facility.

(Hoffman: With screening.

Marr: Just one last question, did you investigate any other C-2 space for locating this facility other than this location?

Caudle: I looked at a couple of lots for possibly a new facility because there is a need for a storage facility. I have not found anything suitable at this point. There is some C-2 property in several areas around the city. There are a lot of factors that go into it as far as access, location and need in the area. Right now there are people who come a considerable distance because of the availability of storage in the area. I have looked.

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Hoffman: Thank you. Anybody else have anything they would like to say before we call the roll?
You all ready? Nancy?

Allen: I'm not really clear of what we are requiring the applicant to do.

Hoffman: In rezonings, Tim you can take this one if you want to.

Conklin: Sure. The applicant has offered to give us a Bill of Assurance which is a legal document to tie to this rezoning that this 90 feet, with the property, will only be used for a climate controlled storage facility and will contain screening of some sort. Based on that information you need to determine whether or not you can make this recommendation to the City Council, if you feel that it's appropriate with this Bill of Assurance to rezone this to C-2. Does that clear that up?

Bunch: If in the Bill of Assurance since we can't ask for it that the applicant offers, there was some statement about making sure that it went to the Large Scale Development process in addition the Conditional Use process. I think there are some square footage limitations, if the applicant offered to us that this would come through that process, I would personally feel a little more at ease with it to make sure that we could look at it and see that it fit our standards.

Caudle: As far as the Large Scale, again I'm not familiar with all the rules as far as that's on projects over an acre, over 10,000 square feet. It has certain criteria.

Conklin: An addition of 10,000 square feet or more. Since 10 years has passed, you do need to be aware that the fee has gone from \$50 to \$900 application fee.

Caudle: Everything has gone up, I know. The only thing that I can think of that would require a Large Scale is the size of the building. What originally has been drawn out on paper could be just under it or just over it depending on whether you build it 175 foot long or 170 foot long. It's going to get that marginal there. We could keep it under the 10,000 square foot by simply taking 5 feet off the end of it.

Conklin: You wouldn't be the first developer or applicant to do that either. What I'm saying is, people are aware of that regulation in Fayetteville and we do have projects, two or three a year that come in just below that criteria.

Caudle: I understand that. If you are talking about the difference between \$50 and \$900, I don't know what else is involved.

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Hoffman: Let me make sure that no matter what happens Tim, this is going to be coming back as a Conditional Use because of the zoning?

Conklin: Yes.

Hoffman: This zoning is the only one that will permit this use without going to industrial zoning or something like that.

Conklin: That's correct.

Hoffman: That is so similar to Large Scale Development review that I would say that it would be not something that would be as important to me personally because in Conditional Uses we have a blank slate on those really, in terms of requirements that we can place, in terms of lighting, screening, appearance, hours of operation, revocation and so on. In that case, I would just prefer to let the motions stand as they were and you with your Bill of Assurance as it is.

Bunch: That's my main concern in brining that subject up was to make sure that we have adequate opportunity for the oversight on it.

Shackelford: That was the intent of my motion knowing that we would get a chance to look at this and we could put those limitations on it in order to grant the Conditional Use.

Hoffman: No more discussion I assume? Okay, if everybody is ready, I'm going to go ahead and call the roll.

ROLL CALL:

Upon roll call RZ 00-25.00 is approved on a 6-1-0 with Commissioner Marr voting no.

Hoffman: Tim is there any other business this evening?

Conklin: There is no other business.

Hoffman: With that, we are adjourned.

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Mr. Brockwick, 200 W. Lafayette, stated he had some petitions against this. If they were to take away the convenient stores and grocery stores they were not talking about much money at all. They had a good ordinance. It worked. The A&P Commission collected record revenues in November. \$117,000 in November. They had never collected that much before. They were taxing the little guy to be fair. He asked them to keep it as it was.

Alderman Zurcher stated the petitions had approximately 650 signatures.

Mr. Jeff Erf, an area resident, asked if the City Council passed the ordinance, what would the additional revenue be used for specifically and would any of it go towards the Town Center.

Ms. Johnson replied the A&P Commission as set up by State law has total discretion over use of those funds. It was her understanding that most of that could go into special projects. The Town Center funds for the coming year are already set in the budget. They did not anticipate any additional funds being needed for that.

Upon roll call the motion carried unanimously.

ORDINANCE WAS REFERRED TO ORDINANCE REVIEW COMMITTEE.

NEW BUSINESS

RZ 00-25.00

An ordinance approving rezoning request RZ 00-25.00 as submitted by Dennis Caudle for property located at 1192 Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Mr. Rose read the ordinance for the first time.

Mr. Conklin stated this was the second time this request has been brought before the City Council. The original request had been for an acre and a half to be rezoned to C-2. At that meeting it was sent back to the Planning Commission. What had been considered was a ninety-foot strip of property directly adjacent and south of existing mini-storage units. The Planning Commission did approve the amended request. Along with the amended request was a Bill of Assurance. The Bill of Assurance will state that the property can only be used for storage facility, climate controlled. There had been a lot of discussion on screen of the facility. That will be dealt with at the Planning Commission during the conditional use process. In 1990 there had been a request to rezone the property to C-2. At that time they had rezoned the northern 3.5 acres to C-2. He requested that the item not go through all three readings. He still needed to work with the applicant on the Bill of Assurance and legal description. Staff recommendation had been denied. It remained the same. It was staff recommendation that additional storage units in this

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area were not appropriate. The basis for their recommendation had been that he had three and half acres and the remainder should be left as R-O and developed as such.

Alderman Santos asked if they could make the rezoning conditional upon the Conditional Use being approved.

Mr. Conklin stated they had not done that in the past, placing conditions on rezonings. His understanding was that a Bill of Assurance could only be offered by the applicant. The applicant had offered a new Bill of Assurance.

Mr. Rose stated he was concerned about placing a condition on a rezoning because they would get into contract zoning.

Alderman Santos expressed concern about leaving only a half of a lot to be developed as R-O.

Mr. Conklin stated it was his hope that the R-O lot would develop with professional offices, which would help hide the storage building. They would rather see the site develop as R-O with professional offices to help screen the building. His hope was that something would develop in front. The owner has proposed a solid fence in front of the storage facility.

Alderman Davis stated he thought the remaining acre of land would be enough for an office with the proper amount of parking and landscaping.

Mr. Conklin stated they should be able to develop an office building on an acre, but they would be limited on the number of parking spaces. One of the reasons the Planning Commission decided to approve the amendment was that Mr. Caudle did have an existing facility out there and to build an additional building in another location he would incur additional expenses. They also looked at the additional R-O out front and that in the future there could be something out front to screen this building.

Alderman Zurcher asked if the staff still stood behind their findings.

Mr. Conklin replied that they still stood behind their findings. Those findings were from their Planning Commission by-law. They required staff to make those findings with regard to consistency. Based on those findings they had recommended denial.

Alderman Reynolds asked if the owner had agreed to remove the gate on Wedington Drive.

Mr. Conklin stated that he had not. The drive had been blocked off. The Bill of Assurance did not talk about canopy, it discussed number of trees. Clearly, there were approximately 200 trees on the site that had been kept.

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Page 7

Mr. Dennis Caudle, owner, stated they had discussed the need for a climate controlled facility in Fayetteville. They only needed ninety feet to construct this building. They had discussed constructing a fence in front of the storage units. They had spent thousands of dollars to bring the sewer onto the lot. They had never had any intentions of constructing a storage unit on that lot. He did not agree with a lot of the staff findings. The traffic was not a problem. People went for months without coming to the facility. There was no questions there was a need for this type of building. This building was like the existing one. It was not going to be any different than what was there.

ORDINANCE WAS LEFT ON THE FIRST READING.

EMERGENCY GENERATOR

An ordinance waiving competitive bidding for purchasing a replacement emergency generator for use by the Police Department, authorizing Chris King Electric to install the new generator and remove the old generator and ratifying staff actions in obtaining an emergency generator to ensure emergency communications system maintains electrical power. The City's existing emergency generator is inoperable and parts are not readily available. A replacement generator is available.

Mr. Rose read the ordinance for the first time.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

Alderman Trumbo moved to suspend the rules and move to the third and final reading. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the third time.

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

Alderman Reynolds asked if we had retained the old generator.

Mr. Steve Davis, Budget Manager, stated the old generator would be reworked by their Water and Sewer Department for use as emergency backup power for one of their lift stations.

ORDINANCE 4286 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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Page 2

OLD BUSINESS

RZ00-25.00: An ordinance approving rezoning request RZ00-25.00 as submitted by Dennis Caudle for property located at 1192 Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial. This ordinance was left on the first reading at the January 2, 2001.

Mr. Rose read the ordinance for the second time.

Alderman Young moved to suspend the rules and move to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the third and final time.

Alderman Santos stated he thought the plan for that part of the town had changed and he felt that it did fit in with what was going in out there.

Alderman Jordan asked if the owner was planning to put up a fence.

Mr. Conklin stated the city had a Bill of Assurance for this rezoning. The Bill of Assurance did state that the Planning Commission would take a look at what type of screening is appropriate when the conditional use was applied for the storage facility. In regard to the distance from the street, it was 138 feet from Wedington to the new boundary line, which would be developed. It was approximately .88 acres.

Alderman Thiel stated her biggest concern was the curb cut which had been made and the fact that there was a driveway built back to this. The owner had stated he was not going to use that and had put up a temporary gate. She was concerned that people would be using the driveway in a few years. The fact that the garage doors faced out to the street also concerned her. She wished there was some assurance that they could have that the drive would never be used.

Mr. Conklin stated there had been a Bill of Assurance which had been entered into in 1990 that stated that access to the storage facility would be from Ruppel Road and not Wedington. As with all Bills of Assurances, the staff had to monitor them and make sure that they were being enforced. In this instance, when it was discovered that the Highway Department built a curb cut and a drive back to the facility they brought it to the owners attention. The owner had blocked the drive. That Bill of Assurance was still in effect, if he violated the Bill of Assurance, then the City would take enforcement action to correct the situation.

Alderman Davis stated they could look at the curb cut as being a prudent business decision. The drive would help Mr. Caudle in future development. He did not look at it as a negative on the

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Page 3

owners part. He hoped that with the Bill of Assurance the owner was looking toward the future and that the curb cut would help with his development cost. Curb cuts were expensive.

Mr. Conklin stated that was the owners explanation, that when the Highway Department came in and widened Wedington Road they had asked him what his future plans were and if he would need a curb cut. The Bill of Assurance did not discuss having a curb cut on Wedington. It talked about a driveway to the storage facility, which had been blocked off at this time.

Alderman Reynolds stated that what bothered him was that the owner had agreed to enter from Ruppel, then there had been a gate put up facing Wedington. When this proposal first came through it was for all heated units. Those plans had been changed to include some without climate control. He was not going to support this request.

Alderman Zurcher asked if staff still supported their staff findings in their report.

Mr. Conklin stated the staff still agreed with their findings. This past fall he had brought forward an ordinance to allow additional commercial uses in C-1 zoning in order to provide neighborhood type retail services for the residential homes in that area and other C-1 areas. Typically they had argued that they needed C-2 in order to allow different types of uses. He tried to correct that this past fall. If this was shown as commercial on their Land Use Plan, the staff would be recommending C-1 and not C-2 zoning. C-2 zoning was required in order to have the storage use on this property. With regard to compatibility and their Land Use Plan, it did not meet their current Land Use Plan, which had been adopted December 19, 2000.

Alderman Zurcher asked if staff still supported their finding on traffic.

Mr. Conklin stated that they still supported that finding. With regard to potential and future traffic it was always difficult to determine at the rezoning time. There were many different uses in C-1 and C-2 that would be on this property. It was always difficult to make a finding that it will cause traffic congestion and danger.

Alderman Davis stated he assumed that Ruppel Road would have a stop light in the future.

Mr. Dennis Caudle, owner, stated when the highway was being constructed the State had told him that was the time to put in the driveway to serve that property. They were fixing to build on the lot adjacent to it and there would be no access to that property. As far as the gate being put in, it was put in at that time for the emergency entrance. They could read the minutes from 1990, the Fire Chief required fire hydrants. It was to be used as an emergency exit. It was not going to be used as an entrance or an exist. It was strictly for emergency use. The fence would be moved when the new building was constructed.

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Alderman Young stated another concern was changing the use from climate controlled to just regular storage.

Mr. Caudle stated that was never changed. It was climate controlled in the middle and the outer was regular storage units. This design would help insulate the building and secure the intersection.

Alderman Young stated they had been under the impression that it was all climate controlled.

Mr. Caudle stated he thought that they had discussed it when they discussed the doors facing the highway. A true climate controlled building had no doors on the outside.

Mr. Conklin stated when they had worked on the Bill of Assurance with the applicant, that was when he discovered that this facility also included the mini-storage units on the north and south sides. As with all Bills of Assurance, the staff could not request or require the applicant to sign. It had to be voluntarily offered by the applicant. They had modified the Bill of Assurance and put in a "climate controlled facility and/or mini-storage units." That was what Mr. Caudle had agreed to and that was the Bill of Assurance being offered. He was concerned when he discovered that this also contained mini-storage because at Planning Commission they had discussed the type of assurance being offered. There were three or four places in the minutes where he had talked about the applicant offering them a climate controlled storage facility Bill of Assurance that the property would be used for this purpose. Now they were discussing mini-storage and climate controlled. He thought one of main arguments had been that he had existing mini-storage and that was a new use that was needed in Fayetteville and it was a climate controlled facility. It was one of the things the Planning Commission had considered when they recommended that the property be rezoned to C-2.

Alderman Zurcher stated he was inclined to decline this request. The City had a 2020 Plan and if they decided it was not a good plan for them, then they needed to go back and change it. Until that happened, he felt pretty good about sticking to that plan.

Alderman Davis asked what percentage of the facility was going to climate controlled.

Mr. Caudle replied it was approximately half climate controlled and half regular type storage, similar to the existing buildings. He added there was a need for this type of storage in the area. If there was a misunderstanding, that was exactly what it was, a misunderstanding. There was a strong need for the additional units. There would not be a unit available to rent, of any nature, during the summer season. West Side Storage was completely full during the summer months, from April to August. This building would contain eighty-four units. Forty of those would be climate controlled. The climate controlled would be inside the building surrounded by the regular units.

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Mr. Conklin stated it was his understanding the building would look like a mini-storage building surrounding the perimeter of the building, then within the center of the building would be the climate controlled storage facility.

In response to questions from Alderman Thiel, Mr. Conklin stated there was 138 feet in front of the proposed storage facility, which was enough for a professional office building with parking. In regards to screening, Mr. Caudle did have some proposed screening for the site. Staff would also be making a recommendation to the Planning Commission. The Planning Commission would also debate the type of screening required for this facility.

Mr. Caudle stated the screening that he was most attracted to was the concrete pillars with regular privacy type fence between them.]

Alderman Jordan stated he had thought it was all going to be climate controlled. He wondered how much of that swayed the Planning Commission.

Mr. Bob Estes, Planning Commissioner, stated he recalled that they had discussed that it was climate controlled. It was his recollection that the area had been rezoned some time ago for this purpose. He recalled that it was to be climate controlled. It was not a determining factor in his vote. What was, was the rezoning some years ago for this purpose.

Alderman Davis stated that in today's society there were many people who had to travel across town to store their extra possessions in a storage unit. It was not a high traffic use. If traffic were to drive by during the day, they would never see a lot of cars sitting there. As far as traffic problems, there really should not be a whole lot of congestion due to this. In time, they would see a stop light at Ruppel Road.

Alderman Zurcher stated there was probably more C-2 land in Fayetteville than what could be used in the next few years.

Mr. Conklin stated there was quiet a bit of land zoned C-2 that was undeveloped or could be redeveloped.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion carried by a vote of 6-2-0. Zurcher and Reynolds voting nay.

ORDINANCE 4287 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

FIRST NIGHT: A resolution approving a budget adjustment in the amount of \$15,000.

**Westside Village I-PZD 08-3062
Planning Commission Minutes
November 10, 2008**

I-PZD 08-3062: (WESTSIDE STORAGE, 400): Submitted by STEVE CLARK for property located at 1192 N RUPPLE ROAD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.77 acres. The request is to review a zoning and land use only application for an additional climate controlled storage building, a new entrance from Wedington Drive with new management buildings at that entrance.

Jesse Fulcher, Current Planner, gave the staff report, discussing the history of the zoning request on the property in the 1990s, 2001, etc. One of the big discussions in the last request was to develop a building that would sufficiently screen the existing mini-storage facility. Fulcher described the façade facing the street. It has been difficult to review this application in the context of City Plan 2025. Rather, we looked more in context of what is there on the site, the existing land use of the storage facility that is established. It was staff's hope that with a properly designed building we would see a façade that would come close to meeting commercial design standards, something that would be required in the R-O zoning district. The catalyst for this entire request is from the Ruppel Rd expansion. As part of the Links project, two lanes of northbound traffic are being constructed along the entire property frontage. This property and the property to the south are where both of the lanes of right-of-way have to be obtained for the east side of the road. There is a Bill of Assurance from 1990 existing on the property which limited access to Ruppel Rd., which the City Council has recently reviewed and changed. The applicant would like to be able to access Wedington Drive with this addition. Staff has found in favor of the PZD, with some conditions. Staff is recommending a minor change to the building façade to provide a parapet wall on the top for a different form. Fulcher discussed other conditions of approval, including limited egress access to Ruppel Road, landscaping, signage, Bill of Assurance regarding trees.

Kit Williams, City Attorney, stated that the City Council did approve a change to the Bill of Assurance, to allow the access to Wedington. They also agreed to purchase right-of-way for Ruppel Road.

Dennis Caudle, applicant, stated that he received the report today. Several months ago I received a letter discussing the right-of-way road expansion. I understand now why they want to take all the right-of-way from the right side of the road. My first question was what is it doing to me. Will this affect my ability to operate? There were several options we looked at. One option was that I could move to the other lot I own on Wedington. We agreed that would fix the problem. I'm being asked to operate with two parking spaces. We're here because this is being brought on to me. I did not ask to build this building. In 2001, it was made pretty clear this use wouldn't be extended. But this is what we discussed as a solution. Caudle discussed Lindsey's project, occupancy of buildings happening today. I am trying to work something out. Some of the conditions I agree with, some I don't. The trees on Ruppel today, they are going to remove 10 of them. Three trees on my other lot were found to be healthy, one is inside the proposed building. I have concerns with #6, it's leaning over the street, potentially a public danger. It's unacceptable to keep the 3 that are inside the building. We approached the PZD because we were told it would move the process along much quicker. To get to this

point, I've spent thousands of dollars. I didn't ask for this, just trying to find something that works out for everybody.

Steve Clark, applicant, stated he would like to summarize the concerns. On the building elevations, we feel it is attractive like it is, we would rather not change the elevation. Right-of-way issues are non-issues; we will dedicate along Wedington and we have an agreement in principle for Ruppel. The entry/exit onto Ruppel – we would prefer the existing southern drive to remain as an entry only, and not be limited to exit traffic.

Williams asked if a truck/trailer would be able to fit into this entry without stopping in [Ruppel] road.

Clark stated that he thinks so, but doesn't know for sure. If it turns out that there is not adequate room for a truck/trailer, we would be willing to look at that as an exit-only drive, but at this time we would prefer it not be a condition of approval.

Williams stated that one thing that can happen with a PZD is that since it's not only looked at by the Planning Commission but they look at it and make recommendations and it goes to City Council, so even if that condition remains, it's something certainly you can look at again and speak to the City Council about.

Clark stated that we concur and agree, and the owner has expected to plant the trees and meet the Wedington Rd. frontage. However, along Ruppel Rd several of his trees are already being taken, he is being compensated for them, but for us to have to go back in and replant trees on 30' centers along Ruppel Rd., especially when he's doing no development along Ruppel Rd, Ruppel Rd. development is finished, he won't be making changes to that, so again he would prefer not to be required to meet the standards. Basically, the City is buying his trees and then he has to turn around and spend money to put new trees back. His preference would be not to have that. Signage is agreed to. It's a catch-22 on the tree preservation. One, he is having to continue to meet the standards that were agreed to in 1990. Clark discussed concerns with preserving the 25% of trees on the site. Moving the building to preserve the trees could be very difficult.

No public comment was received.

Commissioner Anthes stated that a LSD plan will be following this PZD plan within a year. She asked staff to clarify, given what has been discussed tonight, what is the purview of us having to make a decision on tonight, and what will be decided at the time of large scale.

Jeremy Pate, Director of Current Planning, stated that with a PZD we are looking at use. We don't typically get into a lot of design detail until we have a Large Scale Development. Historically, however, this applicant has had concerns about what is approved at a Conditional Use Permit level and then a Large Scale Development level later, so we're trying to be as detailed as possible on this particular application. While not all the information is presented, for instance a grading plan to understand how this

impacts tree preservation, because this is a zoning and land use only PZD, there are no development rights associated with it. In reality, the Large Scale Development would look a lot like what you're seeing now in terms of a site plan and elevations. It would be accompanied with a grading plan and landscape plan, but I would assume the site plan would look a lot like what you're seeing here.

Anthes stated she is hearing a lot about trees tonight but without a landscape plan and grading plan and a report from our Urban Forester and staff, she is not prepared to answer any of those questions tonight. I'm happy to say there are some current ordinances that need to be followed, but then whether those are saved trees, mitigation trees, that is best left to Large scale development.

Pate stated that is typically what we do with a Large scale development, we look at those details and get a report from the Urban Forester.

Anthes stated that on page one, paragraph five of the project booklet, "brick fascia" should be changed to "brick façade."

Clark stated he thought that fascia was the correct term. He stated that it would be changed.

Commissioner Anthes asked about design standards in industrial zones. What are we reviewing for those?

Pate stated that there were design standards with any PZD. Because this is a mini-storage use, we are not technically reviewing this for commercial design standards, but in the UDC there are general design standards presented with each and every planning area. These are the design standards that are being presented for this one planning area.

Commissioner Anthes asked what we should be looking at for this building as opposed to what we would be looking at for commercial design standards.

Pate stated that the PZD ordinance states that an applicant is supposed to present design standards. What we do with all PZDs is compare them to existing zoning districts to see how closely they follow the existing standards. Sometimes they vary dramatically, sometimes they're relatively close. I believe Jesse presented our comparison on this one with an R-O office building, and that's what we were pushing towards for this particular application. A lot of the discussion a couple years back when this originally came through was if a building can fit on this site that would screen the other buildings. The fence was considered to be a temporary screen at that time. So, another building, whether it be an office building in R-O, could it meet those standards? That's why we've worked with the applicant to look at different colors and materials to vertically break up the façade. More than anything, the addition of a parapet-type structure may help to make it appear more like an office building. That's a pretty detailed recommendation at this point in time for a concept PZD.

Commissioner Anthes stated that at this point, we could say we're going to be reviewing the building at large scale, but we appreciate they are breaking up the façade vertically, and we'd like to see if they could come back with a variation of a parapet that would look more like an office building, and then come back with that at large scale.

Commissioner Winston asked if the building is climate controlled, and if there will be roof units.

Clark stated that it is climate controlled for most of interior. The north elevation will be a standard, non-climate controlled storage. Four interior bays are climate controlled. Rooftop units are not planned but would be screened if they are installed. The existing building does have two units on the roof now.

Caudle stated that a future building that screens what is behind it is an idea. No office building could be designed to screen on a lot this size as well as this. Caudle discussed in length that he did not know if there would be roof-top units, and he is not the A/C guy. There may be some there, there may not.

Commissioner Winston stated that his comment was simply to the point, like on another application tonight, that screening of roof-top units tend to get forgotten about in the design phase, and he just wants the applicant to be aware. A parapet wall might be the solution for that issue.

Caudle stated he can't tell where the A/C units are going to go. He discussed roof units and screening.

Commissioner Winston suggested a condition could be included that the roof-top units are required to be screened. He asked for clarification on condition #6, tree canopy.

Pate discussed tree canopy and the Bill of Assurance. The Bill of Assurance and tree preservation ordinance work in tandem.

Commissioner Cabe asked about current access on Ruppel Road, and asked if the applicant looked at relocating the office to the next unit to the east. It seems like there are some easy solutions without all of this project. Cabe discussed other options like moving the office to the next building.

Clark stated that Caudle and I looked at alternatives. The problem is that it creates dead-end spaces with drive aisles, with no turn-around. There's no good way to continue to operate in a good and safe manner.

Commissioner Lack stated he has a great concern with the primary entrance on Wedington Drive. I know the City Council has spoken on that, but from a Planning Commissioner perspective, it seems like we're giving up one dangerous condition for another. I would prefer to see a negotiation on keeping the access on Ruppel. The storage on Wedington could still be pursued with an even longer building to conceal the

mini-storage facility.

Caudle stated that a good potential solution would have been to take property from the west side of the road, but that was not the choice that was made, they chose to take it all from the east side of the road. So the alternative answer to the problem was this PZD.

Commissioner Lack asked Pate to explain the negotiations.

Pate stated he was not involved from the beginning of this discussion, I will defer to the City Attorney.

Williams stated that there were several meetings looking at this issue and one of the things the City Council and I consider in a situation like this is cost to the taxpayers. If we are obtaining right-of-way from Mr. Caudle that would degrade the functionality of his property, then the taxpayers will pay for that. The other thing we didn't want to do is adversely affect his property for himself. The only way his architect and Ron Petrie as the City Engineer could see to avoid a major disadvantage to his property would be to in fact allow him to have access on Wedington, although originally that was denied, either for safety or aesthetic reasons. This was explained to the City Council and they agreed to withdraw that portion of the Bill of Assurance. I do hope we will reconsider on the Ruppel Rd. entrance because I think that for most vehicles that would be the preferred entry. I hope we can work that out between now and the City Council meetings. There was not another way to configure the lot that we could figure out that would not cost a lot to taxpayers and detrimentally affect Mr. Caudle's business. The decision to allow an entry off Wedington and after the Bill of Assurance has been made, unless there is something dramatic with traffic safety we can point to and say City Council was wrong to allow that.

Commissioner Lack asked Pate about access to other less-traveled roads, which is the policy in our access management ordinances.

Pate discussed how Ruppel Road actually has a higher classification on the Master Street Plan than Wedington, though Wedington is more commonly traveled. Ruppel is a Principal Arterial Parkway, Wedington is a Principal Arterial. We will potentially have more traffic on Ruppel in the future, due to the fact that Ruppel will be a true connecting street, from Hwy 62 and Farmington north to the mall area. We also looked at curb cut location in relationship to Wedington/Ruppel intersection; the Wedington access is actually further away than the Ruppel access. In response to Mr. Williams' comment about limiting access to exit-only on Ruppel, staff presented the recommendation for exit only because that's what Mr. Petrie presented to the Council when he presented the negotiated purchase price and amended Bill of Assurance. So that's something we are simply being consistent with. The Council will review this again if it goes forward, so if they wish to review that decision, they can. But it was our understanding that everyone was on the same page that this would be exit-only because of the concerns about safety.

