

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
December 18, 2007**

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

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

1. Nominating Committee Report

Agenda Additions:

A. Consent:

1. Approval of the November 20, 2007 and December 4, 2007 City Council meeting minutes.

APPROVED.

2. **Bid # 07-74 Benchmark Construction of NWA, Inc:** A resolution awarding Bid # 07-74 and approving a contract with Benchmark Construction of NWA, Inc. in the amount of \$142,868.85 for development of David Lashley Park; and approving a project contingency in the amount of \$12,210.15.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 210-07.

3. **RFP # 07-17 RJR Enterprises, Inc:** A resolution awarding RFP # 07-17 and approving a contract with RJR Enterprises Inc. in the amount of \$196,000.00 for construction of improvements to Sweetbriar and Bryce Davis Parks; and approving a project contingency in the amount of \$12,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 211-07.

4. **HDR/EES, Inc:** A resolution approving an addendum to the engineering services contract with HDR/EES, Inc. in the amount of \$9,300.00 for completion of a comprehensive water and sewer rate study.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 212-07.

5. **Rausch Coleman Homes, LLC:** A resolution to approve the promotion of affordable housing agreement with Rausch Coleman Homes, LLC.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 213-07.

B. Unfinished Business:

1. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting. This resolution was Tabled at the December 4, 2007 City Council meeting to the December 18, 2007 City Council meeting.*

THIS ITEM WAS MOVED TO NEW BUSINESS AS ITEM NO. 9.

2. **Bid # 07-69 Downing Sales and Service:** A resolution awarding Bid # 07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division. *This resolution was Tabled at the December 4, 2007 City Council meeting to the December 18, 2007 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 214-07.

3. **RZN 07-2781 (Dandy):** An ordinance rezoning that property described in rezoning petition RZN 07-2781, for approximately 0.55 acres, located ¼ mile north of North Street on the east side of Leverett from I-1, Heavy Commercial/Light Industrial, to RMF-24, Residential Multi-Family, 24 units per acre. *This ordinance was left on the Second Reading at the December 4, 2007 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5090.

C. New Business:

1. **Wilson Estes Police Architects:** A resolution approving an addendum to the contract with Wilson Estes Police Architects in the amount of \$35,500.00 for services associated with gaining LEED Certification for the District Court and City Prosecutor Facility.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 215-07.

2. **RZN 07-2603: (Kooshesh):** An ordinance rezoning that property described in rezoning petition RZN 07-2603, for approximately 1.59 acres, located at 956 and 918 North 46th Avenue from R-A, Residential-Agricultural, to R-O, Residential Office.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5091.

3. **VAC 07-2804: (The City of Fayetteville):** An ordinance approving VAC 07-2804 submitted by City of Fayetteville for property located east of Leverett Avenue, south of Robinson Apartments and north of Leverett Townhomes to vacate a portion of an unused right-of-way and create a general utility easement on the subject property, a total of 9,802.11 square feet.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5092.

4. **VAC 07-2832: (Lots 6-9 Timberlake Office Park):** An ordinance approving VAC 07-2832 submitted by H2 Engineering for property located at Lots 6-9 of the Timberlake Office Park to vacate the erosion control easement on the subject property, a total of 1.83 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5093.

5. **ADM 07-2849 (East Square Development):** An ordinance to waive Section 166.20 of the Unified Development Code and to extend the expiration date for C-PZD 05-1610 (East Square Development) to December 20, 2010.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5094.

6. **2008 CPI Residential Solid Waste Rate Adjustment:** An ordinance waiving the automatic annual price increase for residential trash service for fiscal year 2008.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5095.

7. **Gantert Family Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Gantert Family Trust.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 216-07.

8. **Bellafont Gardens POA Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Bellafont Gardens POA.

THIS ITEM WAS TABLED TO THE JANUARY 3, 2008, CITY COUNCIL MEETING.

- 9. Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting. This resolution was Tabled at the December 4, 2007 City Council meeting to the December 18, 2007 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION 217-07.

Announcements:

- 1. City Council Tour: None**
- 2. City Council Budget Working Session: December 17, 2007 at 4:30 PM in Room 326**

Adjournment: Meeting adjourned at 9:25 p.m.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal flourish extending to the right.

DATE: **December 19, 2007**

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

1. **Bid #07-74:** A resolution awarding Bid #07-74 and approving a contract with Benchmark Construction of NWA, Inc. in the amount of \$142,868.85 for development of David Lashley Park; and approving a project contingency in the amount of \$12,210.15;
2. **RFP #07-17:** A resolution awarding RFP #07-17 and approving a contract with RJR Enterprises, Inc. in the amount of \$196,000.00 for construction of improvements to Sweetbriar and Bryce Davis Parks; and approving a project contingency in the amount of \$12,000.00;
3. **HDR/EES, Inc.:** A resolution approving an addendum to the Engineering Services Contract with HDR/EES, Inc. in the amount of \$9,300.00 for completion of a comprehensive water and sewer rate study;
4. **Rausch Coleman Homes, LLC:** A resolution to approve the promotion of affordable housing agreement with Rausch Coleman Homes, LLC;
5. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 annual budget and work program as amended and approved;
6. **Bid #07-69:** A resolution awarding Bid #07-69 to Downing Sales and Service for the purchase of one recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division;

7. **Wilson Estes Police Architects:** A resolution approving an addendum to the contract with Wilson Estes Police Architects in the amount of \$35,500.00 for services associated with gaining LEED certification for the district court and city prosecutor facility;

8. **2008 CPI Residential Solid Waste Rate Adjustment:** An ordinance waiving the automatic annual price increase for residential trash service for fiscal year 2008;

9. **Gantert Family Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Gantert Family Trust.

Adjourn 9:25 PM

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

7-0

Subject: Nominating Committee					
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Lucas			
Passed	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

7-0

City Council Meeting December 18, 2007

Subject: Consent					
Motion To:					
Motion By:		Cook			
Seconded:		Lucas			
Minutes Approved. Passed Res. 2-10-07 to 2-13-07	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

7-0

Subject: Proposed 2008 Annual Budget & Work Program					
Motion To:		Move to the End of the Agenda			
Motion By:		Gray			
Seconded:		Lucas			
B.I. Unfinished Move to the end of the Agenda	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

7-0

City Council Meeting December 18, 2007

Subject: Bid # 07-69 Downing Sales & Service					
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Thiel			
B.2. Unfinished <u>passed</u> 214-07	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	Absent			
	Ferrell	N			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

6-1

Subject: RZN 07-2781 (Dandy)					
Motion To:		3rd Read	Pass		
Motion By:		Cook			
Seconded:		Ferrell			
B.3. Unfinished <u>passed</u> 5090	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	Absent	Absent		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

7-0

7-0

City Council Meeting December 18, 2007

Subject: Wilson Estes Police Architects.					
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Gray			
C. 1. New Business <u>Passed</u> 215-07	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

7-0

Subject: RZN 07-2603 (Kooshesh)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Lucas	Lucas		
Seconded:		Cook	Ferrell		
C. 2. New Business <u>Passed</u> 5091	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	Absent	Absent	Absent	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

7-0

7-0

7-0

City Council Meeting December 18, 2007

Subject: VAC 07-2804: (The City of Fayetteville)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Thiel	Cook		
Seconded:		Gray	Allen		
C.3. New Business <u>passed</u> 5092	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	Absent	absent	absent	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

Subject: VAC 07-2832 Lots 6-9 Timberlake Office Park					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Cook	Cook		
Seconded:		Ferrell	Thiel		
C.4. New Business <u>passed</u> 5093	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	Absent	absent	absent	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

City Council Meeting December 18, 2007

Subject: ADM 07-2849 (East Square Development)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Cook		
Seconded:		Lucas	Ferrell		
C.5. New Business <u>Passed</u> 5094	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	Absent	Absent	Absent	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

Subject: 2008 C.P.I Residential Solid Waste Rate					
Motion To:		2nd Read	3rd Read	Pass	Adjustment
Motion By:		Lucas	Thiel		
Seconded:		Thiel	Lucas		
C.6. New Business <u>Passed</u> 5095	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	Absent	Absent	Absent	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

Subject: Gantert Family Trust Condemnation					
Motion To:		Approve			
Motion By:		Furrell			
Seconded:		Cook			
C. 7. New Business Passed 216-07	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

7-0

Subject: Bellafont					
Motion To:		Table to next meeting			
Motion By:		Thiel			
Seconded:					
C. 8. New Business Tabled to January 3, 2007	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

7-0

Subject: Proposed 2008 Annual Budget & Work					
Motion To:		Move \$311,000 from the Fire Dept. for the purchase of a Fire Truck to		Program	
Motion By:		Thiel		Operating Funds	
Seconded:		Gray		(General Fund)	
Passed Move \$311,000 to General Fund from Capital	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