Caudle discussed the Bill of Assurance, and trees in the yard on Wedington.

Motion:

Commissioner Anthes made a motion to forward the request to City Council with a recommendation of approval with conditions as listed in the staff report, agreeing with staff's recommendations, noting on condition #1 that a gable or hipped roof may be too onerous, but the applicant should add a parapet wall, and realizing that a Large Scale Development will be reviewed within one year from approval, where we'll review all of the other information, including tree preservation, landscaping, grading, final building elevations, etc.. **Commissioner Winston** seconded the motion. **Upon roll call the motion passed with a vote of 7-0-0.**

DRAFT

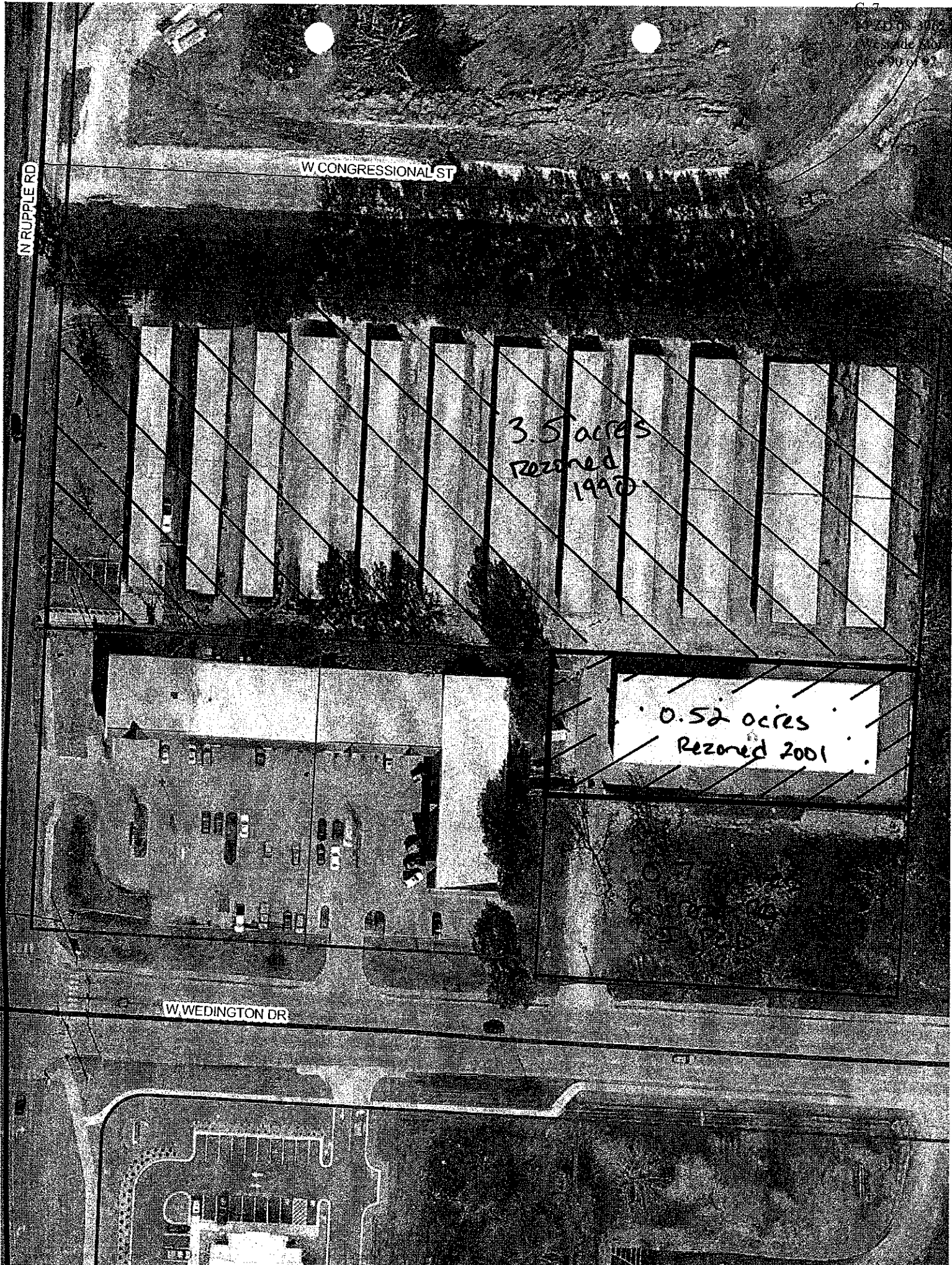
N RUPPLE RD

W CONGRESSIONAL ST

3.5 acres
Rezoned
1990

0.52 acres
Rezoned 2001

W WEDINGTON DR



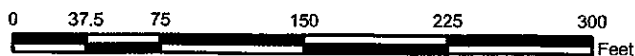
Close Up View



RSF-1

SUBJECT PROPERTY

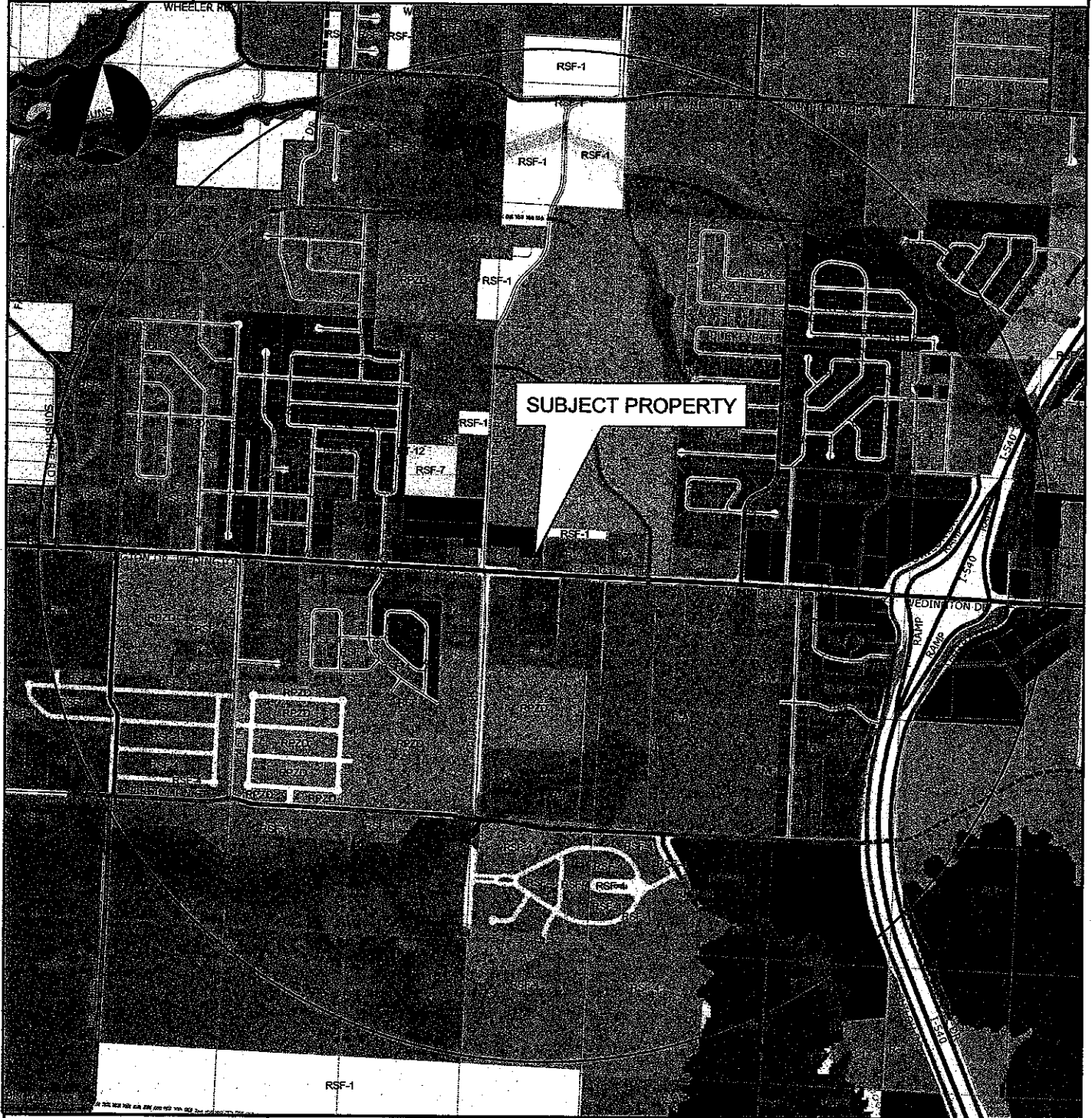
WEDINGTON D

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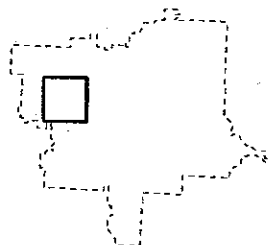
CPZD08-3062

WESTSIDE STORAGE

One Mile View



Overview



Legend

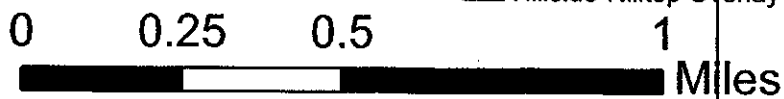
Subject Property
 CPZD08-3062

Boundary

- Planning Area
- Overlay District
- Outside City

Legend

Hillside-Hilltop Overlay District



RECEIVED

OCT 01 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE



September 30, 2008

Jeremy Pate
Director of Current Planning
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

Re: Villas at Stonebridge - Appeal of Planning Commission denial

Mr. Pate:

On behalf of our client, we wish to appeal the September 22, 2008 City of Fayetteville Planning Commissions decision to deny R-PZD 06-2170. We request that this item be place on the December 02, 2008 City Council meeting.

Respectfully,

A handwritten signature in black ink that reads "Todd Jacobs". The signature is written in a cursive style with a large, stylized 'T' and 'J'.

Todd Jacobs
Director of Design
Appian Centre for Design
217 East Dickson Street, Suite 104
Fayetteville, Arkansas 72701
Office: 479-442-1444

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning 

Date: November 13, 2008

Subject: Appeal for The Villas at Stonebridge Residential Planned Zoning District (R-PZD 06-2170)

RECOMMENDATION

Staff and the Planning Commission recommends denial of an ordinance to create a Residential Planned Zoning District for The Villas at Stonebridge (R-PZD 06-2170) as proposed in its current form. Staff finds the rezoning and land use proposal is inconsistent with the adopted goals and policies of City Plan 2025, due to the density, land use incompatibilities and relatively isolated development proposal in an area that is under-served by infrastructure to a level that is acceptable for neighborhoods at such a density.

If this ordinance is approved, the action would establish a unique zoning district for a multiple-use project with a maximum of 350 dwelling units (166 single family and 184 multi-family) and approximately 45,000 square feet of nonresidential space (live-work and clubhouse) on a 53.03-acre tract. The density proposed over the site is 6.60 units per acre. The Planning Commission voted to deny the application; the applicant has appealed the Planning Commission decision to the City Council in the time period required by ordinance.

BACKGROUND

The subject property contains approximately 53 acres located east of Dead Horse Mountain Road approximately 1/3 mile south of Goff Farm Road, and adjacent to Stonebridge Meadows Golf Course. Additional land on the golf course (approximately 4 acres) is being utilized for stormwater retention, but is not included in the PZD proposal. The site was annexed into the City of Fayetteville in April 2005, is primarily zoned R-A, and is currently undeveloped rural land. Zoning of the property was not pursued at the time of annexation. Property directly to the west and south is partially within the County, and consists of rural residential land owned by four separate property owners. Property to the east and north is under common ownership, and is utilized for the Stonebridge Meadows Golf Course, which was developed prior to its annexation into the City. While the golf course offers "greenspace" to users that golf, it is not considered public open space to be used for all citizens and multiple forms of recreation. To the far south, the property adjoins Falling Waters PZD, a 255-lot single family residential subdivision on 137 acres (density of 1.8 units per acre) approved in 2005, which incorporates tree preservation and hillside development best management practices.

The request is for rezoning, land use and partial development approval for a Master Development Plan of a Residential Planned Zoning District. Should the PZD be approved as proposed, it would result in immediate development approval of a preliminary plat with 91

single-family lots and several large lots for future development review. The remaining residential lots and multi-family buildings would require preliminary plat or large scale development approval in the future.

On September 22, 2008, the Planning Commission voted 3-4-0 on a motion to approve this request with Commissioners Cabe, Bryant, Anthes and Myres voting 'No', Commissioners Lack, Winston and Kennedy voting 'Yes', and Commissioners Trumbo and Graves absent. The motion to approve failed and the applicant has appealed this decision to the City Council. The main concerns with the project are centered on the location of the R-PZD at the edge of the City limits, without close access to improved roads or transportation corridors, the lack of support services to serve the residents of the development, and an overall lack of compatibility with surrounding rural properties.

DISCUSSION

This project is designed to be a Traditional Neighborhood Development (TND) including a variety of housing types and land uses positioned on small blocks with meaningful open spaces. While the development plan contains many design aspects interior to the project that are supported by the City's adopted City Plan 2025, the location of the development in context with the lack of urban services in this area and the impact this will have on the surrounding area is largely ignored. The project is at the edge of the City limits on property that is surrounded by large lot, agricultural land, some of which is still within the County. In addition, the site is not situated in a location such that infrastructure and connectivity could be sufficiently improved to manage the increase in daily vehicle trips generated by this development. Due to the lack of common support services currently available to residents in this area, it is likely that the residents will continue to be auto-dependent, thereby placing a greater burden on the surrounding unimproved streets and intersections. The closest commercial center, at Crossover and Mission, is approximately 4 miles to the north. The development proposed, even with a well-designed interior plan, thereby contributes to suburban sprawl, which is inconsistent with adopted city policy. Typical characteristics of sprawl that are evident in this project include:

- A "leap frog" development pattern, in which a more dense development occurs beyond other underdeveloped tracts closer in to the city, thereby creating burdens on the infrastructure in those gaps;
- Development that fails to locate in areas where existing public facilities are located, "beyond the edge of services and employment" and locating in an area that is poorly connected to other land uses in the immediate area. Development that is being proposed is not concurrent with needed infrastructure improvements, as City policy dictates; rather, we are seeing the project and anticipating for potential future relief;
- A primarily single-use project, residential, requires all residents to travel to work, obtain basic necessities and staples.
- The development pattern, which includes multiple-story, multi-family structures in direct adjacency to rural land uses, provides largely incompatible land uses and development patterns with the surrounding large, rural lots and agricultural lands.

Staff finds this rezoning proposal to be inconsistent with the City's adopted goals and policies, and the policy decision to rezone the area may lead to future issues in the area. Currently, staff finds the project is proposed too soon for this particular area and promotes a development pattern more like the density of downtown Fayetteville, without the schools,

City Council Meeting of December 02, 2008
Agenda Item Number

commercial and community services and infrastructure to support it. In the larger picture, both the Planning Commission and applicant raised the policy question of how the City wants to develop, recognizing in this project good things relative to the plan design, but negative things relative to where a project this dense is located at the edge of the city.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2170, VILLAS AT STONEBRIDGE, LOCATED SOUTH OF HIGHWAY 16 EAST AND EAST OF GOFF FARM ROAD; CONTAINING APPROXIMATELY 53.03 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 06-2170
Villas at Stonebridge 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

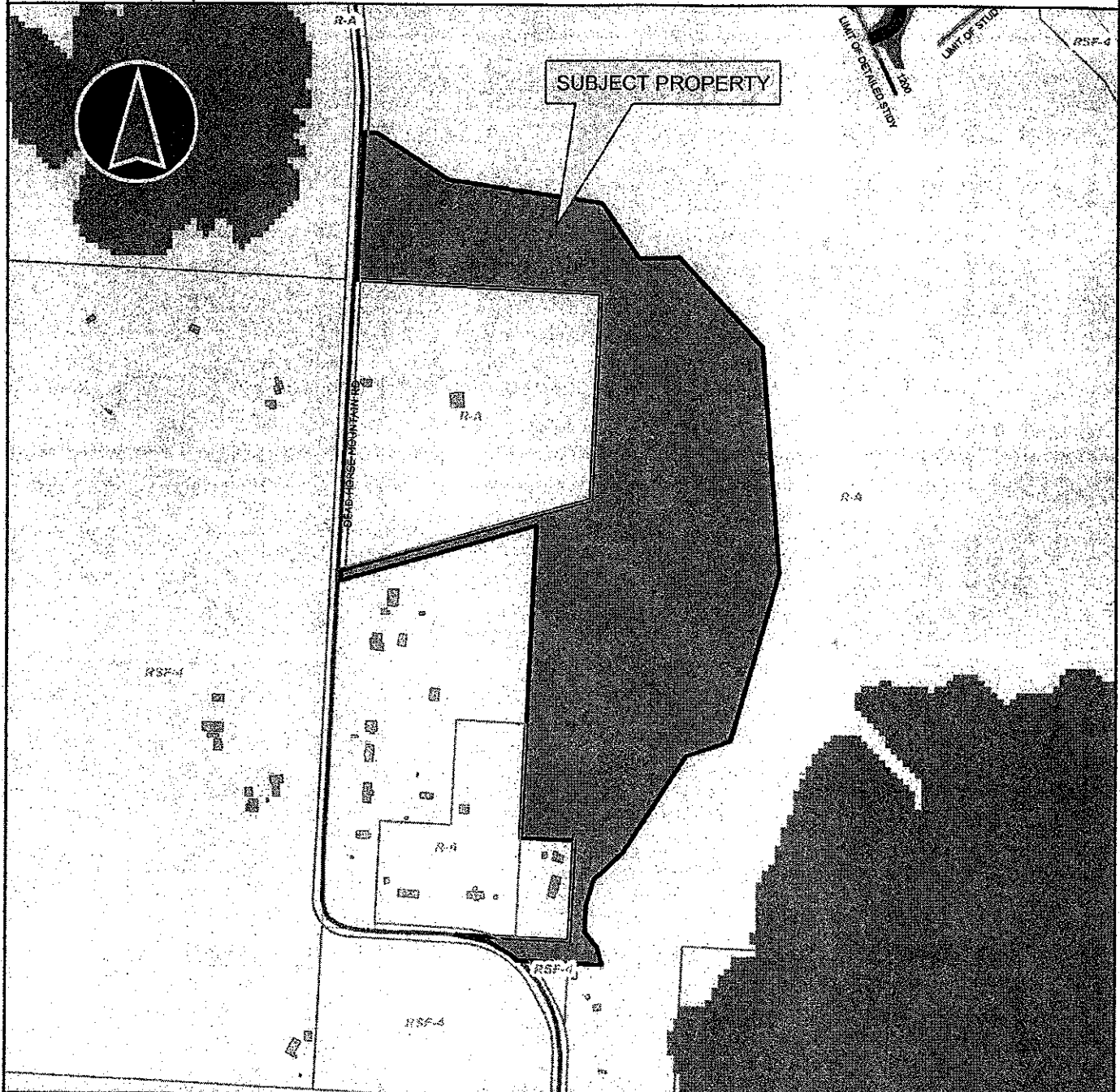
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

RPZD06-2170

Close Up View

VILLAS AT STONEBRIDGE



Overview

Legend

- Overlay District
- FLOODWAY
- 500 YEAR
- 100 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RPZD06-2170
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 225 450 900 1,350 1,800 Feet

EXHIBIT "B"
R-PZD 06-2170

A PART OF SECTION 24, AND A PART OF SECTION 25 ALL IN TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF NORTHEAST QUARTER OF SECTION 25 AND RUNNING THENCE N 87°01'16" W 987.33 FEET TO THE CENTERLINE OF DEAD HORSE MOUNTAIN ROAD; THENCE ALONG SAID CENTERLINE N 03°03'00" E 600.87 FEET; THENCE LEAVING SAID ROAD CENTERLINE S 87°01'16" E 52.27 FEET; THENCE S 56°35'20" E 339.81 FEET; THENCE S 81°27'33" E 631.08 FEET; THENCE S33°49'31" E 271.57 FEET; N 88°15'23" E 161.27 FEET; THENCE S 42°11'39" E 488.91 FEET; THENCE S 04°36'52" E 928.17 FEET; THENCE S 15°59'30" W 713.53 FEET; THENCE S 70°37'32" W 185.48 FEET; THENCE S 32°39'52" W 467.30 FEET; THENCE S 46°59'22" W 162.84 FEET; THENCE S 16°02'22" W 109.30 FEET; THENCE S02°33'46" W 105.25 FEET; THENCE S 38°49'44" E 79.65 FEET; THENCE S 16°12'04" E 74.82 FEET; THENCE N 86°55'06" W 339.76 FEET TO THE CENTERLINE OF DEAD HORSE MOUNTAIN ROAD; THENCE ALONG SAID ROAD CENTERLINE N 49°07'24" W 36.69 FEET; THENCE N 60°12'41" W 100.88 FEET; THENCE N 77°29'04" W 137.15 FEET; THENCE LEAVING SAID CENTERLINE S 86°55'06" E 456.61 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 25; THENCE N 02°33'46" E ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 25, 407.00 FEET; THENCE N 87°26'15" W 213.99 FEET; THENCE N 02°33'46" E 1276.27 FEET; THENCE S 73°50'46" W 819.41 FEET TO A POINT IN THE COUNTY ROAD; THENCE N02°33'46" E 42.23 FEET; THENCE N 73°50'46" E 1045.35 FEET; THENCE N02°33'46" E 843.38 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 53.03 ACRES MORE OR LESS. SUBJECT TO AND EASEMENTS AND OR RIGHT OF WAYS OF RECORD

CONDITIONS OF APPROVAL:

R-PZD 06-2170

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The Planning Commission and staff recommend the following conditions of approval associated with R-PZD 06-2170 (Villas at Stonebridge).

Conditions of Approval Adopted by the City Council:

Streets and Right-of-Way

1. **Planning Commission determination of street improvements.** Based on the condition of the immediate surrounding street system, the status of the intersection of Huntsville Road and Stonebridge Road and the impact of the amount of traffic generated by 45,000 square feet of non-residential space and 350 dwelling units from this project, staff recommends the following street improvements as being proportional to the development:
 - a. Prior to final plat of Phase I, the applicant shall construct a traffic signal at the Stonebridge Road and Huntsville Road intersection to City standards. Should the AHTD not approve the traffic signal installation, staff recommends the applicant contribute an assessment in the amount of \$125,000 for the full cost of the signal prior to recording a final plat for Phase I.
 - b. Prior to final plat of Phase I, the applicant shall construct a 3-lane street section for Dead Horse Mountain Road along the project frontage, including pavement, curb and gutter, storm drainage, a 5' sidewalk and street lights at each intersection and with a maximum spacing of 300'.
 - c. Prior to final plat of Phase III, the applicant shall overlay and widen Dead Horse Road from the north property line to the south property line (including the road frontage between), to a minimum width of 24' of pavement with shoulders, pursuant to City engineering criteria. *This results in a total of 143 lots constructed before improvements are made to Dead Horse Mountain Road.*
 - d. The applicant shall contribute an assessment for the replacement of the Dead Horse Mountain Road bridge on a lot by lot basis, based on the most recent bridge cost estimate and the percentage of traffic to cross the bridge. The current estimated total for the entire development is \$216,000.00. Fees for Phase I, due prior to recording of a final plat, equal \$55,525 for 91 single family lots. Staff recommends that once the bridge is fully constructed (anticipated in 2009-2010) no further fees shall be contributed by this development. *To clarify staff's recommendation, based on the phasing plan presented, it is likely this development will not contribute any fees to the bridge replacement, based on current replacement schedules.*
 - e. Prior to final plat of Phase I, if the Falling Waters entry road has not been constructed to provide access to this property, the developer of the Villas shall be responsible for securing all agreements, dedication of public right-of-way, and coordination to construct the public street entrance as approved with Falling Waters PZD to provide the necessary second point of ingress/egress.
2. **Planning Commission determination of a waiver of minimum street design standards:**
 - a. The applicant requests a waiver to allow a 20' curb return radius (CRR) at all interior street intersections and alleys when City Code requires a 30' CRR for minor streets (UDC Section 171.02(C)). *Engineering staff has reviewed this request and is in favor of the CRR waiver requests, finding that adverse impacts to traffic and pedestrian safety would not occur.*

CONDITIONS OF APPROVAL:

R-PZD 06-2170

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- b. The applicant requests a waiver to allow different street cross sections than required by the current Master Street Plan standard (UDC Section 166.06 (k)(10)(a) and 166.08(C)(14)). The applicant proposes the following:
- i. (Street Sections 1, 2, 3, 6 and 7) Request to provide 7' of greenspace between the back of curb and sidewalk where 6' is required. *Staff does not support this request, finding that the additional 1' of greenspace does not significantly increase aesthetics, pedestrian safety, or area for tree growth, to a degree at which the City's street standards that were adopted in an effort to standardize street sections should be altered.*
 - ii. (Street Section 3 and 6) Request to allow an urban streetscape design with an 8' sidewalk on one side and a standard 5' sidewalk on the other side. *Staff supports the requested waiver based on the location adjacent to a dense multi-family development and single-family residences, respectively, with the condition that the greenspace along the single family section be reduced from 7 feet to 6 feet (see above) to provide for both sides of the street cross-section in compliance with its respective cross-section.*
 - iii. (Street Section 7) Request to allow alternative street section (two-ten foot travel lanes with on-street parking on both sides of street). *Staff supports the requested waiver, finding that the proposed street section provides additional parking for the multi-family units and clubhouse along this section of street. The street section combines aspects of several approved street sections, including standard travel lane, parking and sidewalk widths. As noted in the above variance request (i), staff is recommending that the greenspace be reduced to 6'.*
 - iv. (Street Section 5) Request to allow street cross section not permitted (one-lane blvd). *Staff supports the construction of a median in Street Section 5. The Fire Department has reviewed and approved the street design with the designated fire pull-off lanes, which is consistent with a cross-section staff proposed to the Planning Commission during review of the Master Street Plan amendments, but removed at the request of the Fire Department. Staff recommends in favor of the request, finding that the public welfare will not be negatively affected by the requested road section.*
 - v. (Street Section 1) Request to construct a 5' sidewalk on only one side of the street, south of the southern roundabout. Based on Page 15 of the plats, it appears that construction of a 5' sidewalk on both sides of the street is feasible and provides sufficient room for utility easements. Although, a waiver to allow the sidewalks adjacent to the back of curb appear to be necessary. *Staff recommends in favor of a waiver to allow sidewalk construction adjacent to the street as shown on the plats, but does not recommend in favor of allowing sidewalk construction on only one side of the street.*
3. Planning Commission determination of zoning criteria: building area. *In all of the residential planning areas, the applicant is proposing a high intensity of building area (the area on a lot occupied by buildings), much more intense than is permitted within any other residential districts*

CONDITIONS OF APPROVAL:

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within the City. These range, as proposed, from 65-95%, which leaves very little unoccupied greenspace. Staff recommends these buildable area maximum levels be reduced, finding the proposal to be inconsistent for the proposed development pattern, as follows:

- a. Page 4. PA-1, Reduce maximum building area from 65% to 50%.
 - b. Page 5. PA-2, Reduce maximum building area from 70% to 60%.
 - c. Page 6. PA-3, Reduce maximum building area from 85% to 75%.
 - d. Page 7. PA-4, Reduce maximum building area from 95% to 75%.
4. Planning Commission determination of a waiver to allow Accessory Dwelling Units (ADU's) on lots with less than 5,000 sq. ft. of lot area. *Staff does not recommend in favor of this request, finding that the minimum lot size requirements were discussed at length with input provided from the public, Planning Commission and City Council, and at this time there are no reasons to deviate from the minimum adopted standards.*
 5. Planning Commission determination of Planning Area 6. As previously proposed, PA-6 was designed to provide limited commercial services; however, since the previous review by the Planning Commission, this area has been removed and is proposed to remain as Residential Agricultural zoning district, but with an R-PZD designation. *Staff finds that if the project is approved, the ability to provide commercial services for area residents is appropriate and should be incorporated into the project. These services, once developed, could lead to decreased vehicle trips on the surrounding street system and provide employment opportunities for area residents. Staff recommends that the limited commercial uses be incorporated into Planning Area 6 as previously reviewed.*
 6. All private drives and alleys and any sidewalks outside the right-of-way shall be included in a shared access easement. This access easement shall be included on the easement plat and/or final plat prior to recordation.
 7. Right-of-way dedication. 42.5' from centerline along Dead Horse Mountain Road shall be dedicated with Phase I of the project; variable right-of-way dedication along the internal streets as depicted on the site plan by easement and/or final plat; private alleys and streets shall be located within an access easement, owned and maintained by the property owner's association, and dedicated by easement and/or final plat, as applicable.
 8. A minimum of 20' clear of any structure (fence, building, wall, etc.) shall be provided along all alleys utilizing residential trash service to provided adequate room for a trash truck and arm to pick up residential trash carts.
 9. Signs indicating future street extension shall be installed at all street stub-outs prior to recording a final plat for the subject phase.
 10. Construction of nonresidential facilities. The developer shall guarantee to the City completion of nonresidential facilities (Club House) in the amount no less than 150% of the estimate cost of said facilities, pursuant to the Unified Development Code PZD requirements. Said guarantee shall be provided to the City prior to final plat approval of Phase I.

CONDITIONS OF APPROVAL:

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General

11. 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.
12. A final plat shall be required to subdivide the property, with Phase I of the project. A preliminary and final plat approval is required prior to development of any additional single family portions of this project. A large scale development is required for any nonresidential and/or multi-family development. Development shall be subject to the regulations in place at the time of review and approval, including grading, drainage, tree preservation, landscaping, residential design standards, etc., unless varied herein.
13. 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. All multi-family buildings shall adhere to Urban Residential Design Standards.
14. Signs shall be permitted in accordance with those standards outlined within the project booklet for each Planning Area.
15. The owner of the adjacent land, which contains several of the detention facilities, may be required to sign the final plat for each phase of the development. Additionally documentation may be requested by staff to ensure full compliance with all applicable regulations, for Phase I and future phases that direct stormwater to the off-site retention ponds.
16. The storm sewer discharge point at Lots 65 and 66 shall be evaluated at the time of construction submittal. Off-site drainage improvements may be required.
17. Any nonresidential uses in Planning Area 5 shall be contained within the club house building and not constructed as stand alone businesses.

Phasing

18. This project is required to obtain all construction and building permits and complete construction of each phase in accordance with the phasing table listed below. A one-year extension may be approved by the Planning Commission for each phase, subject to the criteria in UDC Chapter 166 for extensions.

Phase No.	All Permits obtained (years) from CC approval	Timeframe for Construction (years)
Phase 1:	2-year to obtain all required permits	3-years from issuance of permit to complete phase*
Phase 2:	3-year to obtain all required permits	4-years from issuance of permit to complete phase
Phase 3:	4-year to obtain all required permits	5-years from issuance of permit to complete phase
Phase 4:	5-year to obtain all required permits	6-years from issuance of permit to complete phase
Phase 5:	6-year to obtain all required permits	7-years from issuance of permit to complete phase

** Single family lots are required to obtain final plat approval by the completion dates; all single family homes are not required to be actually constructed.*

CONDITIONS OF APPROVAL:

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Parks/Trails:

19. The applicant shall contribute money in-lieu for Phase I and provide a deed for the two-acre park prior to filing the final plat for Phase I. All other fees shall be due prior to final plat approval for single-family lots and prior to building permit issuance for other units.
20. Grading for St. Paul Trail within the abandoned railroad corridor shall be completed by the developer to accommodate the 12' trail, including all drainage structures situated to allow for construction. This land shall be dedicated as a public access easement with Phase III (or sooner) of the development.
21. A future trail corridor is also planned through lot 196 adjacent to the golf course. This will allow St. Paul trail to extend through the golf course to meet Eagle Park. The trail will be on-street through the development. The entirety of lot 196 shall be within a public access easement, dedicated at the time of final plat of phase I.

Landscape and Tree Preservation Plan Conditions

22. Mitigation will be required on the site. The applicant shall mitigate for the removal of 35,283 SF of tree canopy in Phase I with on-site mitigation to consist of a minimum of (122) 2-inch caliper trees. If all trees cannot be planted on-site, the balance shall be contributed into the Tree Fund, as determined by the Urban Forester. Mitigation trees cannot be located within utility easements or street ROW. Please submit a tree mitigation form for approval.
23. All mitigation trees must be planted prior to the issuance of a final certificate of occupancy. These trees cannot be located within any utility easement or street ROW. A 3-year bond, letter of credit, or check in the amount of \$30,500 shall be deposited with the City of Fayetteville before issuance of a certificate of occupancy. All mitigation trees shall be located on a site owned by the applicant.
24. Each lot not reviewed for development approval at this time will be evaluated at the time of development. A minimum canopy cover of at least 25% will be required for the PZD zoning. Additionally, all applicable landscape requirements shall be met at the time of future development for each lot.
25. Before construction plan approval, the landscape plan must be stamped by a licensed landscape architect with the state of Arkansas.
26. Under Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.
27. Street trees are required to be planted every 30', except for single-family lots where one tree is required per lot.
28. Prior to signing the final plat, a written description of the method(s) and time frame the project will utilize to track development of each single-family lot to ensure the required trees are planted and their longevity of health assured, shall be submitted.

CONDITIONS OF APPROVAL:

R-PZD 06-2170

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Plat and Booklet Revisions

29. The following revisions shall be completed prior to staff forwarding this item:
- a. Page 2. All phases of the development that will be constructed as large scale development should have two time frames; one to obtain construction permits and one to receive final inspection approval. If a phase contains both types of construction, then there should be a time frame to obtain permits, a time frame to obtain final plat approval and a time frame to obtain final inspection approval. Change each phasing statement to read as follows:
 - i. Phase IV: All permits necessary to complete construction shall be obtained within "x" years from the date of City Council approval of the Planned Zoning District. Final inspection shall be obtained within "x" years from the date of City Council approval of the PZD.
 - ii. Phase V: All permits necessary to complete construction shall be obtained within "x" years from the date of City Council approval of the Planned Zoning District. Final inspection shall be obtained within "x" years from the date of City Council approval of the PZD.

Standard Conditions of Approval

30. 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).
31. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Elevations shall be submitted to Planning staff for review and approval prior to building permit.
32. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.
33. 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.
34. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
35. Impact fees for police, fire, water, and sewer shall be paid in accordance with City Ordinance.
36. 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

CONDITIONS OF APPROVAL:

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Staff prior to building permit. Only single-family and two-family structures are exempt from the lighting ordinance. Street lights, townhouses, condominiums, live/work units are subject to compliance with the lighting ordinance.

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

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



September 30, 2008

Jeremy Pate
Director of Current Planning
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

Re: Villas at Stonebridge - Appeal of Planning Commission denial

Mr. Pate:

On behalf of our client, we wish to appeal the September 22, 2008 City of Fayetteville Planning Commissions decision to deny R-PZD 06-2170. We request that this item be place on the December 02, 2008 City Council meeting.

Respectfully,

A handwritten signature in black ink that reads "Todd Jacobs". The signature is written in a cursive, flowing style.

Todd Jacobs
Director of Design
Appian Centre for Design
217 East Dickson Street, Suite 104
Fayetteville, Arkansas 72701
Office: 479-442-1444



Planning Commission 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: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: September 12, 2008 Updated October 3, 2008 (DENIED)

R-PZD 06-2170: Planned Zoning District (VILLAS AT STONEBRIDGE, 645/646): Submitted by APPIAN CENTRE FOR DESIGN for property located S OF HWY. 16E AND E OF GOFF FARM ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 53.03 acres. The request is for zoning, land use and preliminary plat approval for a Residential Planned Zoning District with a maximum of 350 dwelling units and 45,000 s.f. of non-residential space all with associated parking. Phase I development approval consists of 91 single family lots.
Planner: Jesse Fulcher

BACKGROUND:

Property Description and History: The subject property consists of approximately 53.03 acres located east of Dead Horse Mountain Road, and adjacent to Stonebridge Meadows Golf Course. Additional land on the golf course (approximately 4 acres) is being utilized for stormwater retention, but is not included in the PZD proposal. The site was annexed into the City of Fayetteville in April 2005, is primarily zoned R-A, and is currently undeveloped rural land. Zoning of the property was not pursued at the time of annexation. Property directly to the west and south is partially within the County, and consists of rural residential land owned by four separate property owners. Property to the east and north is under common ownership, and is utilized for the Stonebridge Meadows Golf Course, which was developed prior to its annexation into the City. To the far south, the property adjoins Falling Waters PZD, a 255-lot single family residential subdivision on 137 acres (density of 1.8 units per acre) approved in 2005, which incorporates tree preservation and hillside development best management practices. The surrounding zoning and land uses are listed in *Table 1*.

**Table 1
Surrounding Land Use/Zoning**

Direction from Site	Land Use	Zoning
North	Residential/Agricultural/Golf course	R-A
South	Residential/Agricultural	R-PZD – Falling Waters
East	Golf course	R-A
West	Residential/Agricultural	R-A, County

Proposal and Project Description: The request is for rezoning and partial development approval for a Master Development Plan of a Residential Planned Zoning District with a maximum of 350

attached and detached dwellings as well as 45,000 square feet of non-residential/commercial space. The proposed density overall is approximately 6.60 dwelling units per acre (see each Planning Area in table below). Should the PZD be approved as proposed, it would result in immediate development approval of a preliminary plat with 91 single-family lots and several large lots for future development review. The remaining residential lots and multi-family buildings would require preliminary plat or large scale development approval in the future.

Changes to Master Development Plan: Since the project was reviewed by the Planning Commission on April 28, 2008, several changes have been made to the plans. These changes include: 1) reducing the number of single-family units from 175 to 166; 2) increasing the number of multi-family units from 179 to 384; 3) relocating the townhouse units from the western property to the interior of the development, resulting in the west property line being developed with single-family units; 4) removing the commercial uses from Planning Area 6; and 5) increasing the side setbacks between detached units from 0' to 4'.

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

Table 2
Villas at Stonebridge PZD 06-2170
Land Use Summary

USE	PLANNING AREA	DENSITY (UNITS/ACRE)	DWELL-ING UNITS	NON-RESIDENTIAL INTENSITY (SQ.FT./ACRE)	NON-RESIDENTIAL SQUARE FEET	ACRES	% OF SITE
Single-Family	PA-1/PA-2	6.47	166	N/A	N/A	25.64	48.35%
Multi-Family	PA-3	11.20	70	2,400	15,000	6.25	11.79%
Multi-Family	PA-4	16.54	114	2,177	15,000	6.89	12.99%
Club House	PA-5	N/A	N/A	8,108	15,000	1.85	3.49%
Greenspace	PA-6	N/A	N/A	N/A	N/A	8.94	16.86%
R-A	PA-7	0.5	N/A	N/A	N/A	3.46	6.52%
TOTAL		6.60	350	848	45,000	53.03	100%

Parks and Recreation Advisory Board (PRAB): The Parks and Recreation Advisory Board reviewed this project on September 8, 2008 and made a recommendation of accepting a combination of parkland and money in-lieu of land. A deed for a 2-acre park and the remaining fees are required prior to signing the final plat.

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

Phasing: Six phases are planned for Villas at Stonebridge over the next several years, as listed below. Development approval with the first phase includes the primary street connecting to Dead

Horse Mountain Road in two locations, the two off-site detention ponds and 91 single family lots, along with several larger lots that will require future development review and approval. The zoning action, however, gives all zoning entitlement rights with this PZD request. All permits required for development within these phases are required to be obtained and constructed within the specified timeframe. Extensions for each phase as permitted by Chapter 166.20 and subject to Planning Commission approval are available.

Phase No.	Timeframe for Permits (years) from CC approval	Timeframe for Construction (years)
Phase 1:	1-year to obtain all required permits	3-years from issuance of permit to complete phase*
Phase 2:	2-year to obtain all required permits	4-years from issuance of permit to complete phase
Phase 3:	4-year to obtain all required permits	5-years from issuance of permit to complete phase
Phase 4:	5-year to obtain all required permits	6-years from issuance of permit to complete phase
Phase 5:	6-year to obtain all required permits	7-years from issuance of permit to complete phase

** Single family lots are required to obtain final plat approval by the completion dates; all single family homes are not required to be actually constructed.*

Water & Sewer: Sanitary sewer and water is available to the site. There are both water and sewer improvements being made as part of the Southeast Fayetteville Regional Water and Sewer Improvements project that will bring an additional capacity under the White River to provide adequate service in this area. This extension was a private agreement, between developers, to serve anticipated demands for future development in the area, and was neither participated in nor required by the City. Water and sewer lines shall be extended to serve the development, if it is approved.

Adjacent Master Street Plan Streets: Dead Horse Mountain Road, a Minor Arterial street.

Right-of-way Dedication: 42.5' from centerline along Dead Horse Mountain Road is required; variable right-of-way dedication for the internal streets as depicted on the site plan; private drives would be within an access easement owned and maintained by the property owner's association.

Access and Connectivity: Access to this site is limited to Dead Horse Mountain Road, a road annexed into the City from the County in 2005. Dead Horse Mountain Road is currently an unimproved, primarily chip and seal, 2-lane road that intersects Black Oak Road to the south (also an unimproved 2-lane road) and Huntsville Road to the north. Two points of access into the site are required to meet Fire Codes; these are provided at the north end of the site with a direct connection to Dead Horse Mountain Rd and provided at the south end through an approved street that is planned to be constructed as part of the Falling Waters R-PZD. The applicant has indicated a meeting has taken place with the property owner to the south, and the developer of the Villas will construct this street, with a private cost share agreement between the two parties to follow in the future. The development has a number of well-connected interior streets and alleys, utilizing a variety of street cross-sections to calm traffic and encourage pedestrian comfort and activity throughout the development. There are three (3) proposed stub-outs to undeveloped property to the west and the availability of adjacent right-of-way to connect into along the southwest portion of the site; however, the applicant has not proposed any stub-outs to the north or east due to the location of the golf course.

Street Improvements: This project lies within two established off-site street improvement areas established in 2005 that the Planning Commission utilizes when reviewing projects and their associated impact. The two areas are the Dead Horse Mountain Road Bridge Assessment Area and the Stonebridge Road/Huntsville Road Traffic Signal Assessment Area. Both of these improvements

have been deemed critical in the area to support growth at any density. These assessments areas originated out of Planning Commission and City Council discussion of projected development when the subject property and the Hall property were annexed in 2005.

The proposed addition from Villas at Stonebridge of approximately 45,000 SF of non-residential space and 350 dwelling units will have a significant impact on surrounding infrastructure, all of which is substandard. Dead Horse Mountain Road is the only street access to the property, and 100% of the traffic from the development will have to travel upon it. Black Oak Road to the south (also an unimproved 2-lane county road) and Huntsville Road to the north are the two roads to which Dead Horse Mountain Road lead. Dead Horse Mountain Road Bridge, which is located between the subject property and Huntsville Road, is slated to be reconstructed in its current location as it is in poor condition. Based on the applicant's submitted traffic study from 2006, which accounted for 326 residential units and no commercial space, approximately 2,500 vehicles trips per day are projected. An updated traffic study was requested for the new project proposal, but was not provided. Based on the original traffic study and the traffic engineer's supplemental letter dated April 2, 2008, the study confirms that the traffic signal at Huntsville Road and Dead Horse Mountain Road will be warranted with the development of only 14 more residential units based on the applicant's submittal information. The traffic engineer recommends that a traffic signal be installed coincident with the development of the first phase of this development. Based on the projected impact of the subject development, staff has consistently recommended the following improvements, should this rezoning be approved:

- Construction of or a full assessment for a traffic signal at Stonebridge and Huntsville Roads in the amount of \$125,000 prior to filing of a final plat for phase I of the development;
- Construct a 3-lane street section for Dead Horse Mountain Road along the project frontage as proposed by the applicant, including pavement, curb and gutter, storm drainage, a 5' sidewalk and street lights at each intersection and with a maximum spacing of 300';
- Overlay and widen Dead Horse Road from the north property line to the south property line, to include 24' of pavement with appropriate shoulders;
- Proportionate share of an assessment for the replacement of the bridge, based on the same calculation utilized with previous development in the area. Staff is recommending these particular fees be paid on a lot by lot basis, based on the most recent bridge cost estimate and the percentage of traffic to cross the bridge, and the fact that the development itself does not attribute to the immediate replacement of the bridge as recommended in the traffic study. The current estimated total for this development, based on the applicant's previous proposals and traffic breakdown, is \$216,000.00. Phase I of the development proposes 91 dwelling units, which would require an assessment in the amount of \$55,525.00 (\$216,000/354(91)). Staff recommends that once the bridge is fully constructed, no further fees shall be contributed.

The applicant does not agree with staff's recommendation for street improvements. On four separate occasions, proposals have been submitted to staff for review, all based on the same general net traffic generation from the 2006 traffic study. The first through third submittals assumed 40% of all traffic from the development would travel south on Dead Horse Mountain Road, while 60% would travel north, towards Huntsville. The applicant proposed a contribution of \$22,500.00 for the traffic signal assessment and \$216,000.00 for the bridge assessment, for a total of \$238,500.00, based on a detailed break-out of the percent of traffic anticipated to utilize these areas. These same numbers were presented for review in October 2006, November 2006 and December 2007. A proposal provided in

March 2008, proposed a contribution of \$75,000.00 for the traffic signal assessment and \$100,000.00 towards improvements to Dead Horse Mountain Road, with no funds proposed towards the replacement of the bridge. The most recent proposal is to pay \$75,000 towards the future traffic signal, \$100,000 for Dead Horse Mountain Road improvements and \$216,000.00 towards replacement of the bridge (see Page 15 of the project booklet). As staff has noted in condition of approval #1, based on the phasing plan presented, it is likely this development will not contribute any fees to the bridge replacement, based on current replacement schedules. No rationale or traffic generation numbers have been provided by the applicant, however, to substantiate the proposed contributions.

The applicants have stated in their application that the full burden of a traffic signal should not be borne by one development, given the substantial growth in the general vicinity of the signal. Rather, they are proposing a contribution for a portion of the traffic signal cost. The applicants have proposed a contribution for street improvements to Dead Horse Mountain Road due to the fact that the recommended overlay and widening could be removed with future street improvements provided by further development along Dead Horse Mountain Road. The applicants state the \$100,000 could be used in combination with other funds for the full improvement of this street. Staff's concerns, however, lie with the traffic generated by this development, which will lead to a level of service "F" at the Stonebridge/Huntsville Road intersection, and with only one road to travel to and from the development, Dead Horse Mountain Road, this sub-standard road will take the full burden of traffic from this development. Staff finds improvements are warranted as recommended.

Public Comment/Review Process:

The subject proposal was originally submitted to the City Planning Department on July 06, 2006 with comments provided to the applicant at the Technical Plat Review meeting on July 19, 2006. The applicant requested that the item be tabled on July 18, 2006. The project was again submitted on November 02, 2006 with comments provided to the applicant at the Technical Plat Review meeting on November 15, 2006. Staff recommended that the request be reviewed again at the Technical Plat meeting, due to the fact the submittal plans did not meet the PZD requirements. The plans were not submitted again for review until December 20, 2007 with comments provided to the applicant at the Technical Plat Review meeting on January 2, 2008. Staff again recommended that the request be reviewed at the Technical Plat meeting based on the comments received. Revisions were submitted on January 17, 2008 with comments provided to the applicant at the Technical Plat Review meeting on January 30, 2008. Revisions were submitted on March 26, 2008 for the April 03, 2008 Subdivision Committee meeting. Staff has noted issues of concern regarding the compatibility, concurrency of infrastructure and the rezoning of this site as proposed at each meeting.

The Subdivision Committee reviewed the project on April 03, 2008 and forwarded the request to the full Planning Commission with no recommendation. The primary points of discussion during the meeting were the location and density of the development, and staff's recommended street improvements. The Subdivision Committee asked staff to evaluate a manner in which the costs for street improvements could be phased throughout the development of the project, but in general, found in favor of staff's recommended street improvements.

The Planning Commission reviewed the project on April 28, 2008 and after discussing the location and density of the project, the applicant requested that the item be tabled. Revisions were submitted on July 21, 2008 for the July 28, 2008 Planning Commission meeting; however, the project was tabled by the applicant with no discussion occurring at the meeting.

Several notification forms that were mailed to the surrounding property owners have been returned to the Planning Office, with one response citing concerns with traffic congestion, street infrastructure and urban sprawl. An adjacent property owner stated at the Subdivision Committee meeting that he was concerned with the amount of development in the area and the lack of infrastructure. Additionally, he was concerned with the existing condition of Dead Horse Mountain Bridge. A citizen stated at the Planning Commission meeting that the project was not in keeping with the goals of City Plan 2025 and that the project was urban sprawl.

<i>Tree Preservation:</i>	Existing Canopy 57 acres:	5.24% (includes off-site disturbed areas)
	Existing Canopy 53 acres:	4.26%
	Preserved Canopy:	2.84%
	Required Canopy:	4.26% - Mitigation required.

*All large lots not approved for development with this PZD shall be required to submit tree preservation plans for review and approval at the time of development, with a minimum 25% canopy.

City Plan 2025: This project is designed to be a Traditional Neighborhood Development (TND) including a variety of housing types and land uses positioned on small blocks with meaningful open spaces. While the development proposes many design aspects interior to the project that are supported by the City's adopted Future Land Use Plan, the location of the development is at the edge of the City limits on property that is surrounded by large lot, agricultural land, some of which is still within the County. Due to the lack of support services currently available to residents in this area, even potentially after development of the live/work units, it is likely that the residents will continue to be auto-dependent, thereby placing a greater burden on the surrounding unimproved streets. The closest commercial center, at Crossover and Mission, is approximately 4 miles to the north. The development pattern, thus, encourages suburban sprawl, in that it is "a spreading of urban development into areas adjoining the edge of a city...over rural land." Ultimately, this development pattern has consistently been supported by staff in areas closer to the basic goods and services, schools, improved streets and other components of a neighborhood that support the City Council's adopted policies.

City Plan 2025 Future Land Use Designation:

Residential Neighborhood Area: These areas encourage traditional neighborhood development that incorporates low-intensity nonresidential uses. Staff is concerned that this development, while attempting to meet this goal, is being located in an area that severely lacks infrastructure and services at a sufficient level to serve the future residents. The project proposed is at a density that is more consistent with that of downtown Fayetteville, with infrastructure consistent with large-lot rural areas. There are no nearby services that can serve the planned neighborhood, thus requiring a greater number of residents to drive on area roads for common, daily needs. Furthermore, staff finds the development pattern, which includes multiple-story, multi-family structures, to be completely incompatible with the surrounding large, rural lots and agricultural lands. While the general concept of the development and design is favorable, it would be supported by staff in a relative proximity to City services and adequate infrastructure. A primary guiding policy of Residential Neighborhood Areas is to "Site new residential areas accessible to roadways, alternative transportation modes, community amenities, schools, infrastructure, and retail and commercial goods and services." Staff finds this rezoning proposal to be inconsistent with this adopted goal, and the policy decision to rezone the area may lead to future issues. Currently, staff finds the project is proposed too soon for this particular area and promotes a development pattern more like the density of downtown

Fayetteville, without the schools, commercial and community services and infrastructure to support it.

Recommendation: Staff recommends denial of R-PZD 06-2170 Villas at Stonebridge, based on the above stated concerns and the findings within this report.

Should the Planning Commission or City Council disagree with the findings herein and determine the rezoning request is appropriate, compatible and meets the City's approval criteria for Planned Zoning Districts, the Future Land Use Plan, and the required findings for a rezoning request, staff recommends the following conditions be incorporated:

Conditions of Approval:

Streets and Right-of-Way

1. **Planning Commission determination of street improvements.** Based on the condition of the immediate surrounding street system, the status of the intersection of Huntsville Road and Stonebridge Road and the impact of the amount of traffic generated by 45,000 square feet of non-residential space and 350 dwelling units from this project, staff recommends the following street improvements as being proportional to the development:
 - a. Prior to final plat of Phase I, the applicant shall construct a traffic signal at the Stonebridge Road and Huntsville Road intersection to City standards. Should the AHTD not approve the traffic signal installation, staff recommends the applicant contribute an assessment in the amount of \$125,000 for the full cost of the signal prior to recording a final plat for Phase I.
 - b. Prior to final plat of Phase I, the applicant shall construct a 3-lane street section for Dead Horse Mountain Road along the project frontage, including pavement, curb and gutter, storm drainage, a 5' sidewalk and street lights at each intersection and with a maximum spacing of 300'.
 - c. Prior to final plat of Phase III, the applicant shall overlay and widen Dead Horse Road from the north property line to the south property line (including the road frontage between), to a minimum width of 24' of pavement with shoulders, pursuant to City engineering criteria. *This results in a total of 143 lots constructed before improvements are made to Dead Horse Mountain Road.*
 - d. The applicant shall contribute an assessment for the replacement of the Dead Horse Mountain Road bridge on a lot by lot basis, based on the most recent bridge cost estimate and the percentage of traffic to cross the bridge. The current estimated total for the entire development is \$216,000.00. Fees for Phase I, due prior to recording of a final plat, equal \$55,525 for 91 single family lots. Staff recommends that once the bridge is fully constructed (anticipated in 2009-2010) no further fees shall be contributed by this development. *To clarify staff's recommendation, based on the phasing plan presented, it is likely this development will not contribute any fees to the bridge replacement, based on current replacement schedules.*
 - e. Prior to final plat of Phase I, if the Falling Waters entry road has not been constructed to provide access to this property, the developer of the Villas shall be responsible for securing all agreements, dedication of public right-of-way, and coordination to construct the public street entrance as approved with Falling Waters PZD to provide the necessary second point of ingress/egress.