7-0

Subject: Proposed 2008 Annual Budget					
Motion To:		Gully Park Concerts		Gully Park Concerts	
Motion By:		Ferrell		Thiel	1/2 funding
Seconded:		Lucas		Allen	8,450
	Gray	N		✓	
	Thiel	N		✓	
	Cook	✓		✓	
	Allen	N		✓	
	Rhoads	Absent		Absent	
	Ferrell	✓		N	
	Lucas	✓		N	
	Jordan	N		✓	
	Mayor Coody				

3-4

5-2

Subject: Proposed Budget 2008					
Motion To:	Fund	Canine Unit	in		
Motion By:		Thiel			
Seconded:		Gray			
Passed	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

7-0

Subject:					
Motion To:		Fund Police Park Patrol			
Motion By:		Gray			
Seconded:		Thiel			
Passed	Gray	✓			
	Thiel	✓			
	Cook	N			
	Allen	N			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

5-2

Subject: 2008 Budget					
Motion To:		Add to remaining to Fire Dept.			
Motion By:		Thiel			
Seconded:		Gray			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

7-0

Subject: 2008 Budget					
Motion To:		Approve Amended Budget.			
Motion By:		Thiel			
Seconded:		Gray			
217-07	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

7-0

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



Aldermen

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

**City of Fayetteville Arkansas
City Council Meeting Minutes
December 4, 2007**

A meeting of the Fayetteville City Council was held on December 4, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Jordan called the meeting to order.

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

ABSENT: Mayor Coody and Alderman Ferrell

Pledge of Allegiance

Vice Mayor Jordan: Mayor Coody is at a sustainability conference in Paris, France and he will be there most of the month. We wish him well. He is taking that message not only through the state but throughout the world and we congratulate him on that and wish him all the best.

Mayor's Announcements, Proclamations and Recognitions:

Fayetteville Bulldog Day Resolution

Alderman Allen: It is with great pleasure and excitement that we do this. We are proud that you went where no other Bulldogs have ever gone and you won the State Championship and you did it in a victory over Springdale Harbor. The Fayetteville City Council congratulates you.

Agenda Additions:

Alderman Cook moved to suspend the rules and add the following resolution to the agenda. **Alderman Allen** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Ferrell** was absent.

Bulldog Championship Day: A resolution to congratulate the 2007 Fayetteville High School Football Team for their State Championship and to designate Friday, December 7, 2007 in Fayetteville as Bulldog Championship Day.

Vice Mayor Jordan read a statement from Mayor Coody.

Daryl Patton, Fayetteville Head Coach: I would like to thank each Alderman for inviting us to come here today to honor our Football team for the 7A State Championship. We are proud of the things that you all do for the City of Fayetteville and just giving back a State Championship from the football team to Fayetteville is our little gift to you. This is a great compliment to our kids. They never gave up, they fought through the adversity and the bumps in the road and they were able to stick together as a team and bring home that State Championship. Thank you for having us here and for honoring our coaches and players.

Dick Johnson, Fayetteville Athletic Director: I want to thank you for this recognition and I want to thank all these kids that are here because the whole town of Fayetteville was on display in Little Rock the whole weekend. We want to thank you for this recognition because it makes us want to go out and do it again.

Alderman Allen moved to approve the resolution. **Alderman Lucas** seconded the motion. Upon roll call the resolution passed 7-0. **Alderman Ferrell** was absent.

Resolution 201 -07 as Recorded in the office of the City Clerk.

Consent:

Approval of the November 6, 2007 City Council meeting minutes.

Approved.

Bid # 07-68 Downing Sales and Service: A resolution awarding Bid # 07-68 to Downing Sales and Service for the purchase of one (1) front load refuse truck in the amount of \$220,045.00 for use by the Solid Waste Division.

Resolution 202-07 as Recorded in the office of the City Clerk.

Landers Ford of Benton: A resolution approving the purchase of seven (7) Ford Crown Victoria Police Interceptors from Landers Ford of Benton through the State Vehicle Purchase Contract in the amount of \$151,430.60.

Resolution 203-07 as Recorded in the office of the City Clerk.

McClelland Consulting Engineers, Inc. Task Order # 3: A resolution approving Task Order # 3 with McClelland Consulting Engineers, Inc. in the amount of \$183,700.00 for planning tasks associated with the Runway 16 Safety Area Improvements at Drake Field; and approving a budget adjustment in the amount of \$183,700.00.

Resolution 204-07 as Recorded in the office of the City Clerk.

State Tax Back Incentive Program: A resolution certifying local government endorsement of business to participate in the tax back program (the Consolidated Incentive Act of 2003, Section 15-4-2706 (D)).

Resolution 205-07 as Recorded in the office of the City Clerk.

Rules of Order and Procedure: A resolution to amend the Rules of Order and Procedure of the Fayetteville Mayor/City Council to reschedule City Council meetings which fall on a holiday.

Resolution 206-07 as Recorded in the office of the City Clerk.

Carter & Burgess, Inc. Amendment No. 1: A resolution approving Contract Amendment No. 1 to the engineering contract with Carter & Burgess, Inc. in the amount of \$57,900.00 for additional engineering studies for the Lake Wilson Spillway Repair Project; and approving a budget adjustment to recognize the reimbursement from FEMA.

Resolution 207-07 as Recorded in the office of the City Clerk.

Zion Road Properties, LLC: A resolution to approve a settlement with Zion Road Properties, LLC in the amount of \$42,030.00 for right-of-way and easements; and establishing Zion Road Properties, LLC's maximum assessment for off-site improvements.

Resolution 208-07 as Recorded in the office of the City Clerk.

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

Presentations, Reports and Discussion Items:

Walton Arts Center Report – Terri Trotter

Curt Rom, a city appointed representative to the Walton Arts Center stated I am here on behalf of the Board of the Walton Arts Center and the staff of the Walton Arts Center as well as the other city representatives.

Anita Scism, CEO and President of the Walton Arts Center spoke on the operations of the Arts Center in the last year.

Alderman Thiel: Anita, are we going to get hard copies of this presentation?

Anita Scism: We can provide it to you.

Alderman Thiel: I would like that, thank you.

Curt Rom spoke on the future directions of the Arts Center from the Boards perspective. He discussed the various programs for the Walton Arts Center that they would like to see in the future.

Alderman Thiel: Curt, I know there are a lot of concerns from the public about the Performing Arts Center eventually being built somewhere else because of the limitation in space. You did mention possibly building a new facility if that is the way the study indicates. Has the board looked at whether or not there is space there to expand?

Curt Rom: The size of the hallway that we think we need would be somewhere in the range of 2,500 to 3,000 seats. That is the kind of answers that we hope to achieve in our second phase of the feasibility study. They will be able to look at the physical surroundings, the location and how that would be situated. We really need another performance space to expand our service to the audience.

Alderman Thiel: So there is going to be a lot of discussion about that probably.

Curt Rom: We hope that there is a lot of discussion. I assume that you will have your opportunity for input and make sure that your voice is heard.

Alderman Thiel: I think we should and I think the public will do that.

Alderman Cook: You were talking about active accounts that you have currently. Over the years how has that number changed? Has that grown because I know you want to step it up over the next three years? Has that been growing for you?

Terri Trotter, Vice President for External Affairs: It has grown in different ways, from 2000 until 2006 we grew by about 100% and we basically doubled from a little over 6,000 accounts to a little over 12,000. We saw a really big jump in 2003. Now that the programming grant happened we really want to broaden the reach that we are getting.

Alderman Cook: That other number, the 147,500 people that attended events in 2007, is that people that walk through the door or people that buy tickets?

Terri Trotter: That is people that walk through the door at all events. While we are talking about numbers let me clarify one because I know there was one that came up that was confusing. We served 85 schools last year and that is the total schools that we served. The goal that we have is for 100% school participation is Washington and Benton County Public schools. The overall number of schools that we are serving is larger but we are really focusing on Washington and Benton County. That's why those numbers did not seem to necessarily make sense.

Alderman Cook: I love the Walton Arts Center. I am looking forward to the conversation going forward and what can be done to keep the Walton Arts Center happy where they are and hopefully provide the space they need. It is really a valuable asset for Fayetteville and that area of town.

Alderman Rhoads thanked Mr. Rom for being the liaison for the board on behalf of the City. He stated I think you are doing a great job representing the City and reporting back to us. He stated the advent of the Walton Arts Center in Fayetteville Arkansas was probably one of the greatest things to happen to this city in the last 50 years. I would like to know what the City of Fayetteville can do to help the Walton Arts Center maintain its leadership in delivering cultural arts to Northwest Arkansas and do it in the City of Fayetteville. I can't express how strong I feel about the Walton Arts Center, where it's located, and what it means to Northwest Arkansas and specifically Fayetteville.

Curt Rom: I will take that back to the board; I don't have an answer right now outside of the fact that citizens of Fayetteville support us every time they walk through the door and participate in that program. I will take that to the Board. It might be a while before I get the answer to that and it might come out of our feasibility study but I appreciate that input and that request.

Alderman Allen: I consider the Arts Center to be the anchor of our City and I see our City and staff doing everything that we know to try to ensure that it stays here. We want it to stay here and we will do whatever it takes.

Curt Rom: Speaking as a private citizen in response to that I am a citizen that loves the arts and my involvement in the Walton Arts Center is spawned from the exact same kind of emotion and thoughts that you have. I know what a dynamic change it has brought to our community. I feel like I can take your interest back to the board and I will express them to the board.

Alderman Allen: Thank you very much.

Alderman Lucas: Please do because the Walton Arts Center is just a jewel in Fayetteville and we need to maintain it and do whatever we need to keep it that way. You not only reach the young children but you reach the University students as well and it's wonderful so whatever we can do, let us know.

Anita Scism: The consultants that are working on the feasibility study with us have been in town several times and a letter was sent to the Chancellor and the Mayor asking who their representatives would be from the City and the University to speak with the consultants. The Mayor is the representative for the City and the consultants have spoken with him, but if any of you are interested in doing so please let me know.

Vice Mayor Jordan: I would just like to add that we grew our children up going to the Walton Arts Center. It was a great facility for our children and us and it is a great asset to the City. Whatever it takes we will make sure you stay.

Curt Rom: Thank you for your time and interest tonight and thank you for support as citizens and as leaders in our community.

Unfinished Business:

Proposed 2008 Annual Budget & Work Program: A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting.*

Paul Becker, Finance and Internal Services Director: We have had several working sessions on the budget. The total budget is \$126.5 million. The General Fund budget of \$34.7 million is balanced after adjustments. This would take into consideration a change in the capital and operations split of the one penny sales tax that the City generates. There were some adjustments in the capital program to provide for that and some additional money's out of the Street Fund to keep the in house paving program in tact where it is now. Those are the general highlights. We have a work session scheduled for December 17th at 4:30 PM.

Alderman Allen: Right before coming to the meeting tonight I got a call from Dominic Swanfeld that made me cry because he is the current President of the Fraternal Order of Police. The Fraternal Order of Police has met and decided that they would like to give \$2,000 toward the outreach program for the Boys and Girls Club. I am so touched by the fact that they would do that and I wanted to announce that at the meeting tonight.

Alderman Thiel moved to table the resolution to the December 18, 2007 City Council meeting. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Ferrell** was absent.

New Business:

Bid # 07-69 Downing Sales and Service: A resolution awarding Bid # 07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division.

Vice Mayor Jordan: Alderman Ferrell was the one that pulled this from the Consent Agenda and he has asked us to table this until he can be here to discuss this issue.

Alderman Rhoads moved to table the resolution to the December 18, 2007 City Council meeting. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Ferrell** was absent.

Operations Management International, Inc. Amendment No. 15: A resolution approving Contract Amendment No. 15, which extends for one year the contract with Operations Management International (OMI) in the amount of \$6,797,685.28 for the operation, maintenance

and management of Fayetteville wastewater treatment facilities for 2008; and approving a 5% contingency in the amount of \$340,000.00.

David Jurgens, Water/Wastewater Director: This is the annual contract for operating our wastewater treatment facilities. It includes the Noland Plant, the West Plant, our 45 lift stations and the hay farm on the Noland Facility. It will include starting in May the Wetlands Facilities at the West Plant and also the industrial pretreatment for all our industrial users and the MPDS permit process. We have broken down within the document on page 12 in comparison of last year with this year and on page 13 in the contract or in the amendment we broke it down into separate programs. We are actually modifying the budget this year so instead of just being one program it's split by a functional area. Highlights are extending the contract for one year where the contract runs through 2009 but there is no appropriation approved for 2009. This is simply a 2008 appropriation. Staff recommends that because with the new plant is coming on line there are going to be so many changes in the next 18 months that we would be much better served to have continuity in the people that are doing the operations of the business.

David described the amendment.

Alderman Cook: I asked to pull this off of Consent. My main thing was at the Water and Sewer Committee we talked about this several times about when OMI's contract is up that we go out for RFP for services to run our wastewater system. I think it's fair to the taxpayers that we at least investigate and make sure that we are satisfied and that we are providing the best service at the best price for the citizens of Fayetteville.

David Jurgens: We have to in 2009, we have no choice. The intent is first to do the evaluation, we did it last year where we looked at city staff operating the plant. We were a very small amount less expensive per thousand gallons treated than the Rogers plant. So we will do first the evaluation of what does running this by contract bring to the City as strengths and what does doing it as City staff bring to us as strengths. We will do that analysis first in early 2009 and then if the decision is to go out for contract we would then do the request for proposal process for the contractor.

Alderman Thiel: You said we were doing an analysis to see whether this should be done in house or contracted out. Is that going to require the cost of the study?

David Jurgens: I was anticipating doing that with city staff where we would be looking at the strengths and weaknesses of both methods of operation.

Alderman Thiel: And comparing other cities and that sort of thing.

David Jurgens: Yes Ma'am. I don't want to spend money on a study for that frankly.

Alderman Thiel: I agree with Kyle that OMI has done an awfully good job since they have been there.

David Jurgens went on to speak about the great job that OMI has done thus far.

Alderman Thiel: Whenever we do look for outside contracts I think the quality we have is huge and that is going to have to be something we consider. I know price certainly does start factor in.

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

Resolution 209-07 as Recorded in the office of the City Clerk.

RZN 07-2781 Dandy: An ordinance rezoning that property described in rezoning petition RZN 07-2781, for approximately 0.55 acres, located ¼ mile north of North Street on the east side of Leverett from I-1, Heavy Commercial/Light Industrial, to RMF-24, Residential Multi-Family, 24 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the item.

Staff is recommending approval. We had no public comment and the Planning Commission recommended it unanimously.

Alderman Thiel: So what is the industrial area?

Jeremy Pate: Everything to the south of that property as you can see on the color maps.

Alderman Thiel: Is any of that being utilized as industrial?

Jeremy Pate: Part of it is the old Tune Concrete facility.

Jeremy Pate: It comes back along Scull Creek and back over to North Street. Most of the I-1 is the Tune Concrete facility. There is also the old car wash which is zoned I-1. There is a small SWEPCO facility where they store poles and transformers and other things like that.

Alderman Cook: I would like to go to the second reading and hold it there just to give comment for one round.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

RZN 07-2782 Sweetser: An ordinance rezoning that property described in rezoning petition RZN 07-2782, for approximately 0.95 acres, located at 2220 E. Huntsville from RSF-4, Residential Single Family, 4 units per acre, to R-O, Residential Office.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item.

Staff is recommending approval of the rezoning request. I believe the plan is to utilize the existing building and remodel that as an office facility. Although it would allow for some redevelopment on the site.

Alderman Thiel: I certainly support this. I have not had any negative calls and I don't think I would because this family has owned this property and property surrounding it for many years. I know the children are trying to utilize the property the best they can.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. **Alderman Ferrell** was absent.

Ordinance 5085 as Recorded in the Office of the City Clerk.

VAC 07-2758 Bittle: An ordinance approving VAC 07-2758 submitted by Alan Reid for property located at 2455 East Gentle Oaks Lane to vacate portions of the utility easements on the subject property, a total of 148 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item.

The property owner has agreed to pay for the relocation of that line and dedication of new easements for that line. We have a signed agreement with our Water and Sewer Division. Staff is recommending approval as did the Planning Commission 9-0.

Alderman Rhoads: I have heard nothing to the contrary on this and I hope we move it along.

Alderman Rhoads 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 Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Alderman Rhoads 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 Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 5086 as Recorded in the Office of the City Clerk.

VAC 07-2761 Roetzel: An ordinance approving VAC 07-2761 submitted by Mike and Julie Roetzel for property located at 1626 East Cypress, Lot 46 of Charleston Place Subdivision to vacate a portion of a utility easement on the subject property, a total of 0.09 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff recommends approval provided it is only the three feet as described and shown on Exhibit A and the Planning Commission also voted 8-0 to recommend approval.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 5087 as Recorded in the Office of the City Clerk.

Amend Chapter 174 Signs: An ordinance to amend § 174.10 (H) Monument Signs to reduce the side setback requirement from 25 feet to 10 feet in non-residential districts.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: Jeremy and I worked on this. We had a developer that came in and had a problem with a monument sign that they wanted to install. Because of the way the property lines lay the sign would have been down hill and not visible. Jeremy and I looked at this and tried to figure out what to do. Jeremy came up with the idea that I agreed with that in nonresidential areas we felt that you really didn't need to have such a far setback from the adjoining property line. We felt like in residential areas we still wanted to keep the 25' side setback. We felt like a monument sign which can be no higher than six feet and no bigger than 75 square feet that a 10' side setback from a property line would probably be alright and not be a hindrance on an adjoining property owner. So that is what we recommended.