2. Planning Commission determination of a waiver of minimum street design standards:

- a. The applicant requests a waiver to allow a 20' curb return radius (CRR) at all interior street intersections and alleys when City Code requires a 30' CRR for minor streets (UDC Section 171.02(C)). *Engineering staff has reviewed this request and is in favor of the CRR waiver requests, finding that adverse impacts to traffic and pedestrian safety would not occur.*
- b. The applicant requests a waiver to allow different street cross sections than required by the current Master Street Plan standard (UDC Section 166.06 (k)(10)(a) and 166.08(C)(14)). The applicant proposes the following:
 - i. (Street Sections 1, 2, 3, 6 and 7) Request to provide 7' of greenspace between the back of curb and sidewalk where 6' is required. *Staff does not support this request, finding that the additional 1' of greenspace does not significantly increase aesthetics, pedestrian safety, or area for tree growth, to a degree at which the City's street standards that were adopted in an effort to standardize street sections should be altered.*
 - ii. (Street Section 3 and 6) Request to allow an urban streetscape design with an 8' sidewalk on one side and a standard 5' sidewalk on the other side. *Staff supports the requested waiver based on the location adjacent to a dense multi-family development and single-family residences, respectively, with the condition that the greenspace along the single family section be reduced from 7 feet to 6 feet (see above) to provide for both sides of the street cross-section in compliance with its respective cross-section.*
 - iii. (Street Section 7) Request to allow alternative street section (two-ten foot travel lanes with on-street parking on both sides of street). *Staff supports the requested waiver, finding that the proposed street section provides additional parking for the multi-family units and clubhouse along this section of street. The street section combines aspects of several approved street sections, including standard travel lane, parking and sidewalk widths. As noted in the above variance request (i), staff is recommending that the greenspace be reduced to 6'.*
 - iv. (Street Section 5) Request to allow street cross section not permitted (one-lane blvd). *Staff supports the construction of a median in Street Section 5. The Fire Department has reviewed and approved the street design with the designated fire pull-off lanes, which is consistent with a cross-section staff proposed to the Planning Commission during review of the Master Street Plan amendments, but removed at the request of the Fire Department. Staff recommends in favor of the request, finding that the public welfare will not be negatively affected by the requested road section.*
 - v. (Street Section 1) Request to construct a 5' sidewalk on only one side of the street, south of the southern roundabout. Based on Page 15 of the plats, it appears that construction of a 5' sidewalk on both sides of the street is

feasible and provides sufficient room for utility easements. Although, a waiver to allow the sidewalks adjacent to the back of curb appear to be necessary. *Staff recommends in favor of a waiver to allow sidewalk construction adjacent to the street as shown on the plats, but does not recommend in favor of allowing sidewalk construction on only one side of the street.*

3. Planning Commission determination of zoning criteria: building area. *In all of the residential planning areas, the applicant is proposing a high intensity of building area (the area on a lot occupied by buildings), much more intense than is permitted within any other residential districts within the City. These range, as proposed, from 65-95%, which leaves very little unoccupied greenspace. Staff recommends these buildable area maximum levels be reduced, finding the proposal to be inconsistent for the proposed development pattern, as follows:*
 - a. Page 4. PA-1, Reduce maximum building area from 65% to 50%.
 - b. Page 5. PA-2, Reduce maximum building area from 70% to 60%.
 - c. Page 6. PA-3, Reduce maximum building area from 85% to 75%.
 - d. Page 7. PA-4, Reduce maximum building area from 95% to 75%.
4. Planning Commission determination of a waiver to allow Accessory Dwelling Units (ADU's) on lots with less than 5,000 sq. ft. of lot area. *Staff does not recommend in favor of this request, finding that the minimum lot size requirements were discussed at length with input provided from the public, Planning Commission and City Council, and at this time there are no reasons to deviate from the minimum adopted standards.*
5. Planning Commission determination of Planning Area 6. As previously proposed, PA-6 was designed to provide limited commercial services; however, since the previous review by the Planning Commission, this area has been removed and is proposed to remain as Residential Agricultural zoning district, but with an R-PZD designation. *Staff finds that if the project is approved, the ability to provide commercial services for area residents is appropriate and should be incorporated into the project. These services, once developed, could lead to decreased vehicle trips on the surrounding street system and provide employment opportunities for area residents. Staff recommends that the limited commercial uses be incorporated into Planning Area 6 as previously reviewed.*
6. All private drives and alleys and any sidewalks outside the right-of-way shall be included in a shared access easement. This access easement shall be included on the easement plat and/or final plat prior to recordation.
7. Right-of-way dedication. 42.5' from centerline along Dead Horse Mountain Road shall be dedicated with Phase I of the project; variable right-of-way dedication along the internal streets as depicted on the site plan by easement and/or final plat; private alleys and streets shall be located within an access easement, owned and maintained by the property owner's association, and dedicated by easement and/or final plat, as applicable.
8. A minimum of 20' clear of any structure (fence, building, wall, etc.) shall be provided along all alleys utilizing residential trash service to provided adequate room for a trash truck and arm to pick up residential trash carts.

9. Signs indicating future street extension shall be installed at all street stub-outs prior to recording a final plat for the subject phase.
10. Construction of nonresidential facilities. The developer shall guarantee to the City completion of nonresidential facilities (Club House) in the amount no less than 150% of the estimate cost of said facilities, pursuant to the Unified Development Code PZD requirements. Said guarantee shall be provided to the City prior to final plat approval of Phase I.

General

11. 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.
12. A final plat shall be required to subdivide the property, with Phase I of the project. A preliminary and final plat approval is required prior to development of any additional single family portions of this project. A large scale development is required for any nonresidential and/or multi-family development. Development shall be subject to the regulations in place at the time of review and approval, including grading, drainage, tree preservation, landscaping, residential design standards, etc., unless varied herein.
13. 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. All multi-family buildings shall adhere to Urban Residential Design Standards.
14. Signs shall be permitted in accordance with those standards outlined within the project booklet for each Planning Area.
15. The owner of the adjacent land, which contains several of the detention facilities, may be required to sign the final plat for each phase of the development. Additionally documentation may be requested by staff to ensure full compliance with all applicable regulations, for Phase I and future phases that direct stormwater to the off-site retention ponds.
16. The storm sewer discharge point at Lots 65 and 66 shall be evaluated at the time of construction submittal. Off-site drainage improvements may be required.
17. Any nonresidential uses in Planning Area 5 shall be contained within the club house building and not constructed as stand alone businesses.

Phasing

18. This project is required to obtain all construction and building permits and complete construction of each phase in accordance with the phasing table listed below. A one-year

extension may be approved by the Planning Commission for each phase, subject to the criteria in UDC Chapter 166 for extensions.

Phase No.	All Permits obtained (years) from CC approval	Timeframe for Construction (years)
Phase 1:	1-year to obtain all required permits	3-years from issuance of permit to complete phase*
Phase 2:	2-year to obtain all required permits	4-years from issuance of permit to complete phase
Phase 3:	4-year to obtain all required permits	5-years from issuance of permit to complete phase
Phase 4:	5-year to obtain all required permits	6-years from issuance of permit to complete phase
Phase 5:	6-year to obtain all required permits	7-years from issuance of permit to complete phase

** Single family lots are required to obtain final plat approval by the completion dates; all single family homes are not required to be actually constructed.*

Parks/Trails:

19. The applicant shall contribute money in-lieu for Phase I and provide a deed for the two-acre park prior to filing the final plat for Phase I. All other fees shall be due prior to final plat approval for single-family lots and prior to building permit issuance for other units.
20. Grading for St. Paul Trail within the abandoned railroad corridor shall be completed by the developer to accommodate the 12' trail, including all drainage structures situated to allow for construction. This land shall be dedicated as a public access easement with Phase III (or sooner) of the development.
21. A future trail corridor is also planned through lot 196 adjacent to the golf course. This will allow St. Paul trail to extend through the golf course to meet Eagle Park. The trail will be on-street through the development. The entirety of lot 196 shall be within a public access easement, dedicated at the time of final plat of phase I.

Landscape and Tree Preservation Plan Conditions

22. Mitigation will be required on the site. The applicant shall mitigate for the removal of 35,283 SF of tree canopy in Phase I with on-site mitigation to consist of a minimum of (122) 2-inch caliper trees. If all trees cannot be planted on-site, the balance shall be contributed into the Tree Fund, as determined by the Urban Forester. Mitigation trees cannot be located within utility easements or street ROW. Please submit a tree mitigation form for approval.
23. All mitigation trees must be planted prior to the issuance of a final certificate of occupancy. These trees cannot be located within any utility easement or street ROW. A 3-year bond, letter of credit, or check in the amount of \$30,500 shall be deposited with the City of Fayetteville before issuance of a certificate of occupancy. All mitigation trees shall be located on a site owned by the applicant.
24. Each lot not reviewed for development approval at this time will be evaluated at the time of development. A minimum canopy cover of at least 25% will be required for the PZD zoning. Additionally, all applicable landscape requirements shall be met at the time of future development for each lot.

25. Before construction plan approval, the landscape plan must be stamped by a licensed landscape architect with the state of Arkansas.
26. Under Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.
27. Street trees are required to be planted every 30', except for single-family lots where one tree is required per lot.
28. Prior to signing the final plat, a written description of the method(s) and time frame the project will utilize to track development of each single-family lot to ensure the required trees are planted and their longevity of health assured, shall be submitted.

Plat and Booklet Revisions

29. The following revisions shall be completed prior to staff forwarding this item:
 - a. Page 2.—All phases of the development that will be constructed as large scale development should have two time frames; one to obtain construction permits and one to receive final inspection approval. If a phase contains both types of construction, then there should be a time frame to obtain permits, a time frame to obtain final plat approval and a time frame to obtain final inspection approval. Change each phasing statement to read as follows:
 - i. Phase IV: All permits necessary to complete construction shall be obtained within "x" years from the date of City Council approval of the Planned Zoning District. Final inspection shall be obtained within "x" years from the date of City Council approval of the PZD.
 - ii. Phase V: All permits necessary to complete construction shall be obtained within "x" years from the date of City Council approval of the Planned Zoning District. Final inspection shall be obtained within "x" years from the date of City Council approval of the PZD.

Standard Conditions of Approval

30. 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).
31. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Elevations shall be submitted to Planning staff for review and approval prior to building permit.
32. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.

33. 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.
34. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
35. Impact fees for police, fire, water, and sewer shall be paid in accordance with City Ordinance.
36. 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. Only single-family and two-family structures are exempt from the lighting ordinance. Street lights, townhouses, condominiums, live/work units are subject to compliance with the lighting ordinance.
37. Prior to the issuance of a building permit the following is required:
- a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Final plat for this project that shall include all easements and the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action: ☐ Forwarded to City Council ☒ Denied ☐ Tabled

Motion: **Lack**

Second: **Kennedy**

Vote: **3-4-0 (motion to approve failed)**

Meeting Date: **September 22, 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 06-2170 (Villas at Stonebridge)

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 is largely inconsistent with the Master Development Plan Planned Zoning District criteria established by the City Council, and particularly with the goals and policies adopted with the Future Land Use Plan, City Plan 2025.

Goal 1 of City Plan 2025 is to “...*make appropriate infill and revitalization our highest priorities.*” This site is a greenfield development, and is surrounded by similar undeveloped rural residential or golf course property. The density and development pattern proposed would certainly be supported in an area more suitably located, with adequate infrastructure, services, schools, jobs and other basic goods and necessities that create a viable neighborhood. In contrast, staff finds this site to be lacking these basic goods and services necessary to provide a contributing neighborhood density and intensity.

Goal 2 states “we will discourage suburban sprawl.” Suburban (or urban) sprawl has been defined as “a spreading of urban development into areas adjoining the edge of a city...over rural land.” Staff finds the proposal asks for a rezoning of the property, currently zoned for rural residential and agricultural use, to facilitate a development pattern that is not appropriate for this time and in this place. While phasing of the development will help, as infrastructure improvements are made in the area, the City is reviewing the appropriateness of the development today, and entitling the property owner to certain zoning rights. Staff finds the proposal is inconsistent with this goal, and instead provides a “leap-frog” type of development pattern that adds density at the rural fringe of the City limits.

Goal 3 states “We will make traditional town form the standard.” Internal to the project, staff finds the applicant has achieved a high level of compact development, providing denser housing, meaningful open spaces and small blocks; a complete development pattern, providing varied housing, a mixture of uses; and a connected development pattern, with street-oriented buildings, interconnected streets and greenspaces. However, the development does little to reference or transition to the surrounding rural residential property, and proposes 3-story condominium buildings adjacent to these properties. Very little transition is achieved in the project, and connectivity is relatively low, with only one road to access the site.

Goal 4 states “we will grow a livable transportation network.” Internal streets, again, have provided more walkable, pedestrian and cyclist-friendly opportunities as part of the street function. However, all future residents, at the higher density proposed, will be forced to access

one road and travel approximately four miles to the nearest commercial center for basic goods and services.

Goal 5 states “we will assemble an enduring green network.” The proposal to continue the trail corridor will provide a neighborhood and regional benefit to the community. In addition, the applicant is proposing meaningful, useful open greenspaces within the neighborhood for use by residents.

Goal 6 states “we will create attainable housing.” While the project proposal does not specifically address this goal, staff finds that a mixture and variety of housing types and sizes typically create a wider variety of opportunity for the homebuyer, in differing price points. However, as noted in many studies, the proximity to a variety of transportation modes is often directly correlated to the affordability of housing, as transportation costs are a high percentage of a resident’s overall cost of living. The project as proposed will require longer transportation times, by virtue of the fact that it is located in an isolated area, without proximity to goods and services to which one could easily walk or bike.

The Future Land Use Map adopted as part of City Plan 2025 designates this site Residential Neighborhood Area. These areas are intended to be almost exclusively residential in nature, recognizing conventional subdivision development, but encouraging traditional neighborhood development that incorporates low-intensity non-residential uses and a strong sense of connectivity where appropriate. The Villas at Stonebridge provides a traditional urban design with a block and street layout that is complete, compact, walkable and cyclist-friendly internal to the project boundaries, as noted above. However, contrary to the guiding policies, the development is not sited with access to major improved roadways, alternative transportation modes, community amenities, schools, infrastructure, or retail and commercial goods and services. The location of the development is at the edge of the City limits on property that is surrounded by large lot, agricultural land some of which is still within the County. Due to the lack of support services currently available to residents in this area, it is likely that the residents will continue to be auto-dependent, thereby placing a greater burden on the surrounding unimproved streets. Ultimately, this development may be appropriate at a later date when there are adequate levels of infrastructure in place and additional services made available to area residents.

In summary, staff finds the proposal does not meet the goals of the City’s adopted Future Land Use Plan to a degree that is appropriate for a rezoning approval as proposed.

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

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

(3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer, in order to function as acceptable levels. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. The Fayetteville Police Department has stated that the development could increase traffic danger and congestion without improvements to Huntsville Road. At this time, the applicant does not propose improvements to Huntsville Road. Staff has similar concerns and has recommended a full assessment for the installation of a traffic signal at the intersection of Huntsville Road and Stonebridge Road. Additionally, staff is recommending the widening of Dead Horse Mountain Road from the north property line to the south property line of the development, in order to alleviate some of the traffic issues that will occur as a result of the development. In order for staff to find that the project would not adversely impact public facilities in the area, many more improvements than are recommended here would have to occur. However, staff does not find that this particular developer should bear the burden of all of those expenses; this is ultimately why staff has recommended denial of the application, finding that at this time, the project is not appropriate for the area.

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

FINDING: The rezoning request, combined with the Master Development Plan, would allow a mix of housing types and densities over the site. While staff is supportive of the traditional neighborhood development pattern requested by the applicant, staff can not state that these uses and densities are compatible with surrounding land uses to a degree that a rezoning application is justified. Development on surrounding properties in the future could provide a level of compatibility with the subject development. However, staff can not justify the requested development pattern based on an assumption of future land uses.

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

FINDING: The 53-acre property is a generally level, undeveloped pasture with minimum tree canopy. The intended land use, while incompatible with surrounding properties, could be suitable on the subject property at some time. However, higher priority needs to be placed on tree preservation with future phases than is currently indicated. The proposed preserved canopy areas are in conflict with the land uses and densities/intensities proposed with future development.

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

FINDING: The proposed development, which will allow for the construction of approximately 45,000 SF of non-residential space and 350 dwelling units, will have a significant impact on surrounding infrastructure, all of which is substandard. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that

while the surrounding roads would likely still be congested and inconvenient, the proposed development would not create a traffic danger. Staff does find that due to the number of units proposed and the one access road on which 100% of the traffic must travel, a burden on the existing road network would be created. Without replacement of Dead Horse Mountain Bridge and installation of a traffic signal at Huntsville Road, traffic danger and congestion could be greatly increased.

- (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 Villas at Stonebridge PZD provides for a different form of development than surrounding rural residential land uses. This development is a traditional town form of development that provides a variety of housing types and non-residential uses on a greenfield site near the fringes of the City. While this development pattern is consistent with many of the goals of Chapter 161, including flexibility in the distribution of land use, variety of housing types, and providing usable and suitably located open space and recreation areas, the development lacks any level of compatibility with the surrounding rural properties. In staff's opinion the positive features of the internal development pattern do not supersede the need to provide a project that is compatible and in scale with surrounding properties.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening between residential and nonresidential land uses shall be required pursuant to ordinance and shall be reviewed at the time of large scale development.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of a system of public streets and alleys, and private drives as described in the booklet and plats. The single-family and multi-family structures will face onto streets, and are generally accessed off of internal alleys, providing a hierarchy of circulation that encourage an efficient flow of traffic. External street systems, in contrast, consist of a single access road, Dead Horse Mountain Road, that is substandard and in need of improvements.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the

respective use areas.

FINDING: Multi-family buildings will face onto public streets, with surface parking in the rear of these buildings. Parking is provided on the public streets and along private drives, and garage parking is provided for the townhouses and single family residences. Parking proposed is in compliance with City code.

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

FINDING: This requirement has been met.

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

FINDING: Public sidewalks shall be constructed adjacent to all public streets. Sidewalks will also be provided around the park areas.

- (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 and at all intersections.

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

FINDING: Public water lines are being extended in accordance with city codes.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are being extended in accordance with city codes.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

- (ii) Private streets shall be designed and constructed to the same standards as public

streets with the exceptions of width and cul-de-sacs as noted below.

- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: A variety of waivers of the minimum street design standards are requested as the proposed street cross sections do not meet the current Master Street Plan standards. The proposed cross-sections are designed to calm traffic and encourage pedestrian comfort and activity throughout the site. See conditions of approval regarding staff's recommendations.

- (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. Nonresidential facilities are proposed to be constructed with Phase II of the development and therefore the developer shall guarantee to the City of Fayetteville completion of the nonresidential facilities in the amount no less than 150% of the estimated cost of said facilities.

- (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 has been submitted with Phase I, which includes Lots 1-91, and the Urban Forester is recommending approval with a requirement for on-site mitigation. A tree preservation plan shall be submitted at the time of development with each future phase.

- (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: Conceptual elevations have been submitted for all structures. Detailed building elevations and material sample boards will be reviewed at the time of large scale development to ensure compliance with urban residential design standards.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: The applicants have stated in their application that the houses located along the golf course shall be limited to one-story in height to protect views of the golf course. Staff does not find these are specifically scenic views to be protected for the public.

(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: The proposed Villas at Stonebridge PZD is a traditional town form of development that provides a variety of housing types and live/work units. This development pattern is consistent with many of the goals of Chapter 161, including flexibility in the distribution of land use, providing a variety of housing types, and providing usable and suitably located open space and recreation areas. However, an average density of 6.6 units/acre, which includes multi-story multi-family buildings is not compatible with the surrounding rural residential properties, with the lack of goods and services, schools or other amenities typically associated with urban development form. Development of surrounding properties, which could provide a higher level of compatibility with the Villas at Stonebridge, may require several years or even decades to occur. Furthermore, core public services, including schools, jobs and commercial services are not readily available to this area. Ultimately, the residents of the development will continue to be auto-dependent due to the current isolated location of the property.

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

FINDING: The 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 rezoning. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.
- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed PZD provides a primarily residential use, with some space allowing live-work units. A typical rezoning request would not result in the development pattern as proposed. Staff finds that the relationship of different land uses and activities within the development do not consider abutting parcels of land, with the exception of views to the golf course. A harmonious relationship with surrounding properties does not exist, and will result in land use incompatibility, traffic congestion and inconvenience for existing and future residents.

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

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

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

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

(F) *Bulk and area regulations*

- (1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:
 - (a) The densities of surrounding development;
 - (b) the densities allowed under the current zoning;

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

FINDING: The subject property is adjacent to large undeveloped agricultural lands with sparsely located single-family homes. The property is primarily zoned R-A, Residential Agricultural, which would permit one dwelling unit per two acres, resulting in a maximum of 26 dwelling units on 53 acres. The applicants are requesting 350 dwelling units and 45,000 sq. ft. of nonresidential space, a density of approximately 6.60 units per acre. While this is not a normally high density in much of the City, and in general the City's development goals and policies do support the development pattern proposed by the Villas at Stonebridge, the density and intensity of the development is not appropriate in the rural landscape that it is proposed. Staff has communicated to the applicant that this project would be very appropriate in those areas identified as Intended Growth Sectors on the CityPlan 2025 Sector Map, or in other Residential Neighborhood Areas that have an adequate level of services and infrastructure for development.

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

FINDING: Lot area minimums 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 footprints, with a mixed unit type and mixed density. Due to the unique nature of this traditional neighborhood development, it is not possible to conform to existing standards for lot area minimums and setback requirements. Staff has recommended some changes to building setbacks, which have been addressed by the applicant, to create zoning criteria that is more consistent with zoning districts within the City.

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

FINDING: Building heights proposed for this project are typical of single-family development, although the proposed heights of the multi-family structures are not compatible with the rural surroundings. With this development the character of the surrounding area would change from undeveloped, rural agricultural to a dense city neighborhood. This change in land use may be appropriate in the future once

infrastructure and core services expand to the area.

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

FINDING: The lot coverage or building area for this project is relatively high, with some planning areas allowing up to 95% of the lot to be covered by structures. The high percentages are congruent with dense/intense development patterns commonly found in downtown developments, or infill projects near core City services. However, the proposed development pattern, on the edge of the City limits, is likely not appropriate. Should the Commission and Council find the project does meet stated goals and policies, staff has recommended some changes to the maximum building area, to create zoning criteria that is more consistent with zoning districts within the City.

***Required Findings for Rezoning Request.**

FINDINGS OF THE STAFF

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

Finding: Please reference findings under compliance with Planned Zoning District ordinance and Future Land Use Plan. The development is designed as a traditional neighborhood development with meaningful and usable open space. However, even a planned development can be characterized as urban sprawl if 1) it is located on the fringe of an urbanized area; 2) "leap frogs" over large, undeveloped properties; 3) is auto-dependent due to isolation from core public services; 4) and is developed before necessary infrastructure improvements are made. Ultimately, the development is currently inconsistent with land use planning principles and policies to a degree that would not support the rezoning.

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

Finding: The subject property is just within the limits of the City and is adjacent to large agricultural properties. Rezoning the property for 350 residential dwellings and 45,000 sq. ft. of nonresidential space is not justifiable or needed at this time. The development will "leap frog" over many acres of undeveloped farmland and will exacerbate the traffic congestion in the area around Huntsville Road. Reconstruction of Dead Horse Mountain Bridge, improvements to Dead Horse Mountain Road, widening Huntsville Road, and installation of a traffic signal at Stonebridge Road will all facilitate future development in the area, including agricultural lands miles south of Huntsville Road. Currently though, the

development is too early based on existing infrastructure and inconsistent with the goals and policies adopted by the City Council for rezoning applications.

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

Finding: Staff finds this proposal will likely increase traffic congestion and inconvenience, without several improvements to surrounding infrastructure. The Fayetteville Police Department has commented that improvements to Huntsville Road are necessary due to current traffic conditions. Additionally, the traffic study conducted for the development states that a traffic signal is warranted with Phase I of the subject development. Overall, the area has a lack of infrastructure to serve such a dense development pattern. With the minimum of improvements recommended by staff, an appreciable increase in traffic danger would not likely occur. However, a great deal of additional improvements is needed in the area to provide adequate levels of service typical to projects with urban densities of this nature.

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

Finding: Staff finds that in evaluating this proposal, the population density would undoubtedly increase from that which currently exists to a great extent, and that the uses proposed would create additional demand on public services. The applicants have noted in the project booklet that water and sewer services are being constructed to serve the subject development, as well as future developments in the area. Therefore, an undesirable load on water and sewer services is not expected.

Engineering: Public water is located adjacent to the site. There are water improvements being made as part of the Southeast Fayetteville Regional Water and Sewer Improvements project that will bring an additional source of water under the White River to provide adequate service in this area.

Sanitary sewer is available to the site. There are sewer improvements being made as part of the Southeast Fayetteville Regional Water and Sewer Improvements project that will bring an additional capacity under the White River to provide adequate service in this area.

The site has access to Dead Horse Mountain Road. Dead Horse Mountain Road is currently an un-improved two-lane, chip and seal, paved roadway. Street improvements will be required with development.

Standard improvements and requirements for drainage will be required for the development.

Police: It is the opinion of the Fayetteville Police Department that this C-PZD will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This R-PZD will possibly create an appreciable increase in traffic danger and congestion without improvements to the already overloaded Huntsville Road.