Jeremy Pate: Notwithstanding this particular request, I think just in general citywide I believe that this is an appropriate action for the Council to consider. Our policy is to encourage monument signs and I believe the development community has really caught on to that because we offer incentives. I think this just does one more thing to offer an incentive for monument sign usage especially in commercial districts. We did feel it was important for those particular areas where as a commercial district is adjacent to a residential district to still offer the same protection that has always been offered with a 25' building setback. I think this is an important change. Jesse Fulcher who is my sign administrator and I have both signed on and agree with this change and we would recommend it to the Council.

Alderman Thiel: Right now it says it prohibits any monument signs on less than 50' frontage. How does this change that?

City Attorney Kit Williams: Because there wouldn't be 25' to the side setback on both sides. We have some lots that would prohibit any monument signs in our older areas of downtown.

Alderman Thiel: You don't think this is going to create a lot more monument signs than we really want downtown?

Jeremy Pate: I don't believe so. In most cases downtown you are going to be building it right up to the street anyway. In those cases where older structures are setback from the street it will allow the ability or a property owner to utilize that option as opposed to a pole sign and still be able to be visible from the right of way and the street.

Alderman Thiel: I know the sign ordinance is very near and dear to some of us. I really trust that the City Attorney wouldn't recommend anything and I know Jeremy wouldn't so I trust that this is a good thing. The Market Place Express would really like for us to expedite this motion.

Alderman Lucas: I want to thank the staff and Kit. These are things that improve our ordinances. I appreciate you finding these things and bringing them to us.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 5088 as Recorded in the Office of the City Clerk.

ADM 07-2837: City Owned Park Lands: An ordinance to recognize City owned park lands located in Washington County as being included in the Fayetteville City Limits in accordance with Arkansas State Statue 14-40-204.

City Attorney Kit Williams read the ordinance.

Tim Conklin: Under state law we are recognizing that this land is annexed into the City of Fayetteville.

Alderman Thiel: I feel like that if the City owns the property it makes sense that it is within the City limits.

Alderman Cook: It seems odd to go against our Annexation Policy but it makes sense to do this.

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

City Attorney Kit Williams read the ordinance.

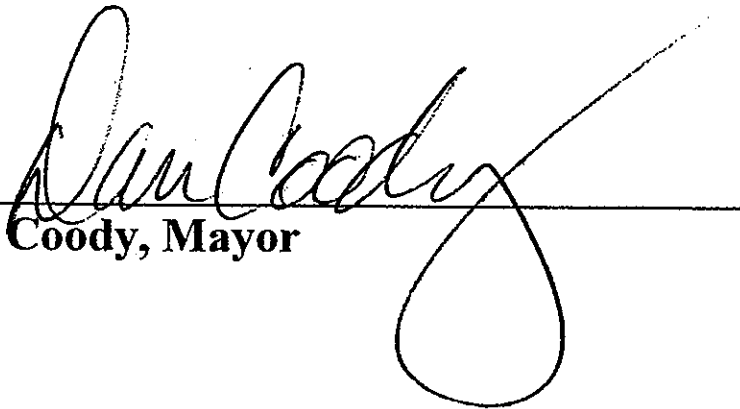
Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 5089 as Recorded in the Office of the City Clerk.

Adjournment: Meeting adjourned at 7:15 PM



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
December 18, 2007**

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

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

1. Nominating Committee Report

Agenda Additions:

A. Consent:

1. Approval of the November 20, 2007 and December 4, 2007 City Council meeting minutes.
2. **Bid # 07-74 Benchmark Construction of NWA, Inc:** A resolution awarding Bid # 07-74 and approving a contract with Benchmark Construction of NWA, Inc. in the amount of \$142,868.85 for development of David Lashley Park; and approving a project contingency in the amount of \$12,210.15.

3. **RFP # 07-17 RJR Enterprises, Inc:** A resolution awarding RFP # 07-17 and approving a contract with RJR Enterprises Inc. in the amount of \$196,000.00 for construction of improvements to Sweetbriar and Bryce Davis Parks; and approving a project contingency in the amount of \$12,000.00.
4. **HDR/EES, Inc:** A resolution approving an addendum to the engineering services contract with HDR/EES, Inc. in the amount of \$9,300.00 for completion of a comprehensive water and sewer rate study.
5. **Rausch Coleman Homes, LLC:** A resolution to approve the promotion of affordable housing agreement with Rausch Coleman Homes, LLC.

B. Unfinished Business:

1. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting. This resolution was Tabled at the December 4, 2007 City Council meeting to the December 18, 2007 City Council meeting.*
2. **Bid # 07-69 Downing Sales and Service:** A resolution awarding Bid # 07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division. *This resolution was Tabled at the December 4, 2007 City Council meeting to the December 18, 2007 City Council meeting.*
3. **RZN 07-2781 (Dandy):** An ordinance rezoning that property described in rezoning petition RZN 07-2781, for approximately 0.55 acres, located ¼ mile north of North Street on the east side of Leverett from I-1, Heavy Commercial/Light Industrial, to RMF-24, Residential Multi-Family, 24 units per acre. *This ordinance was left on the Second Reading at the December 4, 2007 City Council meeting.*

C. New Business:

1. **Wilson Estes Police Architects:** A resolution approving an addendum to the contract with Wilson Estes Police Architects in the amount of \$35,500.00 for services associated with gaining LEED Certification for the District Court and City Prosecutor Facility.
2. **RZN 07-2603: (Kooshesh):** An ordinance rezoning that property described in rezoning petition RZN 07-2603, for approximately 1.59 acres, located at 956 and 918 North 46th Avenue from R-A, Residential-Agricultural, to R-O, Residential Office.
3. **VAC 07-2804: (The City of Fayetteville):** An ordinance approving VAC 07-2804 submitted by City of Fayetteville for property located east of Leverett Avenue, south of Robinson Apartments and north of Leverett Townhomes to vacate a portion of an unused right-of-way and create a general utility easement on the subject property, a total of 9,802.11 square feet.

4. **VAC 07-2832: (Lots 6-9 Timberlake Office Park):** An ordinance approving VAC 07-2832 submitted by H2 Engineering for property located at Lots 6-9 of the Timberlake Office Park to vacate the erosion control easement on the subject property, a total of 1.83 acres.
5. **ADM 07-2849 (East Square Development):** An ordinance to waive Section 166.20 of the Unified Development Code and to extend the expiration date for C-PZD 05-1610 (East Square Development) to December 20, 2010.
6. **2008 CPI Residential Solid Waste Rate Adjustment:** An ordinance waiving the automatic annual price increase for residential trash service for fiscal year 2008.
7. **Gantert Family Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Gantert Family Trust.
8. **Bellafont Gardens POA Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Bellafont Gardens POA.

Announcements:

1. **City Council Tour: None**
2. **City Council Budget Working Session: December 17, 2007 at 4:30 PM in Room 326**

Adjournment:

AMENDMENT TO SERVICES AGREEMENT

The Services Agreement (hereinafter "Agreement") dated May 19, 2006 between the City of Fayetteville and HDR Engineering, Inc. (hereinafter "HDR") shall be amended and modified by this amendment (hereinafter "Amendment") as follows:

WHEREAS:

Under the Agreement, HDR is to provide professional services in connection with City of Fayetteville Water and Sewer.

City of Fayetteville desires to amend said Agreement to adjust contract price of agreement.

HDR is willing to amend the Agreement for said contract price adjustment as agreed upon by the parties.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, City of Fayetteville and HDR do hereby agree to amend the Agreement as follows:

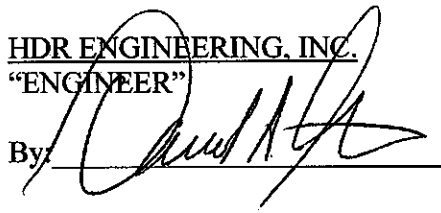
The Agreement and the terms and conditions therein shall remain unchanged except for the sections listed below:

"Compensation": Increased by \$9,300 for a not to exceed of \$107,790.