Fire: This property will be covered by Ladder 3 located at 1050 S. Happy Hollow Rd. It is 2.2 miles from the station with an anticipated response time of 5 minutes. The Fire Department anticipates 56 (36 EMS-20 Fire/other) calls for service once the development is completed and maximum build out has occurred. There are no measured hydrant flows in this area.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



PC Meeting of 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 16, 2008

ITEM #: R-PZD 08-2170: Residential PZD (Villas at Stonebridge, Phase I)

Requirements Submitted:

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

Canopy Measurements:

Total Site Area	
acres	57.31
square feet	2,496,424
Existing Tree Canopy	
acres	2.44
square feet	106,286
percent of total site area	4.26%
Existing Tree Canopy Preserved	
acres	1.63
square feet	71,003
percent of total site area	2.84%
Percent Minimum Canopy Required	4.26%

FINDINGS:

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

- **The overall site has approximately 4.26% canopy with the majority of species consisting of post oaks in good condition. An inventory of the site revealed that there are 85 trees. Fifty-two are significant trees as defined by the City of Fayetteville's Landscape Manual.**

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 as the amount of existing canopy is somewhat low and a large grouping of trees in the northwest corner will not be removed during the construction of Phase I.**

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

- **The greatest impact in tree cover reduction from the development of Phase I would be to the properties to the north and east. Some existing canopy will remain along the eastern side of the site.**

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

- **N/A**

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

- **The size and/or shape of the lot does not reduce flexibility. Additionally, one of the goals of a Planned Zoning District is maximum enhancement and minimal disruption of existing natural features and amenities.**

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

- **The general health of trees on this site is good. Some of the significant trees that are proposed for removal in Phase I are in good condition.**

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

- **The removed canopy in Phase I is due to placement of roadway.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **Some of the trees shown as removed along the east side of the property are located in a utility easement.**

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

- **The majority of the roads, proposed lots and utilities have been designed to avoid canopy. On the north side of the site, the proposed utility easement was relocated to the south of lots 50 through 62 to save more significant canopy.**

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

- **N/A**

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

- **Mitigation will be required on this site for Phase I. On-site mitigation will increase the canopy on the subject property, and is shown in detention and green space areas.**

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

- **This is a Planned Zoning District project.**

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

- **N/A**

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

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following conditions.**

Conditions of Approval:

1. Please revise the canopy measurement table on the tree preservation plans to reflect the numbers shown on page one of this report.
2. Please label all streets on the tree preservation plans.
3. Please include a mitigation table and/or calculations on the tree preservation plan.
4. The applicant shall mitigate for the removal of 35,283 SF of tree canopy in Phase I with on-site mitigation to consist of a minimum of (122) 2-inch caliper trees. If all trees cannot be planted on-site, the balance shall be contributed into the Tree Fund, as determined by the Urban Forester. Mitigation trees cannot be located within utility easements or street ROW. Please submit a tree mitigation form for approval.
5. All mitigation trees must be planted prior to the issuance of a final certificate of occupancy. These trees cannot be located within any utility easement or street ROW. A 3-year bond, letter of credit, or check in the amount of \$30,500 shall be deposited with the City of Fayetteville before issuance of a certificate of occupancy.
6. Each lot not reviewed at this time will be assessed at the time of development. A minimum canopy cover of at least 25% will be required.



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: Appian Centre for Design
From: Jesse Fulcher, Current Planner
Date: September 16, 2008

ITEM #: R-PZD 07-2170: Planned Zoning District (Villas at Stonebridge)

Applicable Requirements:

Y	Site Development & Parking Lot Standards
NA	I-540 Design Overlay
Y	Street Tree Planting Standards
Y	Stormwater Facilities

Plan Checklist:

Y= submitted by applicant
N=requested by City of Fayetteville
NA= not applicable

Preliminary Submittal	Final Submittal	
		All Landscape Plans
Y	Y	Irrigation notes either automatic or hose bib
Y	Y	Species of plant material identified
Y	Y	Size of plant material at time of installation indicated
Y	Y	Soil amendments notes include that soil is amended and sod removed
Y	Y	Mulch notes indicate organic mulching around trees and within landscape beds
N	N	Plans stamped by a licensed Landscape Architect
Y	Y	Planting details according to Fayetteville's Landscape Manual
		Site Development & Parking Lot Standards
Y	Y	Wheel stops/ curbs
NA	NA	Interior landscaping Narrow tree lawn (8' min width, 17' min length/ 1 tree per 12 spaces) Tree island (8' min. width/1 tree per 12 spaces)

Preliminary Submitted	Final Submitted	
NA	NA	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>
		Overall District 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 (minimum of 1 tree per lot)
N	Y	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>
N	Y	Urban Tree Wells-urban streetscape only-8 foot sidewalk
N	Y	Structural Soil-if urban wells are used, a note or detail of structural <i>soil must be indicated on the landscape plan</i>
NA	N	Timing of planting indicated on plans (subdivisions only)
NA	N	Written description of the method for tracking plantings
		Stormwater Facilities
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. **Street trees** are required every 30 feet, except for the single-family lots where one tree is required per lot. Additional street trees are required along the south side of Public Street 1.
2. Prior to signing the final plat, a written description of the method(s) and time frame the project will utilize to track development of each single-family lot to ensure the required trees are planted and their longevity of health assured.
3. Mitigation trees can not be planted within any type of utility easement and must be planted on a site owned by the applicant.
4. Any parking lot of 5 or more spaces must meet the landscape parking lot standards. Trees and screening shrubs should be added anywhere applicable.
5. Utilities visible from the right of way must be screened. At the time of C of O, additional plantings may be warranted per request of staff.

- 6. Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.**
- 11. At the time of construction drawings the landscape plan must be stamped by a licensed landscape architect.**
- 12. Under the Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before signature of Final Plat.**

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Andrew Garner, Planner
FROM: Alison Jumper, Park Planner
DATE: April 1, 2008
SUBJECT: Parks & Recreation Planning Commission Comments

Meeting Date: April 3, 2008
Item: (Villas at Stonebridge, 645-646)
Park District: SE
Zoned: R-A
Billing Name & Address: Nock Investments, LLC P.O. Box 8783 Fayetteville, AR 72703

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	<u>175 @ \$960 per unit = \$168,000</u>
Multi Family	_____ @ .017 acre per unit = _____ acres	<u>179 @ \$680 per unit = \$121,720</u>

COMMENTS:

- PRAB recommended accepting 2 acres of parkland excluding the utility easements at the September 8th 2008.
- Please submit a deed for the park land to the City land agents for review. Once the deed is reviewed, file at the Washington County Courthouse and submit a copy of the filed deed to Park Staff.
- Deed for parkland is due prior to signing final plat.
- Please coordinate with Park Staff to install park boundary signs.

ENGINEERING
DIVISION COMMENTS

R-PZD 08-2170: Planned Zoning District (VILLAS AT STONEBRIDGE, 645/646): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 16E AND E OF GOFF FARM ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 53.03 acres. The request is for a Master Development Plan for a Residential Planned Zoning District with 322 dwelling units and 30,000 s.f. of commercial space all with associated parking. Planner: Jesse Fulcher

Public water is located adjacent to the site along Dead Horse Mountain Road. There are water improvements being made as part of the Southeast Fayetteville Regional Water and Sewer Improvements project that will bring an additional source of water from under the White River to provide adequate service to this area.

Sanitary sewer is available to the site. There are sewer improvements being made as part of the Southeast Fayetteville Regional Water and Sewer Improvements project that will bring additional capacity under the White River to provide adequate service to this area.

The site has access to Dead Horse Mountain Road. Dead Horse Mountain Road is currently an un-improved two lane partially paved roadway. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

PZD 08-2904: Planned Zoning District (BRIDGEDALE PLAZA, 569): Submitted by DAVE JORGENSEN for property located at THE SE CORNER OF HWY 16E AND RIVER MEADOWS DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 15.95 acres. The request is for 6.8 acres of self storage, 5.23 acres of single family residential, 1.96 acres of Residential Office, and 1.96 acres of C-1. Planner: Dara Sanders

Public water is located adjacent to the site. There is an 8" water main along River Meadows Drive.

Sanitary sewer is available to the site. There is a 6" sewer main along Huntsville Road. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Huntsville Road. Huntsville Road is currently an improved two lane paved state highway. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.



Fayetteville Fire Department

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: February 6, 2008
Re: February 6, 2008 Zoning Review

R-PZD 08-2170:

Planned Zoning District (VILLAS AT STONEBRIDGE, 645/646): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 16E AND E OF GOFF FARM ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 53.03 acres. The request is for a Master Development Plan for a Residential Planned Zoning District with 322 dwelling units and 30,000 s.f. of commercial space all with associated parking.

This property will be covered by Ladder 3 located at 1050 S Happy Hollow Rd.

It is 2.2 miles from the station with an anticipated response time of 5 minutes.

The Fire Department anticipates 56 (36 EMS-20 Fire/other) calls for service once the development is completed and maximum build out has occurred. The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times. There is no measured hydrant flow in this area.

I-PZD 08-2904:

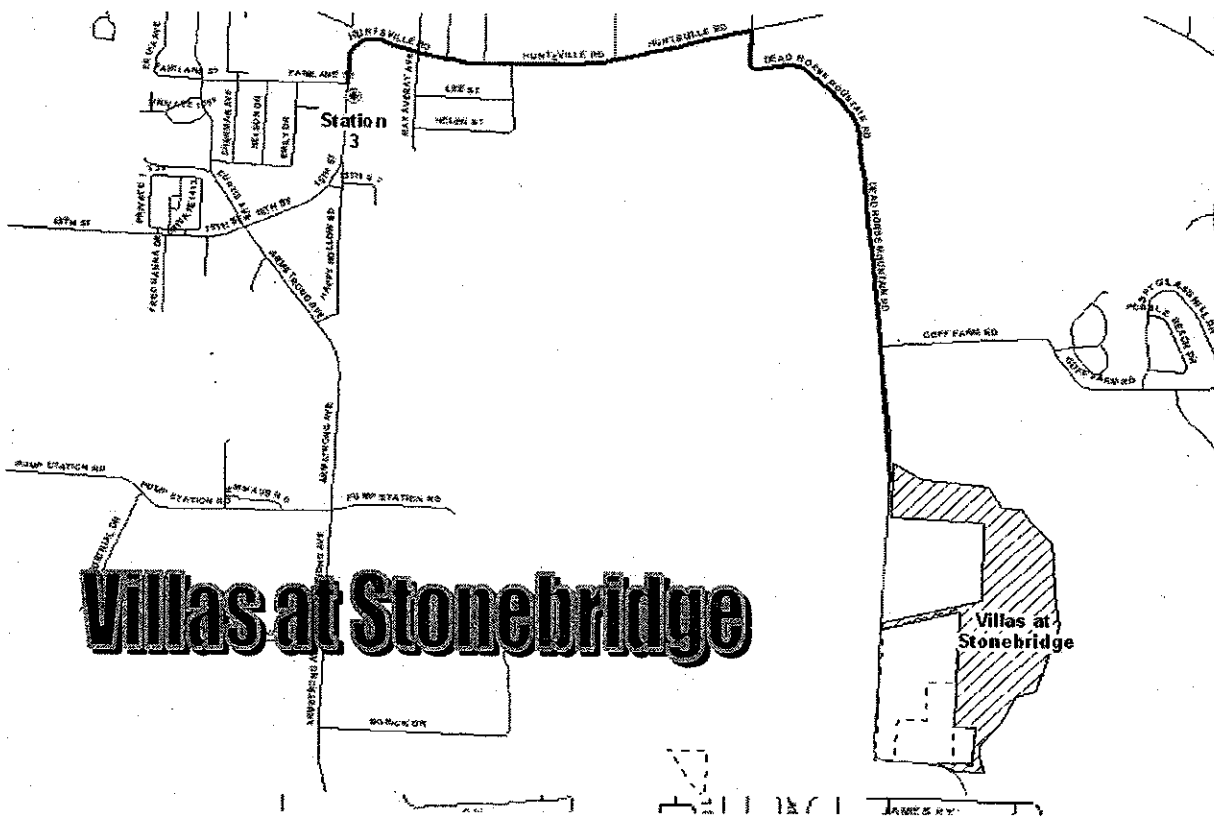
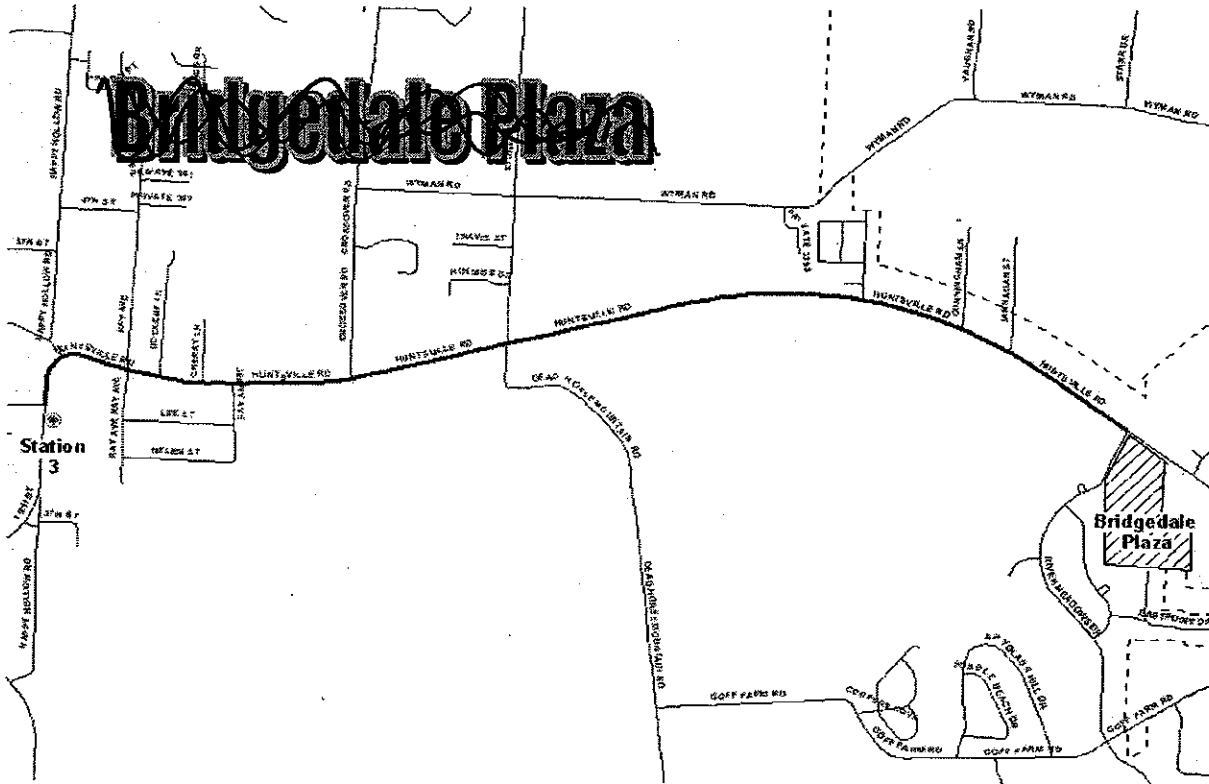
Planned Zoning District (BRIDGEDALE PLAZA, 569): Submitted by DAVE JORGENSEN for property located at THE SE CORNER OF HWY 16E AND RIVER MEADOWS DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 15.95 acres. The request is for 6.8 acres of self storage, 5.23 acres of single family residential, 1.96 acres of Residential Office, and 1.96 acres of C-1.

This property will be covered by Ladder 3 located at 1050 S Happy Hollow Rd.

It is 2 miles from the station with an anticipated response time of 4 minutes.

The Fire Department anticipates 4 (3 EMS-2 Fire/other) calls for service once the development is completed and maximum build out has occurred. We do not figure calls for service on Commercial developments, although this type of development typically does not affect our calls for service.

Measured hydrant flow is 1560 gallon per minute in this area.



Date 1/31/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **R-PZD 08-2170: (Villas at Stonebridge, 645/646): Submitted by Appian Center for Design for property located S of HWY 16E and E of Goff Farm 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 53.03 acres.**

It is the opinion of the Fayetteville Police Department that this **R-PZD will not** substantially alter the population density, and **will not** create an appreciable or undesirable increase in the load on police services. This **R-PZD will possibly** create an appreciable increase in traffic danger and congestion without improvements to the already overloaded Huntsville Road. Huntsville Road appears to be the main point of access and egress to the planned area.

Sincerely,

Captain William Brown
Fayetteville Police Department



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3416
mmihalevich@ci.fayetteville.ar.us

ENGINEERING DIVISION CORRESPONDENCE

To: Appian Center for Design
From: Matt Mihalevich, Trails Coordinator
Date: March 31, 2008
Subject: Subdivision Committee Review Comments

ITEM #: R-PZD: 08-2170: Villas at Stonebridge

TRAIL COMMENTS

1. St. Paul trail is identified on the Fayetteville Alternative Transportation and Trail Master Plan through this project. As shown on the plat, this 12' wide asphalt trail will be constructed by the City of Fayetteville within the abandoned railroad corridor.
2. Grading shall be completed by the developer to accommodate the 12' trail including all drainage structures situated to allow for the future trail.
3. At the east end of the trail where it meets public street 11, shift the trail so it aligns with the crosswalk on the north side of public street 5. The detention pond will need to be modified to accommodate the trail ending at this location. This was a request by the Parks and Recreation Advisory Board to make a better connection to the 1.8 acre park area.
4. A future trail corridor is also planned through lot 196. This will allow St. Paul trail to extend through the golf course to meet Eagle Park. The trail will be on-street through the development.

From: Brian Pugh
To: Fulcher, Jesse; Garner, Andrew; Sanders, Dara
Date: 3/31/08 2:28PM
Subject: Subdivision committee 4-3-08

LSD 08-2903 (Shoppes at Wedington) Please contact Solid Waste about enclosure location. Curb in front of enclosure will not allow for straight collection on southern most dumpster. Cannot sign off on current design.

LSD 08-2933 (Springwoods Behavioral Health) Please contact Solid Waste about enclosure size. Old plans had correct size of 30' x 12'. New plans show 15' x 20'. Cannot service this size and cannot sign off if this size remains.

LSD 08-2854 (Emeritus Assisted Living) Please show enclosure with 15' clear opening on architectural plans.

R-PZD (Hill Place) Dumpster enclosure must be 15' x 12'. Locations previously approved. Spoke with Austin Rowser about possibility of adding city recycling drop off to plans.

R-PZD (Villas at Stonebridge) Please contact Solid Waste to discuss trash collection. Single family to receive residential carts. Townhomes and multifamily must be collected with commercial dumpster service along with commercial businesses. No dumpster enclosures identified on plans. Cannot sign off until enclosures identified.

Brian Pugh
Waste Reduction Coordinator
Fayetteville Solid Waste and Recycling
479-718-7685
479-444-3478 Fax



April 7, 2008

City of Fayetteville
Jeremy Pate
125 West Mountain
Fayetteville AR 72701

RE: Villas at Stonebridge Comment Response 4-7-08

Dear Mr. Pate:

Streets and Right of Way Planning Division Comment 2 – Street section waiver

- ii.) It is the belief of Appian that variety within a design standard is positive. We are willing to go to the effort of adapting our street sections per development through the Planned Zoned District entitlement process, which was created to allow greater flexibility, to make them adaptable and allow a little more green space for each tree. We know that the Planning and Engineering Departments worked hard and created a very good set of street sections, but no one can hope to create street sections for every situation. This extra foot of green space will add 17% additional green area which is substantial when considering the water infiltration. Furthermore, an extra foot of green space does not create an undesirable, negative, or hazardous condition.
- iii.) After meeting with the Fayetteville Fire Department, they have approved this street section and found that it does not negatively affect their ability to respond.

Plat and Booklet revisions

- 30)
 - a. Please clarify "a". Provide a street section detail for Public Street 1. There are several street sections provided for Public Street 1
 - d. Streets are named and shown to be either public or private but numbered with no regard to public or private. We feel it would confuse issues during construction and remaining planning process to have several public and private streets with the same number.
 - g. Construction lot numbers have been given to separate lots for future platting.

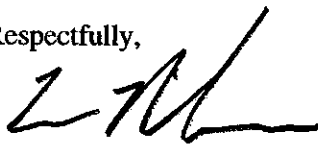
Booklet revisions

- i – m. Appian took the buildable area for each lot from lot line to setback to setback and found that percentages were higher than requested. We lowered the building area percentages from this number, but for us to lower the building area to city-

- requested numbers the area between setbacks would essentially make negligible the setbacks and zero lot lines we are establishing.
- p. The are several corners of fences and outbuildings that would set slightly into a 10 feet building setback. The primary building and the mass portion of the clubhouse planning area is kept at leas ten feet back.
 - x. The mixed-use portion of this site is proposed to be built seven years from now and will go through a large scale approval prior to construction document submittal. The street section shown will most likely be modified in the future to have on-street parking. The buildings and parking lots shown are merely a representation of the concept for this mixed-use portion of the site.
 - w. Appian will coordinate this at the time of large scale development.
 - bb. The mixed-use buildings along Dead Horse Mtn. Rd. will most likely be three stories. Estimating 14' for the first floor and 12' and 12' for the next two floors that makes 38'. We need to allow for the buildings to be built as planned.
 - kk. Appian would like to allow flexibility for the developers and builders. If the city feels there are specific lots that should have larger setbacks perhaps we could consider it.

Your consideration is appreciated.

Respectfully,



Evan Niehues
Appian Centre For Design
442-1441
lstewart@appiancentrefordesign.com



APPIAN CENTRE FOR DESIGN

PLANNING
URBAN DESIGN
LANDSCAPE ARCHITECTURE
CIVIL ENGINEERING

January 17, 2008

Jeremy Pate
Director of Current Planning
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Villas at Stonebridge update waiver request letter
CC: Matt Casey P.E. Assistant City Engineer

Mr. Pate,

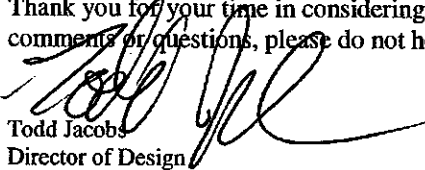
Appian Centre for Design is writing to request waivers granting permission to:

1. To design curb return radii (CRR) of 20' on all streets and 15' at alley intersections
2. Increase greenspace between the sidewalk and the curb
3. To construct a sidewalk on one side of the street due to physical property constraints

Please consider the following as grounds for granting the waivers:

1. The request is to allow a 20' curb return radius (CRR) at all street intersections and 15' (CRR) at alley intersections. Large CRR of 25' or 30' allows traffic to take turns quickly and without stopping, raising the design speed of streets to levels that are uncomfortable and unsafe to pedestrians. A 20' CRR will create a safer pedestrian environment that promotes walkability and pedestrian safety. No above ground obstructions, such as fire hydrants, street lights, trees or traffic signs will be permitted within fifteen feet (15') of a street intersection.
2. This request is for a waiver granting permission to allow additional greenspace between the curb and the sidewalk. Seven feet of greenspace creates a better opportunity for proper tree growth and increases the desired aesthetic quality along public streets within the Villas at Stonebridge and distancing the pedestrian from the street.
3. This is a request to build a sidewalk on one side of the street south of the southern roundabout. Due to physical property line constraints and utility companies' request for easements allows only enough room for a sidewalk on one side of the street. With the amount of pedestrian activity expected along the southern exit from the Villas, ACD feels one sidewalk would be adequate for the walking traffic volume at any given time. With this connection nestled tightly between two properties, one R-A, reducing the impact zone on this hillside by just five feet would create a more logical and environmentally sensitive exit.

Thank you for your time in considering this matter. I look forward to hearing from you. If you have any comments or questions, please do not hesitate to contact me.



Todd Jacobs
Director of Design
Appian Centre for Design
217 East Dickson Street, Suite 104
Fayetteville, Arkansas 72701
Office: 479-442-1444
Fax: 479-442-1450

TRAFFIC STUDY MATERIALS

Traffic Study

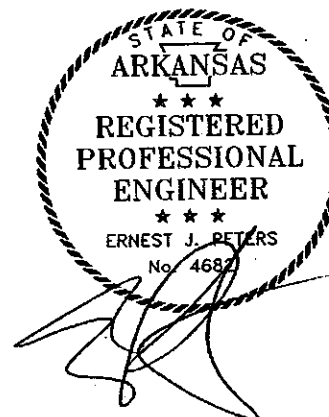
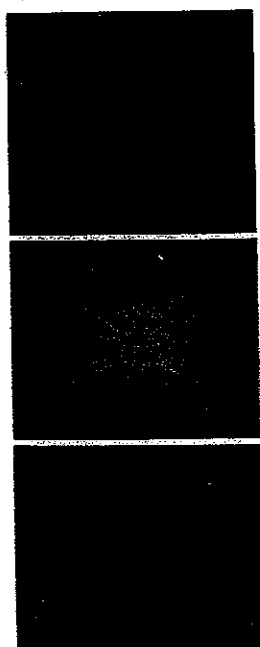
Villas at Stonebridge

prepared for:



Dead Horse Mountain Road

Fayetteville, Arkansas



**PETERS & ASSOCIATES
ENGINEERS, INC**

• CIVIL & TRAFFIC ENGINEERING •
P.O. BOX 21638 (501) 225-0500
LITTLE ROCK, ARKANSAS 72221

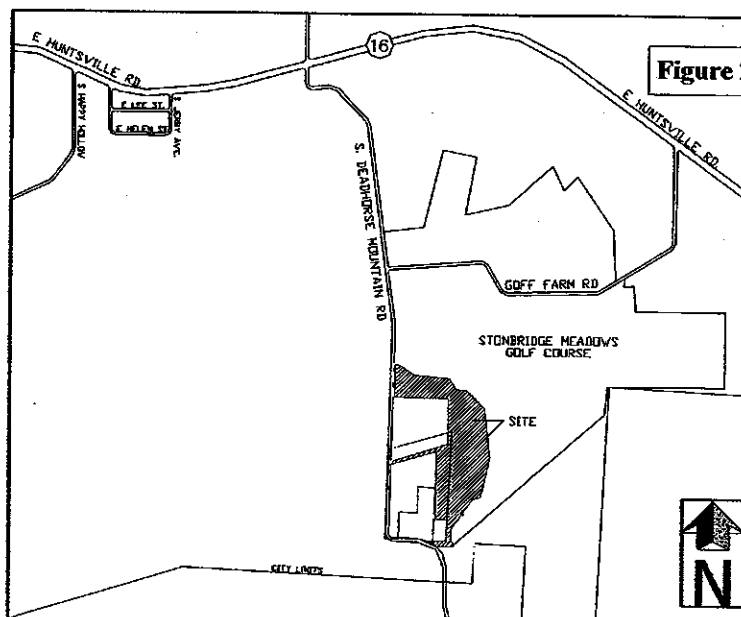
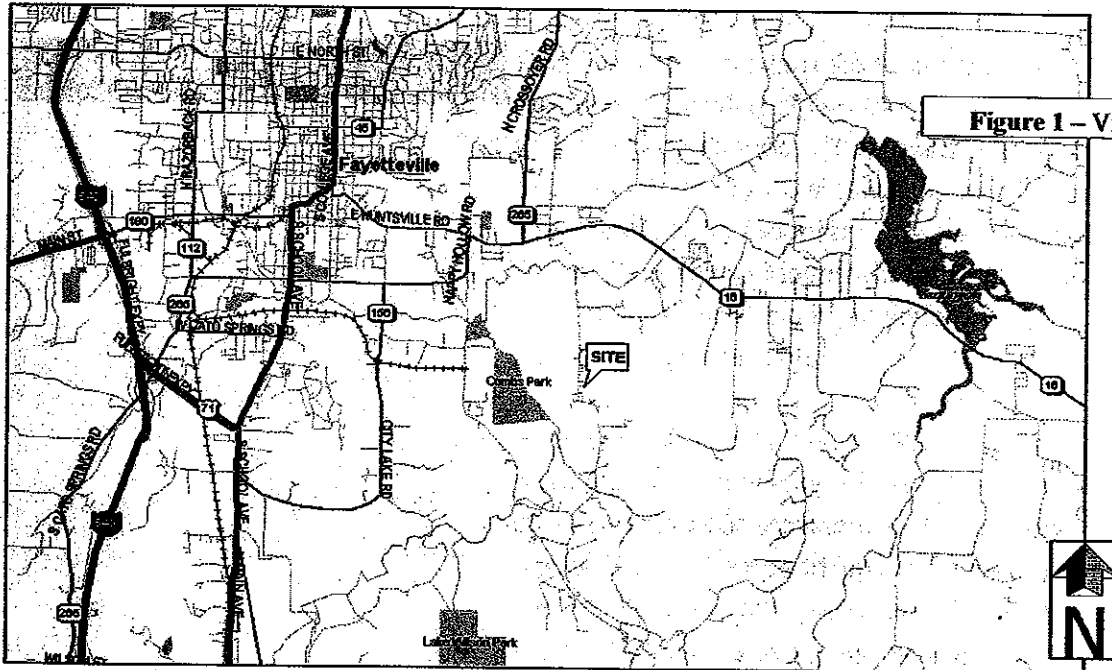
Project No.: P-1224

November 9, 2006

Traffic Study

THE SITE

The location of the proposed development is in Fayetteville, Arkansas and is located on the east side of Dead Horse Mountain Road, approximately 1.1 miles south of Highway 16 (Huntsville 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 plat, is from Dead Horse Mountain Road at Drive A.