No cancellation, modification, amendment, deletion, addition, waiver or other change shall have effect unless specifically set forth in writing signed by the party to be bound thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year written below:

HDR ENGINEERING, INC.
"ENGINEER"

By: 

Name: David A. Peters

Title: Sr. Vice President

Date: 11/30/07

CITY OF FAYETTEVILLE
"OWNER"

By: _____

Name: _____

Title: _____

Date: _____

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 18, 2007**

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

Call to Order

Roll Call

Pledge of Allegiance

Agenda Session Presentations:

1. Walker Park Neighborhood Master Plan Presentation
2. Exceeding Expectations Award

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

A. Consent:

1. Approval of the November 20, 2007 and December 4, 2007 City Council meeting minutes.

2. **Bid # 07-74 Benchmark Construction of NWA, Inc:** A resolution awarding Bid # 07-74 and approving a contract with Benchmark Construction of NWA, Inc. in the amount of \$142,868.85 for development of David Lashley Park; and approving a project contingency in the amount of \$12,210.15.
3. **RFP # 07-17 RJR Enterprises, Inc:** A resolution awarding RFP # 07-17 and approving a contract with RJR Enterprises Inc. in the amount of \$196,000.00 for construction of improvements to Sweetbriar and Bryce Davis Parks; and approving a project contingency in the amount of \$12,000.00.
4. **Wilson Estes Police Architects:** A resolution approving an addendum to the contract with Wilson Estes Police Architects in the amount of \$35,500.00 for services associated with gaining LEED Certification for the District Court and City Prosecutor Facility.
5. **HDR/EES, Inc:** A resolution approving an addendum to the engineering services contract with HDR/EES, Inc. in the amount of \$9,300.00 for completion of a comprehensive water and sewer rate study.

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1. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting. This resolution was Tabled at the December 4, 2007 City Council meeting to the December 18, 2007 City Council meeting.*
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3. **RZN 07-2781 (Dandy):** An ordinance rezoning that property described in rezoning petition RZN 07-2781, for approximately 0.55 acres, located ¼ mile north of North Street on the east side of Leverett from I-1, Heavy Commercial/Light Industrial, to RMF-24, Residential Multi-Family, 24 units per acre. *This ordinance was left on the Second Reading at the December 4, 2007 City Council meeting.*

C. New Business:

1. **Rausch Coleman Homes, LLC:** A resolution to approve the promotion of affordable housing agreement with Rausch Coleman Homes, LLC.
2. **RZN 07-2603: (Kooshesh):** An ordinance rezoning that property described in rezoning petition RZN 07-2603, for approximately 1.59 acres, located at 956 and 918 North 46th Avenue from R-A, Residential-Agricultural, to R-O, Residential Office.

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4. **VAC 07-2832: (Lots 6-9 Timberlake Office Park):** An ordinance approving VAC 07-2832 submitted by H2 Engineering for property located at Lots 6-9 of the Timberlake Office Park to vacate the erosion control easement on the subject property, a total of 1.83 acres.
5. **ADM 07-2849 (East Square Development):** An ordinance to waive Section 166.20 of the Unified Development Code and to extend the expiration date for C-PZD 05-1610 (East Square Development) to December 20, 2010.
6. **2008 CPI Residential Solid Waste Rate Adjustment:** An ordinance waiving the automatic annual price increase for residential trash service for fiscal year 2008.
7. **Gantert Family Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Gantert Family Trust.
8. **Bellafont Gardens POA Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Bellafont Gardens POA.
9. **Deloris Mae Tuck Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Deloris Mae Tuck.
10. **Gary Combs, LLC Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Gary Combs, LLC.

Agenda Additions:

Announcements:

1. **City Council Tour: December 17, 2007**
2. **City Council Budget Working Session: December 17, 2007 at 4:30 PM in Room 326**

Adjournment:

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

18-Dec-07

City Council Meeting Date



Carole Jones/Connie Edmonston

Submitted By

Parks and Recreation

Division

Operations

Department

Action Required:

A resolution awarding Bid #07-74 and approval of a contract with Benchmark Construction of NWA, Inc. in the amount of \$142,868.85, with a 8.55% project contingency of \$12,210.15 for a total project cost of \$155,079 for the development of David Lashley Park.

\$155,079

Cost of this request

2250.9255.5806.00

4470.9470.5806.00

Account Number

02013.8

Project Number

\$175,500
\$20,000

Category/Project Budget

\$40,756

\$ -

Funds Used to Date

\$134,744

\$20,000

Remaining Balance

Neighborhood Park Development
Forestry, Safety and ADA

Program Category / Project Name

Park Improvements

Program / Project Category Name

Parks Development

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☒



Department Director

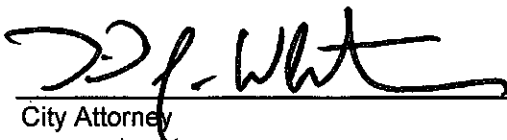
11-27-07

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:



City Attorney

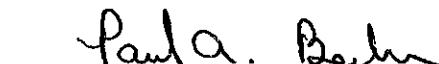
11/30/07

Date

Received in City Clerk's Office

ENTERED

11/28/07



Finance and Internal Service Director

12-3-07

Date

Received in Mayor's Office

ENTERED

11/30/07

BEP

Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
Connie Edmonston, Parks and Recreation Director
From: Carole Jones, Park Planner 
Date: November 27, 2007
RE: Construction of David Lashley Park

RECOMMENDATION

A resolution awarding Bid #07-74 and approval of a contract with Benchmark Construction of NWA, Inc. in the amount of \$142,868.85, with a 8.55% project contingency of \$12,210.15 for a total project cost of \$155,079 for the development of Phase I of David Lashley Park.

BACKGROUND

David Lashley Park contains 4.58 acres and is located at 4640 North Copper Creek Drive in the Copper Creek Subdivision. The park land is situated in the northeast quadrant of town east of Crossover Road (Arkansas Highway 265) and north of East Zion Road. The park serves residents within a ½-mile radius. Two public meeting were conducted to involve the neighborhood and assess the community's needs and desires for amenities within the park. Based on the findings, a park master plan that included playground equipment, pavilion, bicycle rack, picnic tables, benches, sidewalks, walking trails and tree plantings was designed by Park Staff and presented to the neighborhood. The plan was approved by the neighborhood on April 9, 2007.

On May 7, 2007, the Parks and Recreation Advisory Board approved the master plan and funding in the amount of \$67,500 from the Northeast Park District. The Parks and Recreation Advisory Board also agreed that the remaining funding would be provided from the Northeast Park District as well as \$20,000 from the Forestry, Safety and ADA Project.

The development of the park was also approved in the 2007 Capital Improvement Plan. Because of the associated cost, the development of this park was phased. Phase I includes the construction and installation of playground equipment for children ages 2-5 years and 5-12 years, a pavilion with two picnic tables, a bicycle rack, and associated sidewalks. The Parks and Recreation Division has already obtained the playground equipment which was purchased at 50% of the retail price by the City through a Game Time *Fighting Obesity Through Play* Grant (Ordinance No. 4951 – formerly referred to as Copper Creek Park).

DISCUSSION

The project was advertised on October 25 and November 1, and bids were opened on November 15, 2007. Four vendors including Benchmark Construction of NWA, Inc., Arkoma Playgrounds & Supply, Midland Construction and Décor Solutions submitted bids. Benchmark Construction of NWA, Inc. was the low bid in the amount of \$142,868.85. If approved, the construction of the project will begin in January 2008 and will be completed in May 2008.

BUDGET IMPACT

This project is funded with Park Land Dedication Funds from the Northeast Park District (\$135,079) and the Forestry, Safety and ADA Project (\$20,000). Total project cost including an 8.55 % contingency is \$155,079. The annual maintenance cost for the developed portion of park (2.0 acres) is anticipated to be \$4,030, and the annual maintenance cost for the undeveloped portion of park (2.58 acres) is anticipated to be \$535. This is a total anticipated annual maintenance cost of \$4,565 for 4.58 total acres.

Attachments:

PRAB Minutes May 7, 2007
Ordinance No. 4951 (formerly referred to as Copper Creek Park)
David Lashley Park (formerly Copper Creek) Master Plan
Bid Tabulation Sheet
Contract Signed by Contractor
Budget Adjustment
Purchase Requisition

RESOLUTION NO. _____

A RESOLUTION AWARDED BID #07-74 AND APPROVING A CONTRACT WITH BENCHMARK CONSTRUCTION OF NWA, INC. IN THE AMOUNT OF \$142,868.85 FOR DEVELOPMENT OF DAVID LASHLEY PARK; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$12,210.15.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby awards Bid #07-74 and approves a contract with Benchmark Construction of NWA, Inc. in the amount of \$142,868.85 for development of David Lashley Park. 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 \$12,210.15.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

Section 00 52 13

Agreement

BETWEEN CITY OF FAYETTEVILLE AND CONTRACTOR

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2007 by and between the City of Fayetteville, Arkansas (hereinafter called CITY OF FAYETTEVILLE) and Benchmark Construction of NWA, Inc. (herein after called CONTRACTOR).

CITY OF FAYETTEVILLE and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents.

The work generally consists of the construction of a neighborhood park consisting of a pavilion with picnic tables, play equipment, bike rack, sidewalks, earthwork, and concrete work for **Construction of David Lashley Park**; and all items indicated in the Drawings and Specifications.

Article 2. ENGINEER.

The Project has been designed by
City of Fayetteville Parks and Recreation Division
1455 South Happy Hollow Road
Fayetteville, Arkansas 72701

Will be hereinafter called PARKS AND RECREATION DIVISION PROJECT MANAGER and who is to act as CITY OF FAYETTEVILLE'S representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1 The Work for Construction of David Lashley Park shall be substantially completed within 100 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within 125 consecutive calendar days after the date when the Contract Time commences to run.

3.2 Liquidated Damages. CITY OF FAYETTEVILLE and CONTRACTOR recognize that time is of the essence of the Agreement and that CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, CITY OF FAYETTEVILLE and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY OF FAYETTEVILLE, CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

CITY OF FAYETTEVILLE shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents and amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1 For all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2 For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 4.2.

PAYMENT ITEMS

DESCRIPTION	UNIT	QTY.	UNIT PRICE	BID PRICE
Moblization (1)	L.S.	1.00	\$650.00	\$650.00
Construction Staking	L.S.	1.00	\$350.00	\$350.00
Site Preparation including Silt Fence, Tree Protection Fence, Concrete Waste Management and Construction Entrance (3)(5)	L.S.	1.00	\$4,800.00	\$4,800.00
Strip, Stockpile and Replace Topsoil (8)	Acre	1.50	\$3,120.00	\$4,680.00
Unclassified Excavation (2)	C.Y.	100.00	\$8.50	\$850.00
Imported Hillside Material -compacted in place (10)	C.Y.	100.00	\$13.00	\$1,300.00
Turf Type Fescue Blend and Straw (4)	Acre	1.00	\$3,120.00	\$3,120.00
Concrete Sidewalk (4" Thickness) (7)	S.Y.	140.00	\$45.00	\$6,300.00
Concrete Slab for Playground (4" Thickness) -complete in place (7)(11)	S.Y.	545.00	\$36.33	\$19,799.85
Rubber Safety Surfacing - Tiles complete in place(6)(9)(11)	S.F.	4,900.00	\$12.91	\$63,259.00
Play Equipment Installation - complete in place (6)*	L.S.	1.00	\$13,000.00	\$13,000.00
Concrete Slab for Pavilion (5" Thickness) -complete in place (7)	S.Y.	40.00	\$72.50	\$2,900.00
20' pavilion - complete in place (6)(9)	EA.	1.00	\$15,950.00	\$15,950.00
7' ADA Accessible Picnic Tables - complete in place (6)(9)	EA.	2.00	\$1,760.00	\$3,520.00
6' Benches - complete in place (6)(9)	EA.	2.00	\$1,110.00	\$2,220.00
Bike Rack - complete in place(6)(9)	EA.	1.00	\$170.00	\$170.00
*Play Equipment (Provided by the City of Fayetteville)				
TOTAL BID AMOUNT				\$142,868.85

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by PARKS AND RECREAQTION DIVISION PROJECT MANAGER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by PARKS AND RECREATION DIVISION PRPROJECT MANAGER as provide in the General Conditions.

5.1 Progress Payments. CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by PARKS AND RECREATION DIVISION PROJECT MANAGER, on or abut the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02. All such payments will be measured by the schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in case, less the aggregate of payments previously made and less such amounts as PARKS AND RECREATION DIVISION PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

90 percent of Work completed (with the balance of 10 percent being retainage), If Work has been 50 percent completed as

determined by the PARKS AND RECREATION DIVISION PROJECT MANAGER, and if the character and progress of the Work have been satisfactory to CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER, CITY OF FAYETTEVILLE, on recommendation of PARKS AND RECREATION DIVISION PROJECT MANAGER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to CITY OF FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as PARKS AND RECREATION DIVISION PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.2 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by PARKS AND RECREATION DIVISION PROJECT MANAGER as provided in said paragraphs 14.07.B & C.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce CITY OF FAYETTEVILLE to enter into this Agreement CONTRACTOR makes the following representations:

6.1. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents including "technical data.

6.2 CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, and furnishing of the Work.

6.3 CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

6.4 CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. CONTRACTOR accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.02 of the General Conditions.

CONTRACTOR acknowledges that such reports and drawing are not Contract Documents and may not be complete for CONTRACTOR'S purposes. CONTRACTOR acknowledges that CITY OF FAYETTEVILLE AND PARKS AND RECREATION DIVISION PROJECT MANAGER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5 CONTRACTOR is aware of the general nature of work to be performed by CITY OF FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

6.6 CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, exploration, tests, studies, and data with the Contract Documents.

6.7 CONTRACTOR has given PARKS AND RECREATION DIVISION PROJECT MANAGER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Document and the written resolution thereof by PARKS AND RECREATION DIVISION

PROJECT MANAGER is acceptable to CONTRACTOR and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between CITY OF FAYETTEVILLE AND CONTRACTOR concerning the Work consist of the following:

- 7.1 This Agreement (pages 1-8, inclusive).
- 7.2 Performance and Payment Bonds, (Exhibits A and B respectively).
- 7.3 Certificates of Insurance, (Exhibit C).
- 7.4 Documentation submitted by CONTRACTOR prior to Notice of Selection (Exhibit D).
- 7.5 General Conditions (pages 1 to 42, inclusive).
- 7.6 Supplementary Conditions (pages 1 to 13, inclusive).
- 7.7 Specifications consisting of Divisions 1 through 32 as listed in table of contents thereof.
- 7.8 One set of drawings (not attached hereto) consisting of: a cover sheet and additional sheets numbered two through ten with each sheet bearing the following general title: **David Lashley Park**.
- 7.9 The following which may be delivered or issued after the Effective Date of the agreement and are not attached hereto:
 - 7.9.1 Notice to Proceed
 - 7.9.2 All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 8. MISCELLANEOUS.

8.1 Terms used in the agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3 CITY OF FAYETTEVILLE and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

8.5 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.

8.6 Freedom of Information Act. City contract 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, 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 photocopying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and CONTRACTOR have signed this Agreement in quadruplicate. One counterpart each has been delivered to CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER, and two counterparts have been delivered to CONTRACTOR. All portions of the Contract Documents have been signed, initialed, or identified by CITY OF FAYETTEVILLE and CONTRACTOR or identified by PARKS AND RECREATION DIVISION PROJECT MANAGER on their behalf.

This Agreement will be effective on _____, 2007 (which is the Effective Date of The Agreement).

CITY OF FAYETTEVILLE:

CONTRACTOR

By: _____
Mayor

By: Stephen Smith, Pres.

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

*Attest Roger Ross

* If a Corporation, attest by the Secretary.

Address for giving notices

Address for giving notices

1142 N. FUTRALL DR.
FAYETTEVILLE, AR 72708

(If CITY OF FAYETTEVILLE is a public body, attach License No. _____ evidence of authority to sign and resolution or other documents Agent for service of process: authorizing execution of Agreement.

(If CONTRACTOR is a corporation, attach evidence of authority to sign.)

FAYETTEVILLE PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes May 7, 2007

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order by Chairman Wade Colwell at 5:33 P.M. on May 7, 2007 in Room 326 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

Present:

Parks and Recreation Advisory Board members Colwell, Biendara, Hatfield, Davis, Burke, and Bitler were present; Davidson and Mauritsen were absent. Park Staff Edmonston, Coles, Curry, Jumper, Thomas, Wright; Trail Coordinator Mihalevich and audience were in attendance.

1. Approval of April 2nd, 2007 PRAB Meeting Minutes

PRAB Motion: Davis moved to approve as written, and Bitler seconded the motion. Motion passed by voice vote of six approvals.

1A. Jim House, State House Representative, was a special attendee. He announced that Act 818 passed. Act 818 prohibits sexual offenders from living within 2000 feet from any City or State owned parks and youth centers. It goes into effect approximately July 31, 2007.

2. Lake Fayetteville Environmental Study Center Fishing Pier Request: Kevin Bennoch, Lake Fayetteville Environmental Study Center Science Teacher

Fayetteville and Springdale Public Schools are requesting to replace the observation / fishing pier by the Lake Fayetteville Environmental Study Center. The University of Arkansas Landscape Architecture class has consented to design and build the pier. Because this pier is used by the school system, as well as the public, Parks and Recreation Staff is requesting approval for the City of Fayetteville to commit to this project as well.

Bennoch says Fayetteville Public Schools wants to get rid of the pier, or replace it, because it is a safety hazard. He took an idea to Edmonston because the public uses it. Bennoch said Springdale and Fayetteville Public School Systems have pledged \$7,000 each to help replace the pier. The University of Arkansas will supply the design and construction labor. Bennoch is asking the Parks Recreation Division of the City of Fayetteville to match the \$7,000 pledge. December 1, 2007 is the estimated project completion date.

Davis asked if the project was not completed by the students, if the City was prepared to complete it. Coles answered that they were prepared to do so.