The subdivision plat calls for the construction of a variety of residential uses. The preliminary subdivision plat shows the proposed lots and the approximate location of the proposed internal street network.

STREET SYSTEM

Dead Horse Mountain Road is a two-lane asphalt roadway consisting of two 11-foot lanes constructed with drainage ditches. The speed limit is 35 miles per hour and there are no sidewalks. In the vicinity of the site, Dead Horse Mountain Road is classified on the City of Fayetteville Master Street Plan as a Minor Arterial, but there are no immediate plans or funding for roadway improvements.

Highway 16, also Huntsville Road, is a two-lane asphalt highway consisting of two 11-foot lanes constructed with approximate 6-foot shoulders and drainage ditches. The speed limit is 45 miles per hour in the vicinity of the study area and there are no sidewalks. Future roadway improvements to Highway 16 in the vicinity of the study area by the City of Fayetteville have been proposed but have not yet been approved. Roadway improvements proposed by the City are expected to be constructed in two stages of improvements which are described as follows:

- o *Stage 1 Improvements*- Highway widened to a four-lane roadway with additional left-turn lanes at major intersections from Happy Hollow Road to Stone Bridge Road. Included in Stage 1 are improvements to the intersection of Highway 16 and Stone Bridge Road to construct an eastbound and a westbound left-turn lane on Highway 16 and a northbound and a southbound left-turn lane on Stone Bridge Road plus the possible installation of traffic signal at this intersection. The City has

Traffic Study

given consideration to obtaining partial funding for the cost of the left-turn lanes and the traffic signal at this intersection from developers in the immediate vicinity.

- o *Stage 2 Improvements* - Highway 16 widened to a four-lane roadway with additional left-turn lanes at major intersection from just east of Stone Bridge Road to Falcon Drive.

The site is an undeveloped tract. The photos following show the general layout of Dead Horse Mountain Road, Highway 16 and surrounding land uses in the vicinity of the site.



Looking north on Stone Bridge Road (Dead Horse Mountain Road) toward Highway 16.

Highway 16



Stone Bridge Road
(Dead Horse Mountain Road)

Looking east on Highway 16
toward Stone Bridge Road
(Dead Horse Mountain Road).

Traffic Study

EXISTING TRAFFIC CONDITIONS

Hourly, 24-hour traffic counts were made at the following locations in the vicinity of the site by this consultant as a part of this study:

STREET	24 HOUR TWO-WAY VOLUME	TABLE & CHART
Highway 16 Approaches to Stone Bridge/Dead Horse Mt. Rd.	14,772	Table 1/Chart 1
Dead Horse Mountain Road, Just South of Hwy 16	1,293	Table 2/Chart 2
Dead Horse Mountain Road, Just South of Stone Farm Road	938	Table 3/Chart 3

Hourly traffic count data for these locations are summarized on the following Tables and Charts 1, 2 and 3.

Existing AM and PM peak hours vehicle turning movement count data was gathered by this consultant in the vicinity of the site for the intersection of Highway 16 and Stone Bridge Road / Dead Horse Mountain Road.

The AM and PM peak hour vehicle turning movement counts made as part of this study are shown on the following peak hour turning movements Charts 4 and 5 and are presented in more detail in the Appendix of this report.

AM and PM peak hour turning movement counts and the 24-hour counts made as a part of this study are shown on Figure 3, "Existing Traffic Volumes."

Traffic Study

TRIP GENERATION and SITE TRAFFIC PROJECTIONS

The Trip Generation, an Informational Report (7th Edition), 2004, published by the Institute of Transportation Engineers (ITE) and The Trip Generation Software (Version 5 by Microtrans), were utilized in calculating the magnitude of traffic volumes expected to be generated by the proposed residential 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 development makes these calculations. Results of these calculations are summarized on Table 4, "Trip-Generation Summary," following.

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 land-uses and location of the site. The majority of the vehicle trips to and from the site are not expected to be in the existing traffic volumes.

Full Build-Out			24-HOUR TWO-WAY WEEKDAY VOLUME	AM PEAK HOUR VOLUME		PM PEAK HOUR VOLUME	
PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE		ENTER	EXIT	ENTER	EXIT
Single Family Residential (Phase 1)	89 Lots	210	852	17	50	57	33
Single Family Residential (Phase 2)	33 Lots	210	316	6	18	21	12
Single Family Residential (Phase 3)	41 Lots	210	392	8	23	26	15
Single Family Residential (Phase 4)	6 Lots	210	57	1	3	4	2
Residential Townhomes (Phase 4)	39 Units	230	229	3	14	14	7
Residential Condominiums (Phase 5)	50 Units	230	293	4	19	18	9
Residential Condominiums (Phase 6)	64 Units	230	375	4	24	22	11
TOTALS:			2,514	43	151	162	89
TOTAL ENTERING + EXITING				194		251	

Table 4 – Trip Generation Summary



Traffic Study

CAPACITY ANALYSIS

Results and Level of Service Analysis

Existing Traffic Conditions

Capacity and level of service analysis was performed for existing traffic conditions (existing traffic volumes, lane geometry and traffic control) for the adjacent street AM and PM peak hours for the intersection of Highway 16 and Stone Bridge Road / Dead Horse Mountain Road.

As indicated in Table 5, "Level of Service Summary – Existing Traffic Conditions," for the intersection of Highway 16 and Stone Bridge Road / Dead Horse Mountain Road all of the existing vehicle movements for existing traffic conditions presently operate at what calculates as an acceptable LOS "D" or better for the AM and PM peak hours except for the northbound vehicle movements on Stone Bridge Road (Horse Mountain Road) at Highway 16 with "Stop" sign control during the AM peak hour (LOS "E") and PM peak hour (LOS "F").

Traffic volumes used for this analysis are shown on Figure 3, "Existing Traffic Volumes."

EXISTING TRAFFIC CONDITIONS		Traffic Control									Overall Intersection	
INTERSECTION			WB LT	WB TH	WB RT	NB LT	NB TH	NB RT	SB LT	SB TH		SB RT
PEAK HR		PEAK HOUR - LEVEL OF SERVICE										
AM	Highway 16 and Stone Bridge Road	SIGN	A	A		E		B			n/a	
PM			A	A		F		D			n/a	

Table 5 - Level of Service Summary - Existing Traffic Conditions

Table 5 - Level of Service Summary - Existing Traffic Conditions

Traffic Study

Results and Level of Service Analysis

Projected Traffic Conditions

Capacity and LOS analysis was performed for the projected traffic conditions with the full-build of the residential development (includes Phases 1 thru 6) for the following intersections:

- o Highway 16 and Stone Bridge Road (Dead Horse Mountain Road)
- o Dead Horse Mountain Road and Drive A.

This analysis was performed for AM and PM peak hours projected traffic.

Traffic volumes used for this analysis are shown on Figure 8, "Site-Generated Traffic Plus Existing Traffic Volumes – AM and PM Peak Hours." The operating conditions projected to exist at these intersections are summarized in Table 6, "Level of Service Summary - Projected Traffic Conditions."

As indicated in Table 6, "Level of Service Summary - Projected Traffic Conditions - Phase 1," all of the vehicle movements at the two intersections analyzed are projected to operate at an acceptable LOS "C" or better during the AM and PM peak hours except for the following:

- o The northbound vehicle movements on Stone Bridge Road at Highway 16 (LOS "F") with "Stop" sign control for the AM and PM peak hours. This vehicle movements is expected to improve to an acceptable LOS "C" with traffic signal control plus the addition of an eastbound right-turn lane on Highway 16 at Stone Bridge Road.
- o The southbound vehicle movements on Stone Bridge Road at Highway 16 (LOS "E") with "Stop" sign control for the PM peak hour. This vehicle movements is expected to improve to an acceptable LOS "C" with traffic signal control plus the ad-

Traffic Study

PROJECTED TRAFFIC CONDITIONS			Traffic Control											Overall Intersection
INTERSECTION				PEAK HOUR - LEVEL OF SERVICE										
PEAK HR														
AM	Highway 16 and Stone Bridge Road	SIGN	A	A	A		F		C		n/a			
		SIGNAL	A	A	B		C		B		B			
PM		SIGN	A	A	A		F		E		n/a			
		SIGNAL	B	A	A		C		C		B			
AM	Dead Horse Mountain Road and Drive A	SIGN			A		A		A	A		n/a		
PM					A		A		A	A		n/a		

Table 6 - Level of Service Summary - Projected Traffic Conditions

Table 6 - Level of Service Summary - Projected Traffic Conditions

dition of an eastbound right-turn lane on Highway 16 at Stone Bridge Road.

Projected traffic conditions, analysis was conducted with the following roadway conditions assumed:

- With and without traffic signal control at the intersection of Highway 16 and Stone Bridge Road.
- Highway 16 widened at Stone Bridge Road to accommodate the addition of an eastbound right-turn lane.
- Drive A constructed as a two-lane roadway consisting of an inbound lane and an outbound lane.

There is expected to be reserve capacity and better LOS results once the future City-proposed roadway improvements to include Highway 16 widened to a four-lane roadway with additional left-turn lanes at Stone Bridge Road. Those improvements also include the construction of an eastbound and a westbound left-turn lane on Highway 16 at Stone Bridge Road and a northbound and a southbound left-turn lane on Stone Bridge at Highway 16.

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 existing and for projected traffic conditions (includes Phases 1 through 6 development of Villas at Stonebridge) for the intersection of Highway 16 and Stone Bridge Road.

Signal Warrants Results

It was found that traffic signal warrants are not currently met for the intersection of Highway 16 and Stone Bridge Road with existing traffic volumes. Volumes are currently not sufficient at this intersection to satisfy any warrants. The traffic signal warrants analysis results for the intersection of Highway 16 and Stone Bridge Road is summarized in Table 7, "Traffic Signal Warrants Results - Highway 16 and Stone Bridge Road - Existing Conditions."

Traffic Study

It was found that traffic signal warrants are projected to be met for the intersection of Highway 16 and Stone Bridge Road at full build-out of this development as proposed (includes Phases 1 through 6 development of Villas at Stonebridge). Volumes are projected to be sufficient at this intersection to satisfy Warrants 1B, 2 and 3. The traffic signal warrants analysis results for the intersection of Highway 16 and Stone Bridge Road for this condition is summarized in Table 8, "Traffic Signal Warrants Results - Highway 16 and Stone Bridge Road - Projected Conditions - Full Build-Out." It was further found that traffic signal warrants are projected to be met for the intersection of Highway 16 and Stone Bridge Road once traffic associated with Phase 1 of the Villas at Stonebridge development as proposed is included. Signal warrants continue to be met as subsequent development occurs.

Traffic Study

FINDINGS AND RECOMMENDATIONS

Findings of this study are summarized as follows:

- Analysis for existing traffic conditions (existing traffic volumes, lane geometry and traffic control) were conducted for the adjacent street AM and PM peak hours. For the intersection of Highway 16 and Stone Bridge Road / Dead Horse Mountain Road all of the existing vehicle movements for existing traffic conditions presently operate at what calculates as an acceptable LOS "D" or better for the AM and PM peak hours except for the northbound vehicle movements on Stone Bridge Road (Horse Mountain Road) at Highway 16 with "Stop" sign control during the AM peak hour (LOS "E") and PM peak hour (LOS "F").
- Capacity and LOS analysis was performed for the projected traffic conditions with the full-build of the residential development (includes Phases 1 thru 6) for the adjacent street AM and PM peak hours. All of the vehicle movements at the two intersections analyzed are projected to operate at an acceptable LOS "C" or better during the AM and PM peak hours except for the following:
 - The northbound vehicle movements on Stone Bridge Road at Highway 16 (LOS "F") with "Stop" sign control for the AM and PM peak hours. This vehicle movements is expected to improve to an acceptable LOS "C" with traffic signal control plus the addition of an eastbound right-turn lane on Highway 16 at Stone Bridge Road.
 - The southbound vehicle movements on Stone Bridge Road at Highway 16 (LOS "E") with "Stop" sign control for the PM peak hour. This vehicle movements is expected to improve to an acceptable LOS "C" with traffic signal control plus the addition of an eastbound right-turn lane on Highway 16 at Stone Bridge Road.



Traffic Study

- Projected traffic conditions, analysis was conducted with the following roadway conditions assumed:
 - With traffic signal control at the intersection of Highway 16 and Stone Bridge Road.
 - Highway 16 widened at Stone Bridge Road to accommodate the addition of an east-bound right-turn lane.
 - Drive A constructed as a two-lane roadway consisting of an inbound lane and an out-bound lane.
- There is expected to be reserve capacity and better LOS results once the future City-proposed roadway improvements to include Highway 16 widened to a four-lane roadway with additional left-turn lanes at Stone Bridge Road. Those improvements also include the construction of an eastbound and a west-bound left-turn lane on Highway 16 at Stone Bridge Road and a northbound and a southbound left-turn lane on Stone Bridge at Highway 16.
- It was found that traffic signal warrants are not currently met for the intersection of Highway 16 and Stone Bridge Road with existing traffic volumes.
- It was found that traffic signal warrants are projected to be met for the intersection of Highway 16 and Stone Bridge Road at full build-out of this development as proposed (includes Phases 1 through 6 development of Villas at Stonebridge). It was further found that traffic signal warrants are projected to be met for the intersection of Highway 16 and Stone Bridge Road once traffic associated with Phase 1 of the Villas at Stonebridge development as proposed is included. Signal warrants continue to be met as subsequent development occurs.

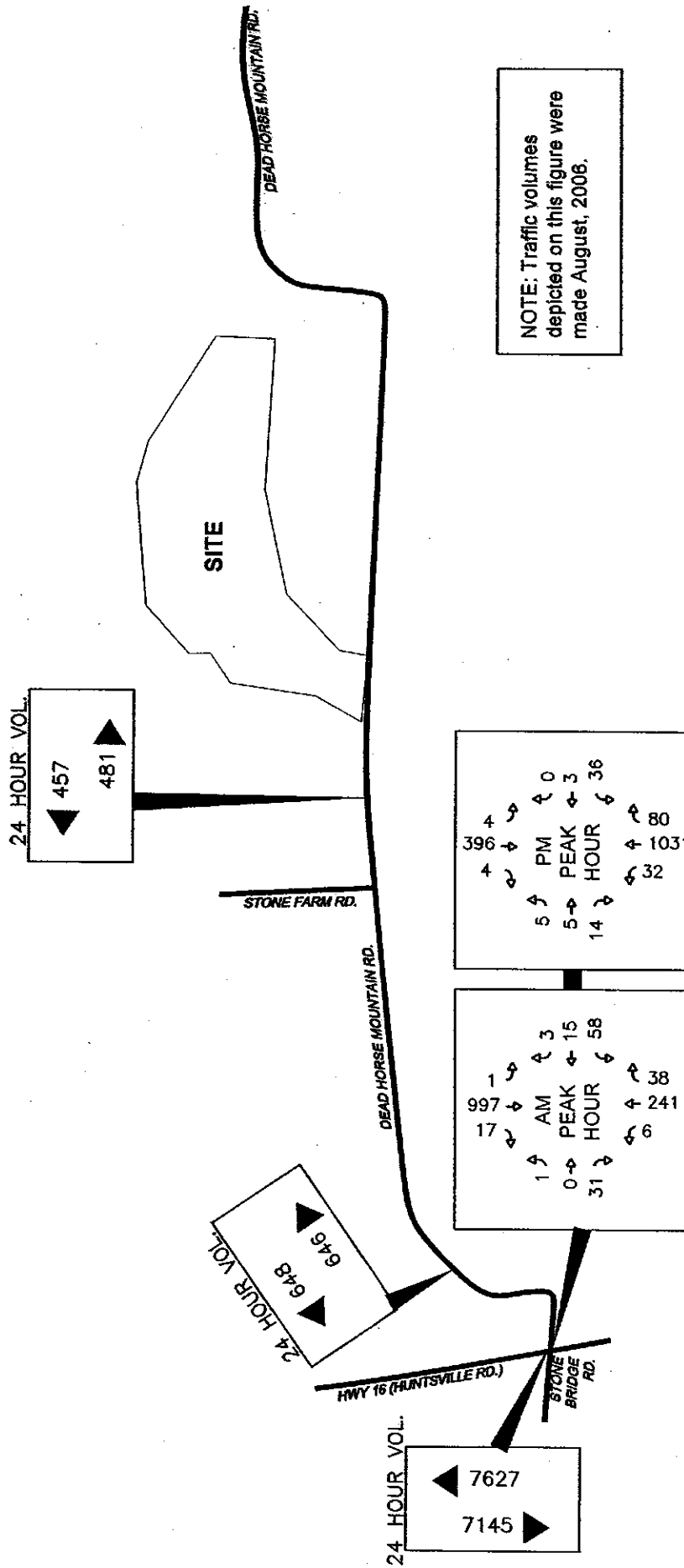
Traffic Study

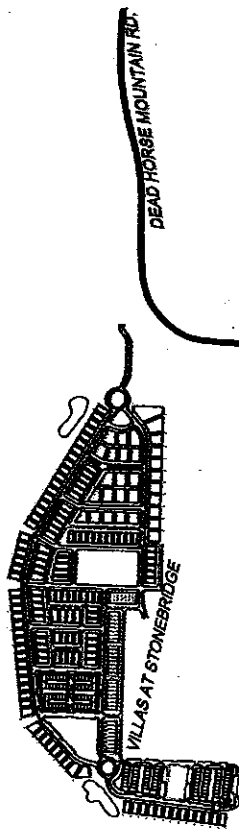
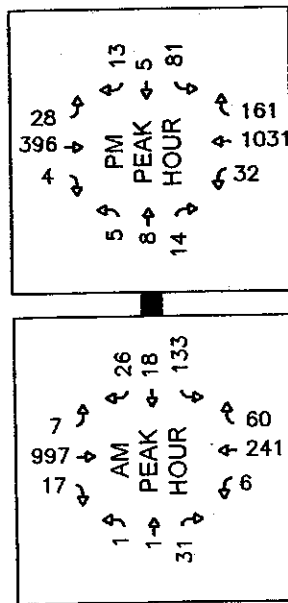
- The subdivision internal street network proposed to serve this site will serve the ingress and egress needs of the site well if constructed as two-lane roadway sections.
- The sight distance was examined and found to be satisfactory for traffic entering and exiting the site via the intersection of Drive A and Dead Horse Mountain Road.

Recommendations of this study are summarized as follows:

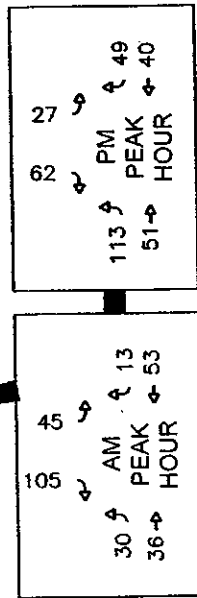
- It is recommended that an interim design span-wire mounted traffic signal be constructed at the intersection of Highway 16 and Stone Bridge Road coincident with the development of Phase 1. Traffic signal control at this intersection is appropriate. The opportunity of cost sharing with other beneficiaries should be explored. This traffic signal could serve traffic control needs until Highway 16 improvements are completed.
- It is recommended that a minimum 120-foot (plus taper) eastbound right-turn lane be constructed on Highway 16 at Stone Bridge Road in order to ease the potential queuing of eastbound traffic. This should be constructed at which time the recommended traffic signal is constructed. This should be considered an interim improvement to serve until Highway 16 improvements are completed.
- Intersection improvements (eastbound right-turn lane on Highway 16 at Stone Bridge Road and traffic signal at the intersection of Highway 16 and Stone Bridge Road) must conform to design standards of the City of Fayetteville and AHTD and will require approval by both the City and AHTD.
- It is recommended that the new streets be constructed as a part of this development to conform to the City of Fayetteville design standards which will also require approval by the City of Fayetteville.







NOTE: These volumes include Phases 1 through 6 of the site plus existing traffic volumes.



SITE-GENERATED TRAFFIC VOLUMES
EXISTING TRAFFIC VOLUMES
AM AND PM PEAK HOURS
FIGURE 8

VILLAS AT STONEBRIDGE
DEAD HORSE MOUNTAIN ROAD
FAYETTEVILLE, ARKANSAS

PROJECT No. P-1224
DATE 11-7-06
PETERS & ASSOCIATES
ENGINEERS, INC.





PETERS & ASSOCIATES
ENGINEERS, INC.

April 2, 2008

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

Re: P1224
ADDENDUM to Traffic Study (Dated November 9, 2006)
Villas at Stonebridge
Fayetteville, Arkansas

Dear Jacobs:

As requested, Peters and Associates Engineers, Inc. has prepared this Addendum to our traffic study report dated November 9, 2006. This Addendum addresses traffic signal warrants analysis for projected traffic conditions with the construction of Phase 1 only (Phase 1 includes 91 single-family residential lots) for the intersection of Highway 16 and Stone Bridge Road in Fayetteville, Arkansas. The development of Phase 1 is now different than that which was included in the traffic study dated November 9, 2006.

Traffic signal warrants analysis was conducted for projected traffic volumes that include site-generated traffic associated with the Phase 1 development of the site plus existing traffic volumes for the intersection of Highway 16 and Stone Bridge Road. It was found that traffic signal warrants are projected to be met for this intersection coincident with the development of Phase 1 of the site. Volumes are projected to be sufficient to satisfy Warrant 3. The traffic signal warrants analysis results for the intersection of Highway 16 and Stone Bridge Road are summarized on Table A, "Traffic Signal Warrants Results - Highway 16 and Stone Bridge Road - Projected Traffic Conditions - Phase 1 Development Only."

Mr. Todd Jacobs
April 2, 2008
Page 2

FINAL RESULTS:			Traffic Signal Warrants Analysis							
Projected Conditions										
Phase 1			Hour warrant was met:							
Major St.:	Hwy 16 (Huntsville Rd.)		VOLUME		COMB.		4 Hr.		Peak	
Minor St.:	Stone Bridge Road		350	525	280	420				
			105	52	84	41				
HOUR	SUM MAJOR	MAX. MINOR	1A	1B	1AB		2	3		
7:00	1331	99	0	1	1	1	1	1	1	
8:00	993	89	0	1	1	1	1	1	1	
9:00	728	50	0	0	0	0	1	0	0	
10:00	758	43	0	0	0	0	1	0	0	
11:00	821	30	0	0	0	0	0	0	0	
12:00	992	42	0	0	0	0	1	0	0	
13:00	934	40	0	0	0	0	0	0	0	
14:00	823	42	0	0	0	0	1	0	0	
15:00	961	43	0	0	0	0	1	0	0	
16:00	1348	66	0	1	0	0	1	1	0	
17:00	1571	55	0	1	0	0	1	0	0	
18:00	999	46	0	0	0	0	1	0	0	
19:00	618	50	0	0	0	0	1	0	0	
20:00	538	34	0	0	0	0	0	0	0	
21:00	448	27	0	0	0	0	0	0	0	
			0	4	2		3	2		
This intersection SATISFIES the warrants for signalization as outlined in the "M.U.T.C.D."										

*Table A – Traffic Signal Warrants Results – Highway 16 and Stone Bridge Road
Projected Traffic Conditions – Phase 1 Development Only*

Findings and recommendations of this Addendum are summarized as follows:

- It was found that traffic signal warrants are projected to be met for the intersection of Highway 16 and Stone Bridge Road coincident with the proposed Phase 1 development of the Villas at Stonebridge site.
- It is recommended (as stated in the traffic study report dated November 9, 2006) that a fully-actuated traffic signal be installed at the intersection of Highway 16 and Stone Bridge Road coincident with proposed Phase 1 development of the Villas at Stonebridge site.
- Traffic signal warrants are very close to being met with existing traffic volumes at the intersection of Highway 16 and Stone Bridge Road. It is estimated that additional traffic associated with approximately 14 single-family homes will be sufficient, in combination with existing traffic volumes to satisfy traffic signal warrants at the study intersection.
- Findings and recommendations in the traffic study dated November 9, 2006 are still appropriate for this development.

Mr. Todd Jacobs
April 2, 2008
Page 3

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

Sincerely,
PETERS & ASSOCIATES ENGINEERS, INC.

A handwritten signature in black ink, appearing to read "E. Peters", written in a cursive style.

Ernest J. Peters, P.E.
President



March 25, 2008

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: Villas at Stonebridge - Traffic Signal and Street Improvements on Dead Horse Mountain Road

The following is a proposal to the City of Fayetteville for a traffic signal at the intersection of Dead Horse Mountain Road and Arkansas State Hwy 16, and improvements to Dead Horse Mountain Road.

In the absence of an assessment of the surrounding areas, current and future developments should be treated equally and fairly, such that, current and future development projects each pay a reasonable share for improvements. A reasonable share should take into consideration the increased traffic generation from developments in the vicinity that impact Arkansas State Hwy 16.

Intersection of Dead Horse Mountain Road and Arkansas State Hwy 16 Traffic Light: Villas at Stonebridge project proposes to pay \$75,000 towards the cost of constructing a new traffic signal to be located at the aforementioned intersection. Given this area's substantial growth over the past ten years and predicted future growth, we argue that the full burden of a traffic signal should not be borne according to the most current project presented to the City of Fayetteville for development approval. Instead, the Villas at Stonebridge project should contribute a portion of the total cost. We are requesting that the associated money be paid proportionally per phases of the Villas at Stonebridge project.

Dead Horse Mountain Road Street Improvements: The Villas at Stonebridge project proposes to give \$100,000 to the City of Fayetteville for the improvements to Dead Horse Mountain Road. The City has requested that an overlay be constructed on Dead Horse Mountain Road. However, any constructed overlay will be replaced when the adjacent properties are developed. In addition, growth along Dead Horse Mountain Road is expected because of the recent addition of water and sewer. So, while we do acknowledge that the Villas at Stonebridge will have an impact on Dead Horse Mountain Road, we would rather see the proposed \$100,000 go towards something that will benefit the City long-term then a temporary overlay that will be removed in the coming years. Therefore, we are requesting that the associated money be paid proportionally per phase of the Villas at Stonebridge project.

Sincerely,

Todd Jacobs
Appian Centre for Design, Inc.
Director of Design
217 East Dickson Street Ste. 104
Fayetteville, AR 72701
Phone: 442-1444
Fax: 442-1450



December 19, 2007

Mr. Ron Petri and Mr. Jeremy Pate
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: Villas @ Stonebridge Traffic Signal and Bridge Assessment

The following is the Appian Centre for Design's proposal to the City of Fayetteville for traffic signal and bridge assessments associated with the Villas at Stonebridge.

The Appian Centre for Design proposes that the Villas at Stonebridge project be assessed for a percentage of the construction costs proportional to the traffic generated from this development to construct a new traffic signal to be located at the intersection of Dead Horse Mountain Road and Arkansas State Hwy 16 as well as a new bridge along Dead Horse Mountain Road over the West Fork of the White River. The following is a rational nexus calculation for this assessment:

Projected Traffic for Full Build Out = 2,514 vpd

- Assume 40% will go south on Dead Horse Mountain Road = 1006 vpd
- Assume 60% will go north on Dead Horse Mountain Road = 1508 vpd

TRAFFIC SIGNAL ASSESSMENT

Probable Costs of Traffic Signal Plus Intersection Improvements	= \$225,000
Projected traffic from Full Build-Out of Phase 1 using Signal	= 1508 vpd
Minor Arterial traffic capacity	= 14,800 vpd
% traffic from Phase 1	= 10%
Villas at Stonebridge Phase 1 Signal Assessment Costs	= \$22,500

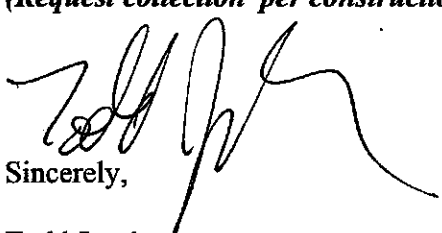
BRIDGE ASSESSMENT

City of Fayetteville's Construction Costs Estimate for Bridge	= \$2,160,000
Projected traffic from Full Build-Out using Bridge	= 1508 vpd
Minor Arterial traffic capacity	= 14,800 vpd
% traffic from Phase 1	= 10%
Villas at Stonebridge Bridge Assessment Costs	= \$216,000

This development is planned to take approximately 3 to 8 years for full buildout. As the phases will occur over time, we are requesting that the collection of the associated assessment be paid per construction phase. The following payment schedule is being requested:

169 Single Family Dwellings at a rate of \$820.00	= \$138,580
153 Multifamily Townhomes at a rate of \$653.25	= \$99,947
Villas at Stonebridge Total Assessment	<u>= \$238,527</u>

(Request collection per construction phase at time of building permits)



Sincerely,

Todd Jacobs
Director of Design
Appian Centre for Design
217 East Dickson Street, Suite 104
Fayetteville, Arkansas 72701
Office: 479-442-1444
Fax: 479-442-1450
Mobile: 479-466-1717

appian centre for design
land planning environmental engineering

November 2, 2006

Mr. Ron Petri and
Mr. Jeremy Pate
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: Villas @ Stonebridge Traffic Signal and Bridge Assessment

The following is the Appian Centre for Design's proposal to the City of Fayetteville for traffic signal and bridge assessments associated with the Villas at Stonebridge.

The Appian Centre for Design proposes that the Villas at Stonebridge project be assessed for a percentage of the construction costs proportional to the traffic generated from this development to construct a new traffic signal to be located at the intersection of Dead Horse Mountain Road and Arkansas State Hwy 16 as well as a new bridge along Dead Horse Mountain Road over the West Fork of the White River. The following is a rational nexus calculation for this assessment:

Projected Traffic for Full Build Out	= 2,514 vpd
• Assume 40% will go south on Dead Horse Mountain Road	= 1006 vpd
• Assume 60% will go north on Dead Horse Mountain Road	= 1508 vpd

TRAFFIC SIGNAL ASSESSMENT

Probable Costs of Traffic Signal Plus Intersection Improvements	= \$225,000
Projected traffic from Full Build-Out of Phase 1 using Signal	= 1508 vpd
Minor Arterial traffic capacity	= 14,800 vpd
% traffic from Phase 1	= 10%
Villas at Stonebridge Phase 1 Signal Assessment Costs	= \$22,500

BRIDGE ASSESSMENT

City of Fayetteville's Construction Costs Estimate for Bridge	= \$2,160,000
Projected traffic from Full Build-Out using Bridge	= 1508 vpd
Minor Arterial traffic capacity	= 14,800 vpd
% traffic from Phase 1	= 10%
Villas at Stonebridge Bridge Assessment Costs	= \$216,000

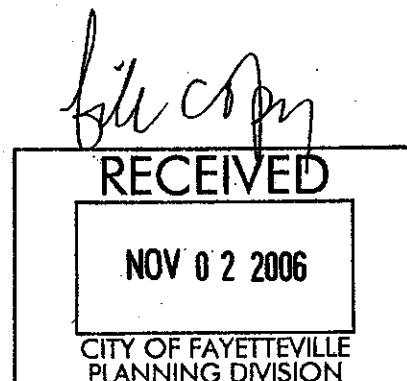
The improvements planned for the area are expected to take approximately 3 to 6 years. As the improvements will occur over time, we are requesting that the collection of the associated assessment fees be staggered to better account for the true time of impact rather than at the time of final plat. The following payment schedule is being requested:

169 Single Family Dwellings at a rate of \$820.00	= \$138,580
153 Multifamily Townhomes at a rate of \$653.25	= \$99,947
Villas at Stonebridge Total Assessment (requested collection at time of building permits)	= \$238,527

Sincerely,

Todd Jacobs

Todd Jacobs
Project Manager
Appian Centre for Design
479.466.8115



DRAFT COPY

October 2, 2006

Mr. Matt Casey, P.E.
City of Fayetteville - Engineering Division
125 West Mountain Street
Fayetteville, Arkansas 72701

Meeting Oct 6
- J. Nock, Steve Aust,
Todd Jacobs, Hank & Kay Boyles
- Ron P., Jeremy P., Tim Canklin

RE: Villas @ Stonebridge Traffic Signal and Bridge Assessment

The following is Critical Path's proposal to the City of Fayetteville for traffic signal assessments associated with the first phase of Villas @ Stonebridge

Critical Path proposes that the Villas @ Stonebridge project be assessed for a percentage of the construction costs proportional to the traffic generated from phase 1 of this development to construct a new traffic signal at the intersection of Dead Horse Mountain Road and Arkansas State Hwy 16 and a new bridge over the West Fork of the White River. The following is a rational nexus calculation for this assessment:

Projected Traffic for Full Build Out	= 2,514 vpd
• Assume 40% will go south on Dead Horse Mountain Road	= 1006 vpd
• Assume 60% will go north on Dead Horse Mountain Road	= 1508 vpd

TRAFFIC SIGNAL ASSESSMENT

Probable Const. Costs Traffic Signal Plus Intersection Improvements	= \$225,000
Projected traffic from Full Build-Out of development using Bridge	= 1508 vpd
Minor Arterial traffic capacity	= 14,800 vpd
% traffic from development	= 10%
Villas @ Stonebridge for Full Build out Percentage of Costs	= \$22,500

BRIDGE ASSESSMENT

City's Construction Costs Estimate for Bridge	= \$2,160,000
Projected traffic from Full Build-Out of development using Bridge	= 1508- vpd
Minor Arterial traffic capacity	= 14,800 vpd
% traffic from development	= 10%
Villas @ Stonebridge for Full Build Out Percentage of Costs	= \$216,000

Sincerely,

Todd Jacobs
Critical Path Design
Phone - 466-8115

**Villas at Stonebridge
Planning Commission Minutes
September 22, 2008**

Unfinished Business:

R-PZD 06-2170: (VILLAS AT STONEBRIDGE, 645/646): Submitted by APPIAN CENTRE FOR DESIGN for property located S OF HWY. 16E AND E OF GOFF FARM ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 53.03 acres. The request is for zoning, land use and preliminary plat approval for a Residential Planned Zoning District with a maximum of 350 dwelling units and 45,000 s.f. of non-residential space. Phase I development approval consists of 91 single family lots.

Jesse Fulcher, Current Planner, gave the staff report, describing the project, including changes from the last review: 354 to 350 dwelling units, removal of commercial uses up front, etc. He discussed the findings in the staff report, concerns with density and incompatible land use patterns, lack of adequate infrastructure to serve this development, etc. Staff recommends denial, based on findings within the staff report. Should the Planning Commission recommend approval, conditions have been included.

Commissioner Lack reminded the applicant that there are a few members missing tonight and it takes five votes to forward a PZD request.

Todd Jacobs, applicant, described changes, including moving townhouses to interior of project, so single-family is adjacent to exterior, removing the mixed use area for the time being, making the park public. We looked at the Villas as a TND development vs. a conventional subdivision. This is an opportunity to provide a neighborhood that is designed, sustainable, and has a sense of place. We tried to create a neighborhood that is different, making great public places. Jacobs discussed bus service in the area, in the long term future. After the last discussion, we looked at comments and tried to look at the best use on this property. He discussed sprawl and the lack of usable/developable area in this area. Is it appropriate to gobble up this land with conventional subdivisions? We don't think so. Services will follow rooftops. We are trying to set up a standard for other developers to follow, in using/developing another flat area out here. This is an 8-year phased project, giving this area of town the opportunity to grow. With planning, this allows the services and infrastructure to grow with the development of the project. There are five phases over seven years. Jacobs discussed St. Paul Park and trailhead. A park wouldn't exist in a conventional neighborhood. We do have to do a higher density to make the TND work. We hope to have support and look forward to Planning Commission comments.

No public comment was received.

Commissioner Lack stated he would like to hear some dialogue from the applicant about why the commercial was removed.

Jacobs stated that he looked at the phasing over 8 years, and didn't believe it was the most key element to support the project. We did try to include live-work component within the residential, to provide that opportunity. We will leave that area zoned R-A for now, and flush it out better at a later

Planning Commission
September 22, 2008
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date.

Commissioner Lack stated that he thinks the services are part of what is shaky about the location of the project. To remove the commitment of providing the services may hurt the idea of the project.

Commissioner Anthes asked if PA-7 (R-A zoning) was the area originally planned for commercial. If so, is that sufficient acreage for a commercial node?

Jacobs stated he has looked at some conceptual design, and there is room for light office/retail.

Commissioner Anthes asked if the applicant was aware of staff's recommendation on condition #5, wherein staff recommends that the limited commercial uses be incorporated as previously reviewed if this goes forward.

Jacobs stated that he believes that's a catch-22, where staff doesn't support it, but then does. He discussed the concern with number of rooftops and use being proposed.

Commissioner Anthes disagreed, stating she doesn't feel staff is double-speaking, or saying two different things. Staff has made its determination and a recommendation that is not in favor of this project at this time, but with the knowledge that Planning Commission and City Council may disagree. If these bodies do disagree, staff has provided recommended conditions of approval.

Jacobs stated that if the Planning Commission feels it appropriate to put it back, that we will be more than happy to put it in, where we thought it was best to take it out at the time from our last meetings and meetings with the staff.

Commissioner Winston read from the project booklet about services and amenities being provided along Dead Horse Mountain Rd. This must be a mis-print? He stated he did like commercial services in the first plan, reducing vehicle trips by providing small services, etc. Winston referred to the buildable area in this area of the city.

Jacobs stated he had looked at buildable area south of Hwy 16, and discussed surrounding development and properties.

Commissioner Winston stated that the first four goals of City Plan 2025 were not really being addressed. This area's services seem rather limited, and this is kind of far out there.

Jacobs stated that 6-8 dwelling units/acre would support bus service – they are not looking at providing this project with that service.

Commissioner Anthes asked if the bridge improvements were funded.

Pate stated that the project is currently under design, to the best of his knowledge. We don't know the construction schedule; initially was planned to begin at the end of this year/beginning of next

Planning Commission
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year.

Commissioner Anthes wondered if staff would support RSF-4 at this location.

Pate stated that staff may or may not support RSF-4; development patterns and previous future land use plans certainly supported those types of policy decisions. That's not been tested too much under CityPlan 2025. The RSF-4 development pattern isn't necessarily consistent with those goals and identified policies within the current plan. Whether officials agree if it's a rational means of developing the city... the challenge here in looking at a standard RSF-4 zoning and a PZD, you still have the same rezoning findings, the same CityPlan 2025 goals and objectives. Without giving a recommendation, it could be difficult to support. South of this, the Falling Waters subdivision is probably more of a conventional subdivision approved through a PZD process. However, it did establish much tighter, stricter development standards, Tree Preservation requirements, hilltop/hillside requirements when there weren't any in existence. So, for instance, in this land with a traditional neighborhood development form, it's not really preserving any land on the property. Instead, it's anticipating everyone else outside the boundaries is going to do that for this project without trying to address it within the boundaries. That's a concern in these developments on the outskirts of the city. There are still a lot of property that could potentially be developed between here and the center of the city.

Commissioner Anthes asked what infrastructure would need to be in place for staff to recommend approval.

Pate stated that one of the primary goals of the Residential Neighborhood Area is to site new residential neighborhoods adjacent to infrastructure, roadways, alternative transportation and other business services that would support the density that is whatever is being proposed. Based on the density, we have a rational nexus approach – this many units, this much infrastructure – on a development-by-right project. I don't believe staff could recommend the improvements necessary at this point in time and still be within that rational nexus. It would be above and beyond what this project could legally be imposed upon to do. I think the bridge improvements are necessary. I think Goff Farm Rd. and Dead Horse Mountain Road are both substandard streets that need to be improved. There are questions about the intersection at Stonebridge and Hwy 16. Slowly, improvements do occur. One of the other goals with City Plan 2025 is to have concurrent infrastructure with development. That's the challenge here, because development is getting ahead of the infrastructure, which is unfortunately a typical scenario in fast-growing communities. The idea of impact fees would potentially help that, but obviously we don't have that in place now. So, it's a difficult question to answer specifically without looking at everything to get to this site. It's not adjacent to a major roadway network. It's three miles away from major infrastructure. Potentially, if improvements were made to Hwy 16 to get to Goff Farm Rd, or Stonebridge, that would certainly help.

Commissioner Anthes stated that in one of staff's findings it reads that, "staff does not find that the developer should bear the burden of all these expenses," yet those expenses are necessary to make the project viable in staff's recommendation. That's why staff has ultimately recommended denial. I

Planning Commission

September 22, 2008

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think that's a huge statement in the findings that says we want our findings and assessments to meet the rational nexus calculations, but to make them work for this plan, it's going to blow the project budget completely beyond what would be required if this development was happening in an already populated area. What are the possibilities for east-west connections other than Hwy 16?

Pate stated that fortunately, our Master Street Plan really looked at that with a lot more detail than we ever have before when we passed that last year. It's not evident necessarily on the maps that we have in front of us, but just south of this project at Falling Waters we actually proposed a residential collector street sort of along the base of the hill far enough up in the floodplain so we wouldn't require major bridges to get east and west, but down far enough on the hill so it's not going over all the hills. That's an east-west connection. There are several more south stub-outs we could potentially tie into. That's one that appears now in our Master Street Plan that will certainly help if those properties are ever developed. The golf course being at its southern boundary here, it skirts around that. I think that will help in this area if Falling Waters is ever constructed and can make those connections.

Commissioner Anthes asked how many houses were planned for the Falling Waters PZD at the time it was approved.

Pate stated he believes it was 255.

Commissioner Anthes asked how many rooftops were in the area.

Pate stated he did not know.

Commissioner Anthes was curious if this development would be doubling the amount of development in the area.

Pate stated that at one point staff did an analysis on how many approved subdivisions that were either under construction or had development rights vested, and it was roughly 600 lots that had approval. This was in 2006 or 2007. We didn't count existing rooftops.

Commissioner Anthes asked if when staff made the recommendation about how much this project would burden the already insufficient infrastructure in the area, were they also taking into account the development rights already vested in the area? If the market turned around and those projects came online right away, would that make this problem worse?

Pate stated that we don't know which projects are going to happen for certain. We don't know what improvements may be accomplished. We don't know if any of the assessments required will be paid because we don't know if those projects are going to happen. So, bridge assessments really haven't come into consideration because in 2005, 2006 those projects stopped construction. The majority of improvements we've seen with subdivisions in this area have been along Goff Farm Road. Goff Farm Road is almost entirely improved along all of those areas, except for a few places.

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Commissioner Anthes discussed her concerns with the burden of the project on infrastructure, along with the concern that it could be blanket RSF-4 zoning.

Commissioner Winston stated that if a developer were to put a commercial node nearer to here, at Dead Horse Mountain and Hwy 16, where the project would benefit from that, we probably wouldn't be discussing how the project is so isolated. We can't look at this project in terms of what's not there that nobody has proposed, but I think it would make a real difference, since we're talking about how this project is so far away from services, and how there is a lack of services between Elkins and downtown Fayetteville. This would be my recommendation to the applicant that there are other opportunities out there.

Commissioner Lack asked staff to confirm that there existed just such a commercial node already approved at this location, at the corner of Stonebridge and Hwy 16.

Pate confirmed that this was correct.

Commissioner Lack stated that there was a fairly substantial commercial development with rights approved at that corner currently. I will assume that the reason it's not there is because the numbers haven't gotten there to drive the investment of the commercial yet. Should commercial wait on the houses? One aspect of this project that is characteristically different than other places I would see this far from the center of the city is the golf course. There is a tremendous amount of development around the golf course already and also proposed. There's no way that I can see that the areas around the golf course won't develop fully and be a node of the City of Fayetteville. The street infrastructure is definitely something we have to respond to. The golf course definitely plays a role in that decision for me. I would support the commercial, even if it were just a zoning or the potential for lot sell-off at the entrance to the development at Dead Horse Mountain Rd., as opposed to just leaving it R-A. I am leaning toward the idea of appreciating the better environment of the mixed-use and mixed-density environment enough to be in favor of it.

Commissioner Kennedy stated he tends to agree with Commissioner Lack regarding the golf course. This makes it more accessible to those who can't afford an estate lot. I don't think placing the commercial out there and waiting for houses to pop up will happen. I am in support.

Commissioner Lack asked to go through the conditions. Are commissioners in favor of staff's recommendation? If we do send this forward, we need to ensure it is planned appropriately.

Commissioner Anthes stated that she believes the necessary improvements are going to be costly.

Commissioner Winston stated that it is a lot of money, but he believes the improvements will help this area and be beneficial to current residents in the area.

Commissioner Anthes stated that she understands that staff makes their recommendation based on the rational nexus calculation of what improvements this project should bear. What percentage of the total required improvements does this represent? If staff thinks there are improvements that

Planning Commission

September 22, 2008

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would provide the correct amount infrastructure to be able to approve this project, how does that compare with what we're able to assess for this project?

Commissioner Pate stated that it would be difficult to answer. One thing staff does is look at the access points for the project. These access points are separated by a great distance. The street in between is not improved, it is a chip-and-seal road. The increase in density and traffic will begin to deteriorate the road. We also looked at the improvements there. Specifically, the off-site improvements like traffic signals mentioned would help.

Commissioner Lack asked about condition #2, PC determination of a waiver of minimum street design standards, including staff's recommendation, most of which supports the waiver.

Anthes asked staff to clarify the recommendation regarding the landscape spacing waiver.

Pate stated it was simply to provide a standard we had established. It's not a make-or-break issue, but continuing the established standard is something we recommend; there does not seem to be any justification provided to vary from that standard.

Lack asked about condition #3, zoning criteria.

Myres stated she agreed with staff's recommendation on condition #3.

Commissioner Lack asked Pate to comment on condition #3, regarding building area for lots.

Pate stated that when staff looks at a PZD, one of the findings is to compare existing zoning with what's being proposed. What we will do is look at comparative zoning districts and try to establish a development pattern that is consistent and can be expected within the city and in these planning areas as well. Some of those range from 40-60%. We felt a lot of them were too high; the building area would encompass most of the lot, leaving that much less greenspace within the interior of the project. Granted, there is a golf course nearby but it is not owned by these property owners and may not even be accessed by these property owners. We're attempting to ensure that interior to the development plan there will be greenspace areas that will be active for the users.

Commissioner Anthes stated she agreed with staff's recommendation on condition #4.

Commissioner Lack discussed condition #5, regarding PA-6, commercial development.

Commissioner Anthes stated she agreed with staff's recommendation.

Motion:

Commissioner Lack made a motion to forward the request to City Council with a recommendation of approval, in favor of conditions #1, 2 with the exception of B(i) in which I would support staff's recommendation in favor of denial of the waiver, modify condition #3 to modify the development

Planning Commission

September 22, 2008

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density, finding against the waiver for the ADU's in condition #4, and finding in favor of staff's recommendation for the determination on condition #5, and all other conditions. **Commissioner Kennedy** seconded the motion.

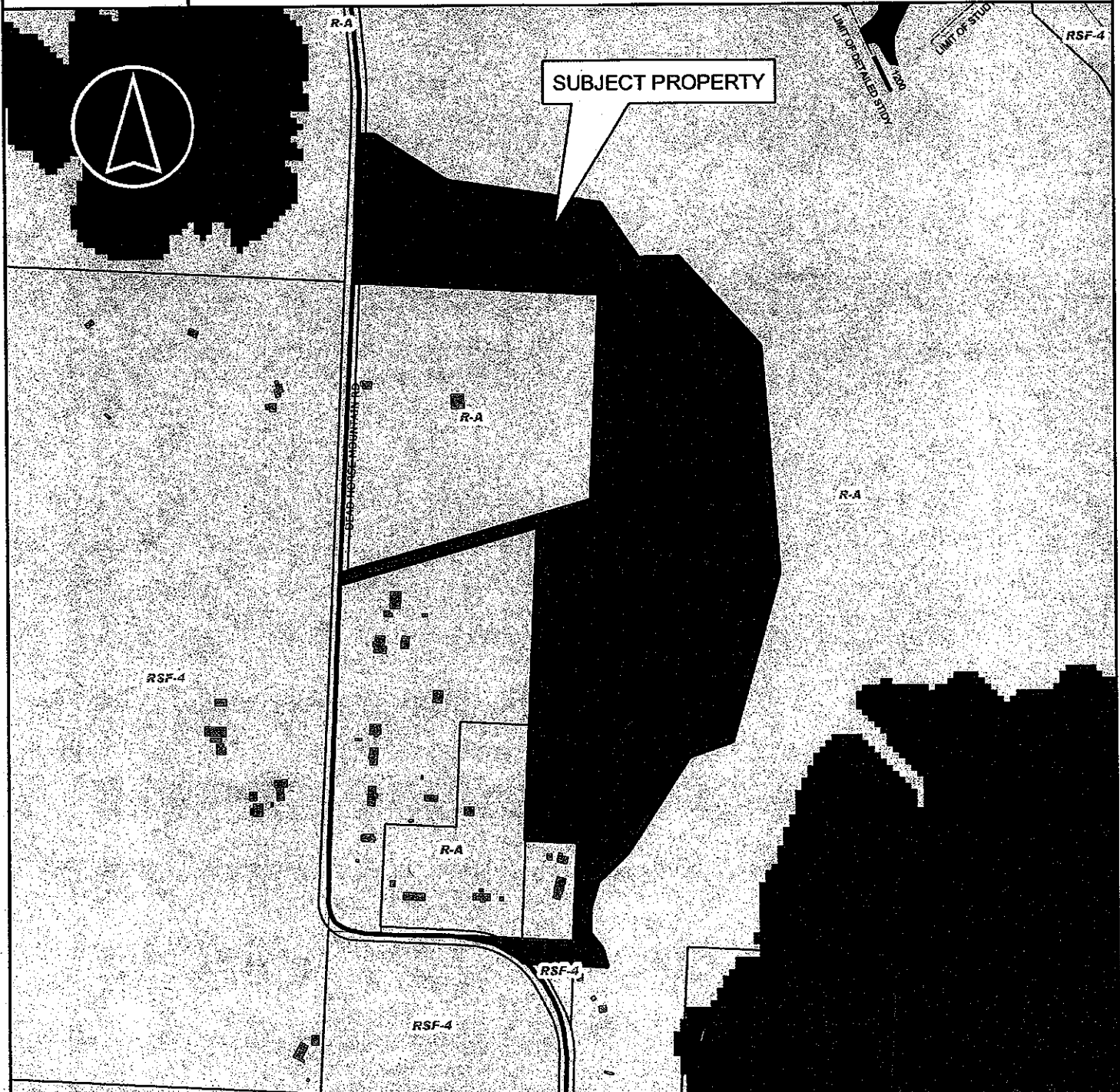
Commissioner Myres stated that she does not support the project. I agree with many of the things discussed about the proposed density being preferable to RSF-2 or RSF-1, but I still don't think the infrastructure can support this amount of development and have to agree with staff that it is not the right time.

Upon roll call the motion to forward the item to the City Council with a recommendation of approval was denied by a vote of 3-4-0, with Commissioners Bryant, Anthes, Myres and Cabe voting "no."