PRAB Motion: Davis moved to approve the pledge. Biendara seconded the motion. Motion passed by voice vote of 6-0-0. Davidson and Mauritson were absent.

3. Copper Creek Park Master Plan Approval: Kay Curry, Park Planner

Copper Creek Park land is located at 4640 North Copper Creek Drive and is adjacent to East Zion Road. Two public meetings were held for the development of this park on October 30, 2006 and April 9, 2007. At the first meeting, Parks and Recreation Staff discussed the neighborhood's desires for the future development of the park. From the information provided at this meeting, a master plan was designed incorporating the requested amenities. A second meeting was hosted on-site to present the plan to the neighborhood. At this meeting the master plan was approved by the neighbors with the following minor modifications:

- a) Picnic tables to be shifted away from the fence and clustered more to the center of their general location.
- b) The park bench located near the northern property line moved out from the fence.

The Master Plan includes a playground, pavilion, bike rack, benches, walking trail and a sidewalk connecting several of the amenities. The plan also calls for a park sign to be installed and for many trees throughout the park. However, the budget does not allow for all of the requested amenities. Based on priorities provided by the neighbors, Phase 1 will include a playground, pavilion and sidewalks. Other amenities will be installed if funds become available. Neighbors have expressed a desire to utilize private funds and donations for the installation of trees.

Scott Hancock, a resident on Copper Creek Drive said that the neighborhood is committed to find funds for trees. He said that he and Curry had discussed the park, and that the Parks staff is a pleasure to work with. He is concerned about the walkway, and would like to move it approximately 100 feet south of the proposed location so it will not block driveways.

Colwell was concerned about costs if walkway was moved. Davis was also concerned about cost if there is a change in plans.

Curry explained if we moved the sidewalk 100' over, there would be an additional sidewalk cost to commit to. She estimated it would be around \$1,500.

Hatfield suggested that Curry work with Transportation for a couple of "No Parking" signs.

Davis also liked the idea of the "No Parking" signs.

Biendara would like Curry to work up another drawing and present again.

Hancock said if cost was the issue that he and the neighbors would commit to the \$1,500 to move the walkway.

Biendara said cost was not the issue, but the location of the walkway was.

Davis said he would like the committee to approve, and allow the neighborhood and Staff work out the walkway issue.

Biendara said she wanted to vote for the master plan.

PRAB Motion: Colwell made a motion to approve the master plan and work on the issue with walkway. Hatfield seconded the motion. Motion passed 6-0-0. Davidson and Mauritsen were absent.

Copper Creek Park Land Naming Recommendation:

Please see attached document regarding David Lashley.

PRAB Motion: In accordance to the Naming of Park Facilities Policy, Park names are tabled until the next PRAB Meeting allowing for public input. Colwell motioned to table. Davis seconded it. Motion passed 6-0-0. Davidson and Mauritsen were absent.

4. Park Land Dedication Funding Request: Connie Edmonston, Parks & Recreation Director

Park Staff is requesting funding in the amount of \$67,500 from the Northeast Park District to assist in funding the park in the Copper Creek subdivision. Total cost of Phase I is \$197,677. The remaining deficit would be from the Northeast Park District as well as \$20,000 from the Forestry, Safety and ADA Project.

PRAB Motion: Burke motioned to approve. Davis seconded it. Motion passed 6-0-0. Davidson and Mauritsen were absent.

5. Park Land Dedication

Development Name:

Engineer:

Owner:

Location:

Park District:

Units:

Total Acres:

Land Dedication Requirement:

Alison Jumper, Park Planner

Holcomb Heights Ph. II

Appian Center for Design

Broyles Investments

West of Salem Road, North of Salem Park

NW

36 single family units

5.77 acres

.86 acres

A. 2
Bid # 07-74 Benchmark
Construction of NWA, Inc.
Page 16 of 22

Approval Signatures		Budget Office Use Only					
Requested By <u>Shirley Edwards</u>	Date <u>8-16-07</u>	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, Arkansas
Budget Adjustment Form**

A. 2
Bid # 07-74 Benchmark
Construction of NWA, Inc.
Page 17 of 22

Budget Year	Department: Operations	Date Requested	Adjustment Number
2007	Division: Parks & Recreation		
	Program: Parks Development Capital		

Project or Item Added/Increased: \$87,500 is requested in the Park improvements account in the David Lashley Park Project to fund the development of this neighborhood park.	Project or Item Deleted/Reduced: None. This adjustment is to recognize \$20,000 from the Forestry, Safety and ADA Compliance and \$67,500 in the Greenspace Fees NE revenue account.
--	--

Justification of this Increase: Funding will be used to develop David Lashley Park.	Justification of this Decrease: The Parks and Recreation Advisory Board on May 7, 2007 approved these funds for this project.
---	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Park improvements	2250	9255	5806	00	67,500	02013	8
Park improvements	4470	9470	5806	00	20,000	02013	8

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Greenspace Fees NE	2250	0925	4419	01	67,500		
Park improvements	4470	9470	5806	00	20,000	02045	1

Approval Signatures

Requested By:  Date: 8-16-07

Budget Office Use Only

Type: A B C D E

Budget Manager _____ Date _____

Posted to General Ledger
Initial _____ Date _____

Department Director _____ Date _____

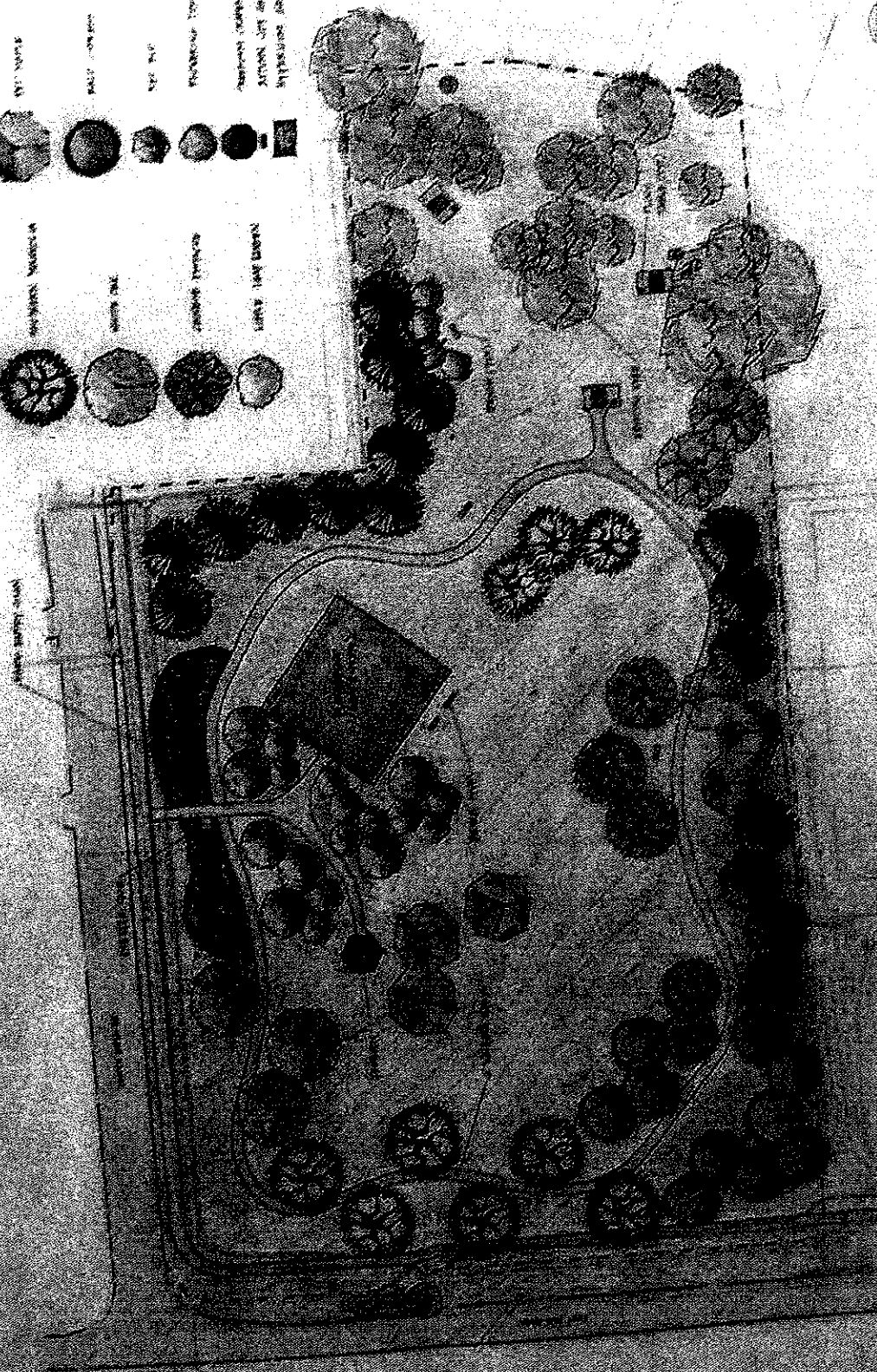
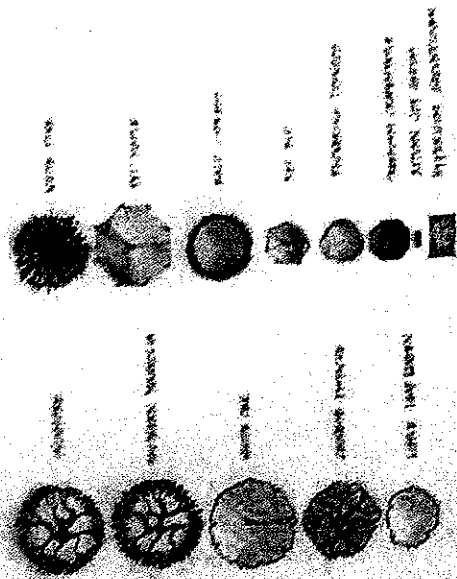
Posted to Project Accounting
Initial _____ Date _____