RPZD06-2170

VILLAS AT STONEBRIDGE

Close Up View



Overview

Legend

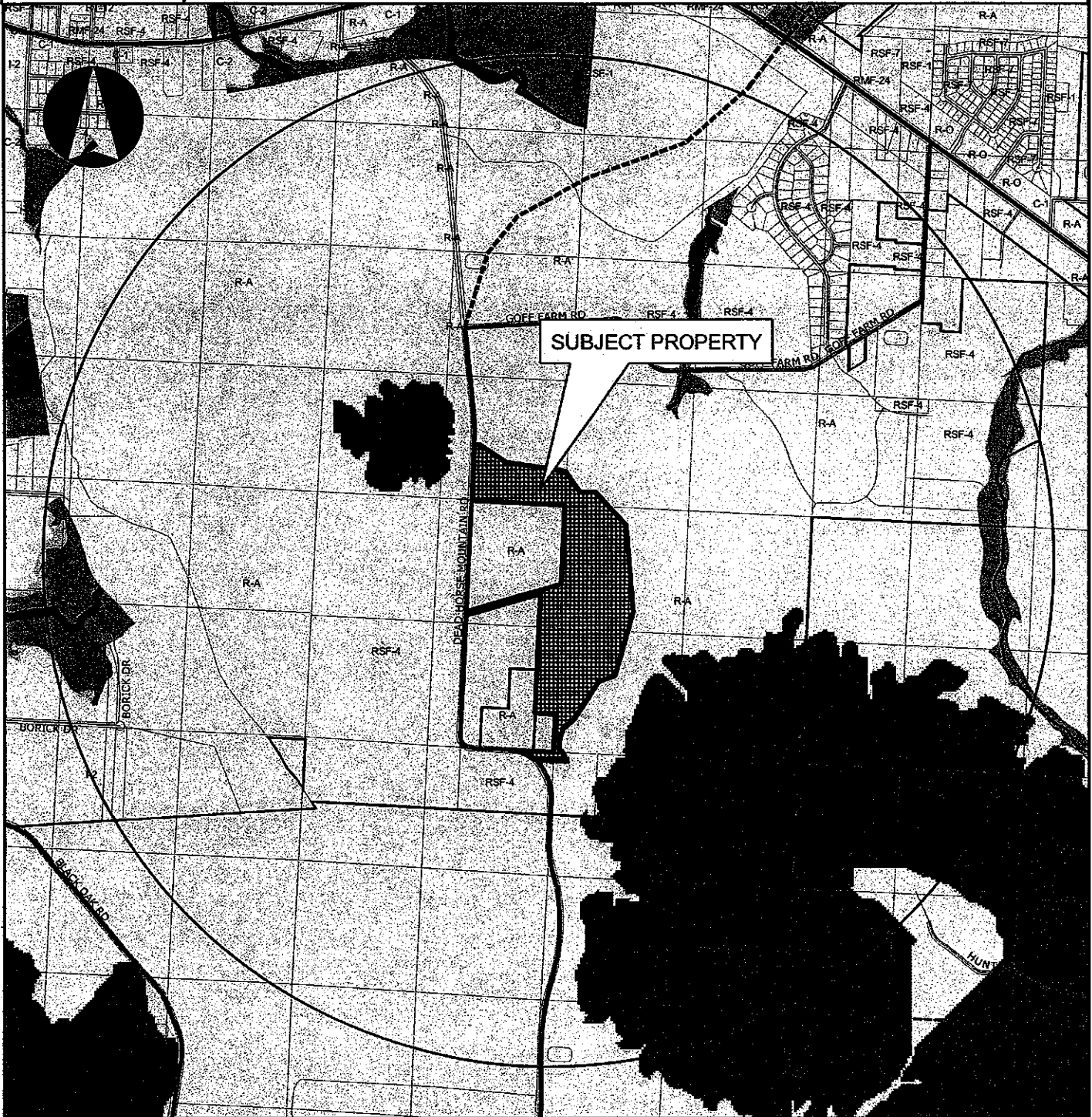
- Overlay District
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- RPZD06-2170
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 225 450 900 1,350 1,800 Feet

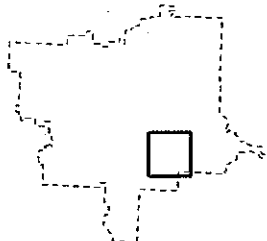
RPZD06-2170

VILLAS AT STONEBRIDGE

One Mile View



Overview



Legend

Subject Property

RPZD06-2170

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1
 Miles

RPZD06-2170

Future Land Use

VILLAS AT STONEBRIDGE

SUBJECT PROPERTY

Legend

Building (2004)

Future Land Use 2025

CLASS

Industrial

Non-Municipal Government

Complete Neighborhood Plan

Natural Area

Rural Area

Residential Neighborhood Area

General Urban/City Neighborhood Area

Urban Center Area

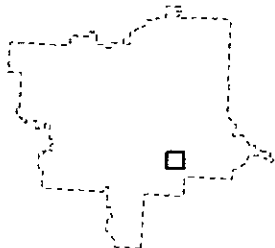
Civic and Private Open Space/Parks

Civic Institutional

Unclassified

ROW

Overview



Legend

Subject Property

RPZD06-2170

Boundary

Planning Area

Overlay District

Outside City

Streets

Existing

Planned

Legend

0 225 450 900 1,350 1,800 Feet

12
Agenda Session 11-25-08

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 2, 2008**

A meeting of the Fayetteville City Council will be held on December 2, 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 November 6, 2008 and the November 18, 2008 City Council meeting minutes.
- ✓ 2. **Bid # 08-67 Roberts-McNutt, Inc:** A resolution awarding Bid # 08-67 and approving a contract with Roberts-McNutt, Inc. in the amount of \$38,827.00 to replace the roof of the ICH Building; and approving a project contingency in the amount of \$3,882.00.

- ✓ 3. **Bid # 08-68 Diamond International:** A resolution awarding Bid # 08-68 and approving the purchase of one (1) dump truck from Diamond International in the amount of \$107,147.00 for use by the Transportation Division.
- ✓ 4. **Bid # 08-69 Stamm Manufacturing:** A resolution awarding Bid # 08-69 and approving the purchase of one (1) aerial platform truck from Stamm Manufacturing in the amount of \$97,336.00 for use by the Transportation/Traffic Division.
- ✓ 5. **Bid # 08-70 Williams Tractor, Inc:** A resolution awarding Bid # 08-70 and approving the purchase of one (1) front-load diesel tractor from Williams Tractor, Inc. in the amount of \$68,894.00 for use at the Noland Wastewater Treatment Plant; and approving a budget adjustment in the amount of \$25,426.00.
- ✓ 6. **AT&T:** A resolution approving the purchase of fifty (50) Pinpoint X GPS Integrated modems and antennae from AT&T through the State of Arkansas purchasing contract in the amount of \$50,420.00; and approving a budget adjustment.
- ✓ 7. **2008 Bulletproof Vest Partnership Grant:** A resolution accepting the 2008 Bulletproof Vest Partnership Grant in the amount of \$16,033.56; and approving a budget adjustment recognizing the grant revenue.
- ✓ 8. **Target Grant:** A resolution authorizing the Fayetteville Police Department to accept a grant from Target in the amount of \$250.00 for the purchase of Community Oriented Policing supplies; and approving a budget adjustment to recognize the grant revenue.
- ✓ 9. **Edward Byrne Memorial Discretionary Grant:** A resolution approving a budget adjustment for the Fayetteville Police Department to accept and recognize reimbursement revenues from a portion of the Edward Byrne Memorial Discretionary Grant in the projected amount of \$52,000.00 for the department's participation in the Northwest Arkansas Sex Offender and Violent Crimes Task Force.
- ✓ 10. **U.S. Department of Justice Community Oriented Policing:** A resolution authorizing the Fayetteville Police Department to accept a Technology Program Grant from the U.S. Department of Justice Community Oriented Policing services in the amount of \$444,268.00; and approving a budget adjustment to recognize the grant revenue.
- ✓ 11. **Act 833 Revenues:** A resolution approving a 2008 Budget adjustment for the Fayetteville Fire Department in the amount of \$42,288.00 to recognize Act 833 revenues for the purchase of protective gear.
- ✓ 12. **McClelland Consulting Engineers, Inc. Task Order # 15:** A resolution approving a notice to proceed on Task Order # 15 with McClelland Consulting Engineers, Inc. in the amount of \$177,600.00 for final plans & specs and bidding associated with the Runway 16 Safety Area Improvements at Drake Field.

Move to 12/16/08
13. McClelland Consulting Engineers, Inc Contract: A resolution approving an engineering contract with McClelland Consulting Engineers, Inc. in the amount of \$397,621.00 for design services for water and sewer relocations and concurrent construction of a 36" water transmission main associated with the widening of Highway 265 from Mission to Joyce Boulevard; approving a \$20,000.00 contingency; and approving a budget adjustment in the amount for \$400,000.00.

14. Old Square, Inc: A resolution approving a two-year lease agreement with Old Square, Inc., for the annual rental amount of \$7,800.00 to lease approximately 3,500 square feet for document storage.

B. Unfinished Business:

Greg Tober will be adding 2 caregivers 1 officer
1. Hiring Freeze: Hiring Freeze Appeals:

One Building Maintenance Worker II – Building Services

2. 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 failed at the November 6, 2008 City Council meeting. This ordinance was reconsidered at the November 18, 2008 City Council meeting. This ordinance was left on the third reading at the November 18, 2008 City Council meeting and then tabled to the December 2, 2008 City Council meeting.*

Left on the Third Reading

3. 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. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting.*

Left on the Second Reading

- ✓ **4. Amend Chapter 164, ADM 08-3094 (UDC Chapter 164.04 Animals & Fowl):** An ordinance amending the Unified Development Code by repealing and replacing Chapter 164.04: Animals and Fowl, to permit a property owner to keep a maximum of four chickens (hens) within residential districts of the city, subject to the restrictions herein. *This ordinance was left on the First Reading at the November 18, 2008 City Council meeting.*

Left on the First Reading

- ✓ **5. Proposed 2009 Annual Budget & Work Program:** A resolution adopting the 2009 Annual Budget and Work Program as amended and approved. *This resolution was tabled at the November 18, 2008 City Council meeting to the December 2, 2008 City Council meeting.*
- ✓ **6. Southpass Development Company, LLC:** A resolution to approve approximately \$744,880.00 as a 50/50 cost share with Southpass Development Company, LLC for the sewer installation costs for the Regional Park and Southpass PZD. *This resolution was tabled at the November 18, 2008 City Council meeting to the December 2, 2008 City Council meeting.*

C. New Business:

- Move to 12-16-08*
- ✓ **1. Operations Management International Amendment # 16:** A resolution approving Amendment Number 16 to the contract with Operations Management International (OMI) in the amount of \$7,762,190.00 for the operation, maintenance and management of Fayetteville Wastewater Treatment facilities for 2009.
- ✓ **2. Park West, LLC Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Park West, LLC in the amount of \$2,157,000.00 for the upgrade of the future location of Highway 112 through Phase 1 of the Park West Development from two lanes to a four-lane boulevard.
- ✓ **3. RZN 08-3131 (Nall):** An ordinance rezoning that property described in rezoning petition RZN 08-3131, for approximately 0.66 acres, located at 1211 West James Street, southwest of Garland and Mount Comfort from RMF-24, Residential Multi-Family, 24 units per acre, to R-O, Residential Office.
- ✓ **4. C-PZD 08-3121 (Core Pet Wellness):** An ordinance establishing a Commercial Planned Zoning District Titled C-PZD 08-3121 (Core Pet Wellness) located at 2406 North Old Wire Road, containing approximately 0.58 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.
- ✓ **5. VAC 08-3136 (CMN Business Park II):** An ordinance approving VAC 08-3136 submitted by McClelland Consulting Engineers for property located at CMN Business Park II, Lots 8 and 14, northeast corner of Steele Boulevard and Van Asche Drive to vacate a portion of a utility easement, a total of 0.61 acres.

- ✓ 6. **VAC 08-3130 (Sisemore):** An ordinance approving VAC 08-3130 submitted by Donna Stewart for property located at 1326 South China Berry Lane to vacate a portion of a utility easement on the subject property, a total of 81.6 square feet.
- ✓ 7. **I-PZD 08-3062 (Westside Storage):** An ordinance establishing an Industrial Planned Zoning District Titled I-PZD 08-3062 Westside Storage, located at 1192 North Ruppel Road, containing approximately 0.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.
8. **Villas at Stonebridge Appeal:** An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2170, Villas at Stonebridge, located south of Highway 16 East and east of Goff Farm Road; containing approximately 53.03 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

Announcements:

1. City Council Tour: ~~December 1, 2008~~

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.

Add: Chapter 162 Use Units

*Last
New
Business*

Pre-Agenda Meeting

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
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13. **McClelland Consulting Engineers, Inc Contract:** A resolution approving an engineering contract with McClelland Consulting Engineers, Inc. in the amount of \$397,621.00 for design services for water and sewer relocations and concurrent construction of a 36" water transmission main associated with the widening of Highway 265 from Mission to Joyce Boulevard; approving a \$20,000.00 contingency; and approving a budget adjustment in the amount for \$400,000.00.

14. **Old Square, Inc:** A resolution approving a two-year lease agreement with Old Square, Inc., for the annual rental amount of \$7,800.00 to lease approximately 3,500 square feet for document storage.

B. Unfinished Business:

1. Hiring Freeze: Hiring Freeze Appeals:

One Building Maintenance Worker II – Building Services

2. **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. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting.*

Left on the Second Reading

3. **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 failed at the November 6, 2008 City Council meeting. This ordinance was reconsidered at the November 18, 2008 City Council meeting. This ordinance was left on the third reading at the November 18, 2008 City Council meeting and then tabled to the December 2, 2008 City Council meeting.*

Left on the Third Reading

4. **Amend Chapter 164, ADM 08-3094 (UDC Chapter 164.04 Animals & Fowl):** An ordinance amending the Unified Development Code by repealing and replacing Chapter 164.04: Animals and Fowl, to permit a property owner to keep a maximum of four chickens (hens) within residential districts of the city, subject to the restrictions herein. *This ordinance was left on the First Reading at the November 18, 2008 City Council meeting.*

Left on the First Reading

5. **Proposed 2009 Annual Budget & Work Program:** A resolution adopting the 2009 Annual Budget and Work Program as amended and approved. *This resolution was tabled at the November 18, 2008 City Council meeting to the December 2, 2008 City Council meeting.*
6. **Southpass Development Company, LLC:** A resolution to approve approximately \$744,880.00 as a 50/50 cost share with Southpass Development Company, LLC for the sewer installation costs for the Regional Park and Southpass PZD. *This resolution was tabled at the November 18, 2008 City Council meeting to the December 2, 2008 City Council meeting.*

C. New Business:

1. **Operations Management International Amendment # 16:** A resolution approving Amendment Number 16 to the contract with Operations Management International (OMI) in the amount of \$7,762,190.00 for the operation, maintenance and management of Fayetteville Wastewater Treatment facilities for 2009.
2. **Park West, LLC Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Park West, LLC in the amount of \$2,157,000.00 for the upgrade of the future location of Highway 112 through Phase 1 of the Park West Development from two lanes to a four-lane boulevard.
3. **RZN 08-3131 (Nall):** An ordinance rezoning that property described in rezoning petition RZN 08-3131, for approximately 0.66 acres, located at 1211 West James Street, southwest of Garland and Mount Comfort from RMF-24, Residential Multi-Family, 24 units per acre, to R-O, Residential Office.
4. **C-PZD 08-3121 (Core Pet Wellness):** An ordinance establishing a Commercial Planned Zoning District Titled C-PZD 08-3121 (Core Pet Wellness) located at 2406 North Old Wire Road, containing approximately 0.58 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.
5. **VAC 08-3136 (CMN Business Park II):** An ordinance approving VAC 08-3136 submitted by McClelland Consulting Engineers for property located at CMN Business Park II, Lots 8 and 14, northeast corner of Steele Boulevard and Van Asche Drive to vacate a portion of a utility easement, a total of 0.61 acres.

6. **VAC 08-3130 (Sisemore):** An ordinance approving VAC 08-3130 submitted by Donna Stewart for property located at 1326 South China Berry Lane to vacate a portion of a utility easement on the subject property, a total of 81.6 square feet.
7. **I-PZD 08-3062 (Westside Storage):** An ordinance establishing an Industrial Planned Zoning District Titled I-PZD 08-3062 Westside Storage, located at 1192 North Ruppel Road, containing approximately 0.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.
8. **Villas at Stonebridge Appeal:** An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2170, Villas at Stonebridge, located south of Highway 16 East and east of Goff Farm Road; containing approximately 53.03 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

Announcements:

1. **City Council Tour: December 1, 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 be 'Kit Williams', written over a horizontal line.

DATE: **December 3, 2008**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of December 3, 2008**

1. **Bid #08-67:** A resolution awarding Bid #08-67 and approving a contract with Roberts-McNutt, Inc. in the amount of \$38,827.00 to replace the roof of the ICH Building; and approving a project contingency in the amount of \$3,882.00;
2. **Bid #08-68:** A resolution awarding Bid #08-68 and approving the purchase of one dump truck from Diamond International in the amount of \$107,147.00 for use by the Transportation Division;
3. **Bid #08-69 Stamm Manufacturing:** A resolution awarding Bid #08-69 and approving the purchase of one aerial platform truck from Stamm Manufacturing in the amount of \$97,336.00 for use by the Transportation/Traffic Division;
4. **Bid #08-70:** A resolution awarding Bid #08-70 and approving the purchase of one front-load diesel tractor from Williams Tractor, Inc. in the amount of \$68,894.00 for use at the Noland Wastewater Treatment Plant and approving a budget adjustment in the amount of \$25,426.00;
5. **AT&T:** A resolution approving the purchase of fifty Pinpoint X GPS Integrated modems and Antennae from AT&T through the State of Arkansas Purchasing Contract in the amount of \$50,420.00 and approving a budget adjustment;

6. **2008 Bulletproof Vest Partnership Grant:** A resolution accepting the 2008 Bulletproof Vest Partnership Grant in the amount of \$16,033.56 and approving a budget adjustment recognizing the grant revenue;
7. **Target Grant:** A resolution authorizing the Fayetteville Police Department to accept a grant from Target in the amount of \$250.00 for the purchase of community oriented policing supplies and approving a budget adjustment recognizing the grant revenue;
8. **Edward Byrne Memorial Discretionary Grant:** A resolution approving a budget adjustment for the Fayetteville Police Department to accept and recognize reimbursement revenues from a portion of the Edward Byrne Memorial Discretionary Grant in the projected amount of \$52,000.00 for the Department's participation in the Northwest Arkansas Sex Offender and Violent Crimes Task Force;
9. **U.S. Department of Justice Community Oriented Policing:** A resolution authorizing the Fayetteville Police Department to accept a Technology Program Grant from the U.S. Department of Justice Community Oriented Policing Services in the amount of \$444,268.00 and approving a budget adjustment to recognize the grant revenue;
10. **Act 833 Revenues:** A resolution approving a 2008 budget adjustment for the Fayetteville Fire Department in the amount of \$42,288.00 to recognize Act 833 Revenues for the purchase of protective gear;
11. **McClelland Consulting Engineers, Inc. Task Order #15:** A resolution approving Task Order #15 with McClelland Consulting Engineers, Inc. in the amount of \$177,600.00 for final plans and specs and bidding associated with the Runway 16 Safety Area improvements at Drake Field; authorizing the airport staff to apply for and accept a grant from the FAA with a matching grant from the Arkansas Department of Aeronautics and approving a budget adjustment;
12. **Old Square, Inc.:** A resolution approving a two-year Lease Agreement with Old Square, Inc. for the annual rental amount of \$7,800.00 to lease approximately 3,500 square feet for document storage;
13. **Hiring Freeze:** A resolution to approve the hiring of one full time Financial Analyst; one full time Building Maintenance Worker II; one full time Police Officer and two full time Animal Services Caregivers;

14. Proposed 2009 Annual Budget & Work Program: A resolution adopting the 2009 Annual Budget and Work Program as amended and approved;

15. SouthPass Development Company, LLC: A resolution to approve approximately \$744,880.00 as a 50/50 cost share with SouthPass Development Company, LLC for the sewer installation costs for the Regional Park and SouthPass PZD;

16. Chapter 162 Use Units: An ordinance to amend **Chapter 162 Use Units** of the Unified Development Code §162.01 (O) *Unit 15. Neighborhood Shopping Goods* by adding Recreational Vehicle Sales.

RECEIVED

DEC 04 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record
P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville Final Agenda

December 1, 2008

Publication Charge : \$269.00

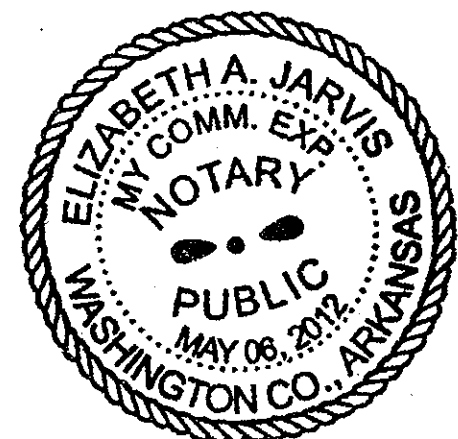
Signed: Cathy Wiles

Subscribed and sworn to before me
This 3 day of December, 2008.

Notary Public Elizabeth A. Jarvis

My Commission Expires: May 6, 2012

Do not pay from Affidavit, an invoice will be sent



**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
DECEMBER 2, 2008**



A meeting of the Fayetteville City Council will be held on December 2, 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 November 6, 2008 City Council meeting minutes.
2. **Bid # 08-67 Roberts-McNutt, Inc.:** A resolution awarding Bid # 08-67 and approving a contract with Roberts-McNutt, Inc. in the amount of \$38,827.00 to replace the roof of the ICH Building; and approving a project contingency in the amount of \$3,882.00.
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B. Unfinished Business:

1. Hiring Freeze: Hiring Freeze Appeals:

One Building Maintenance Worker II - Building Services

One Police Officer - Police Department

Two Full Time Animal Services Caregivers - Animal Services

2. 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 failed at the November 6, 2008 City Council meeting. This ordinance was reconsidered at the November 18, 2008 City Council meeting. This ordinance was left on the third reading at the November 18, 2008 City Council meeting and then tabled to the December 2, 2008 City Council meeting. Left on the Third Reading.*

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- 8. Chapter 162 Use Units:** An ordinance to amend Chapter 162 Use Units of the Unified Development Code §162.01. (O) Unit 15 Neighborhood Shopping Goods by adding Recreational Vehicle Sales.

Announcements:

- 1. City Council Tour:** None

City Council Meeting:

December 2, 2008

Adjourn: 9:20 PM

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

9-0

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

Subject:	Consent				
Motion To:					
Motion By:		Approve			
Seconded:		Jordan Cook			
Minutes Approved Approved Res. 218-08 to 228-08	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody				

8-0

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

Subject:	Hiring Freeze Appeals: One Building Maintenance Worker II– Building Services				
Motion To:					
Motion By:		Approve			There was
Seconded:		Gray			one motion
		Thiel			to approve
B. 1 Unfinished Business <u>Approved</u> 229-08	Cook	✓			all the Hiring
	Allen	✓			Freeze Appeals.
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody				

8-0

Subject:	Hiring Freeze Appeals: One Police Officer – Police Department				
Motion To:					
Motion By:		Approved	With the	Above	Motion.
Seconded:					
B. 1 Unfinished Business <u>Approved</u> 229-08	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Mayor Coody				

Subject:	Two Full Time Animal Services Caregivers – Animal Services & Financial Analyst				
Motion To:		Approve		There was one	
Motion By:		Gray		Motion to	
Seconded:		Thiel		approve all	
B. 1 Unfinished Business Approved 229-08	Cook	✓		the Hiring Freeze	
	Allen	✓		Appeals.	
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody				

8-0

Subject:	R-PZD 08-3071 (Bridgedale Plaza)				
Motion To:		Pass	(Already read 3 times		
Motion By:			before tonight.)		
Seconded:					
B. 2 Unfinished Business passed 5197	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody				

8-0

Subject:	Amberwood Place Appeal				
Motion To:		3rd Reading	Amend COA	Pass	
Motion By:		Lucas	Lucas		
Seconded:		Jordan	Ferrell		
B. 3 Unfinished Business <u>Failed</u>	Cook	✓	✓	N	
	Allen	✓	✓	N	
	Rhoads	✓	✓	N	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	N	
	Thiel	✓	✓	N	
	Mayor Coody				
		8-0	8-0	3-5	

Subject:	Amend Chapter 164, ADM 08-3094 (UDC Chapter 164.04 Animals & Fowl)				
Motion To:		2nd Reading	Amend as Exhibit A states	Amend Section D	3rd
Motion By:		Jordan	Thiel	Thiel	Thiel
Seconded:		Thiel	Gray	Ferrell	Cook
B. 4 Unfinished Business	Cook	✓	✓	✓	✓
	Allen	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Mayor Coody				
		8-0	8-0	8-0	8-0

City Council Meeting:

December 2, 2008

Subject:	Amend Chapter 164, ADM 08-3094 (UDC Chapter 164.04 Animals & Fowl)				
Motion To:		Pass			
Motion By:					
Seconded:					
<u>Passed</u> 5198	Cook	✓			
	Allen	✓			
	Rhoads	N			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody				

7-1

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

Subject:	Proposed 2009 Annual Budget & Work Program				
Motion To:		Approve Amendments	Approve		
Motion By:		Cook	Cook		
Seconded:		Thiel	Thiel		
B. 5 New Business <u>passed</u> 230-08	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Mayor Coody				

8-0

8-0

Subject:	Southpass Development Company, LLC				
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Gray			
B. 6 New Business 231-08 <u>passed</u> Mayor Coody Voted yes to pass	Cook	✓			
	Allen	N			
	Rhoads	✓			
	Ferrell	N			
	Lucas	N			
	Jordan	N			
	Gray	✓			
	Thiel	✓			
	Mayor Coody	Yes			

5-4

Passed

Subject:	Park West, LLC Cost Share				
Motion To:		Table & send to Street Committee			
Motion By:		ALLEN			
Seconded:		COOK	city atty Wms said don't need motion & 2nd - just leave on 1st reading		
C. 1 New Business <u>Left on the First Reading</u> <u>Sent to the Street Committee to review</u>	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Mayor Coody				

Honold - chair

Subject:	RZN 08-3131 (Nall)				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Thiel	Jordan		
Seconded:		Ferrell	Ferrell		
C. 2 New Business <u>Passed</u> 5199	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject:	C-PZD 08-3121 (Core Pet Wellness)				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Lucas	Lucas		
C. 3 New Business <i>passed</i> 5200	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	VAC 08-3136 (CMN Business Park II)				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Lucas	Jordan		
Seconded:		Ferrell	Lucas		
C. 4 New Business <i>passed</i> 5201	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	VAC 08-3130 (Sisemore)				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
C. 5 New Business <i>Passed</i> 5202	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject:	I-PZD 08-3062 (Westside Storage)				
Motion To:					
Motion By:					
Seconded:					
C. 6 New Business <i>Left on the first Reading</i>	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Mayor Coody				

Subject:	Villas at Stonebridge Appeal				
Motion To:		Remove Condition of Approval # 4			
Motion By:		Thiel			
Seconded:		Jordan			
C. 7 New Business <i>Left on the first Reading</i>	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody				

8-0

Subject:	Chapter 162 Use Units				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Ferrell	Ferrell		
C. 8 New Business <i>passed</i> 5203	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Mayor Coody				

8-0

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