Finance & Internal Services Director _____ Date _____

Entered in Category Log
Initial _____ Date _____

Mayor _____ Date _____

City Of Fayetteville (Not a Purchase Order)										Requisition No.:	Date:	11/27/2007
										P.O Number:	Expected Delivery Date:	
Vendor #: _____ Vendor Name: Benchmark Construction of NWA, Inc.										Mail Yes: _____ No: _____		
Address: 333 West Poplar Street, Suite 'A'										Taxable Yes: ☒ No: _____	Quotes Attached Yes: _____ No: ☒	
City: Fayetteville State: AR										Division Head Approval:		
Requester: Carole Jones 										Ship to code: 75		
										Zip Code: 72701	Requester's Employee #: 3003	
										Fob Point:		
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #			
1	Construction of David Lashley Park	1	lot	122,868.85	\$122,868.85	2250.9255.5806.00	02013.8					
2		1		20,000.00	\$20,000.00	4470.9470.5806.00	02013.8					
3					\$0.00							
4					\$0.00							
5					\$0.00							
6					\$0.00							
7					\$0.00							
8					\$0.00							
9					\$0.00							
10					\$0.00							
Shipping/Handling			Lot		\$0.00							
Special Instructions:										Subtotal: \$142,868.85		
Tax is included per Bid # 07-74.										Tax: \$0.00		
										Total: \$142,868.85		
Approvals:										Purchasing Manager: _____		
Mayor: _____										IT Manager: _____		
Finance & Internal Services Director: _____										Other: _____		
Dispatch Manager: _____										Department Director: _____		
										Budget Manager: _____		
										Utilities Manager: _____		



COPPER CREEK CONCEPTUAL PLAN

**Bid 07-74, Construction of David Lashley Park
 Detailed Bid Tab: 11/15/07 - 2:00 PM, Central Standard Time**

				Benchmark Construction of NWA, Inc.		Arkoma Playground & Supply		Midland Construction		Dacor Solutions	
ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	BID PRICE	UNIT PRICE	BID PRICE	UNIT PRICE	BID PRICE	UNIT PRICE	BID PRICE
1	Mobilization (1)	L.S.	1.00	\$650.00	\$650.00	\$2,540.00	\$2,540.00	\$8,600.00	\$8,600.00	\$11,215.98	\$11,215.98
2	Construction Staking	L.S.	1.00	\$350.00	\$350.00	\$1,935.00	\$1,935.00	\$3,000.00	\$3,000.00	\$7,200.00	\$7,200.00
3	Site Preparation including Silt Fence, Tree Protection Fence, Concrete										
4	Strip, Stockpile and Replace Topsoil (8)	Acre	1.50	\$4,800.00	\$4,800.00	\$5,950.00	\$5,950.00	\$13,200.00	\$13,200.00	\$18,000.00	\$18,000.00
5	Unclassified Excavation (2)	C.Y.	100.00	\$2,120.00	\$4,680.00	\$2,133.33	\$3,200.00	\$8,400.00	\$12,600.00	\$5,277.00	\$7,915.50
6	Imported Fillside Material - compacted in place (10)	C.Y.	100.00	\$8.50	\$850.00	\$26.50	\$2,650.00	\$18.00	\$1,800.00	\$140.31	\$14,031.00
7	Turf Type Fescue Blend and Straw (4)	C.Y.	100.00	\$13.00	\$1,300.00	\$24.85	\$2,485.00	\$18.00	\$1,800.00	\$125.87	\$12,586.50
8	Concrete Sidewalk (4" Thickness) (7)	Acre	1.00	\$3,120.00	\$3,120.00	\$2,347.50	\$2,347.50	\$3,600.00	\$3,600.00	\$4,366.80	\$4,366.80
9	Concrete Slab for Playground (4" Thickness)	S.Y.	140.00	\$45.00	\$6,300.00	\$61.36	\$8,590.00	\$39.00	\$5,460.00	\$51.43	\$7,200.00
10	Rubber Safety Surfacing - Tiles complete in place (7X11)	S.F.	545.00	\$36.33	\$19,799.85	\$49.03	\$26,722.50	\$39.00	\$21,255.00	\$66.59	\$30,840.30
11	Play Equipment Installation - complete in place (6")	S.F.	4,900.00	\$12.91	\$63,259.00	\$9.67	\$47,397.07	\$10.00	\$49,000.00	\$11.67	\$57,187.76
12	Concrete Slab for Pavilion (6" Thickness) - complete in place (7)	L.S.	1.00	\$13,000.00	\$13,000.00	\$14,320.00	\$14,320.00	\$12,000.00	\$12,000.00	\$18,720.00	\$18,720.00
13	20' pavilion - complete in place (6'X9)	S.Y.	40.00	\$72.50	\$2,900.00	\$54.45	\$2,178.00	\$49.00	\$1,960.00	\$104.50	\$4,180.00
14	7' ADA Accessible Picnic Tables - complete in place (6'X9)	EA.	1.00	\$15,950.00	\$15,950.00	\$20,425.00	\$20,425.00	\$14,000.00	\$14,000.00	\$25,650.00	\$25,650.00
15	6' Benches - complete in place (6'X9)	EA.	2.00	\$1,760.00	\$3,520.00	\$1,289.94	\$2,579.88	\$1,550.00	\$3,100.00	\$825.40	\$1,650.79
16	Bike Rack - complete in place (6'X9)	EA.	2.00	\$1,110.00	\$2,220.00	\$1,020.00	\$2,040.00	\$2,000.00	\$4,000.00	\$1,135.00	\$2,269.99
*Play Equipment (Provided by the City of Fayetteville)					\$170.00	\$243.00	\$343.00	\$600.00	\$600.00	\$701.59	\$701.59
TOTAL BID AMOUNT				\$142,868.85		\$145,702.95		\$151,975.00		\$223,721.21	

Deductive Alternates:

D.1	7' ADA Accessible Picnic Tables - complete in place (6'X9)	EA.	2.00	\$1,500.00	\$3,000.00	\$1,289.94	\$2,579.88	\$1,550.00	\$3,100.00	\$0.00	\$0.00
D.2	20' pavilion - complete in place (6'X9)	EA.	1.00	\$14,500.00	\$14,500.00	\$20,425.00	\$20,425.00	\$13,000.00	\$13,000.00	\$0.00	\$0.00
D.3	Concrete Slab for Pavilion (6" Thickness) - complete in place (7)	S.Y.	40.00	\$55.00	\$2,200.00	\$54.45	\$2,178.00	\$49.00	\$1,960.00	\$0.00	\$0.00
DEDUCTIVE ALTERNATES TOTAL					\$19,350.00		\$25,182.88		\$18,060.00		\$0.00

CERTIFIED: P. Vice
 Peggy Vice, Purchasing Manager

A. Zoren
 WITNESS

11/16/07
 DATE

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

ORDINANCE NO. 4951

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING THE PURCHASE OF PLAYGROUND EQUIPMENT FROM GAMETIME BY SOUTHWEST PARKS & PLAYGROUNDS, L.P. IN THE AMOUNT OF \$85,161.00 FOR HARMONY POINTE AND COPPER CREEK PARKS.

WHEREAS, GameTime by SouthWest Parks & Playgrounds, L.P. has approved the Parks & Recreation Division for a *Fight Obesity Through Play* Grant, in the form of a fifty percent (50 %) price reduction for playground equipment; and,

WHEREAS, the equipment could not be obtained at this low a price through normal competitive bidding procedures; and,

WHEREAS, the normal competitive bidding process would not allow the City to realize the savings of \$72,299.00 to equip playgrounds at two new parks, and is therefore deemed unworkable, impractical and not feasible in this instance.

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

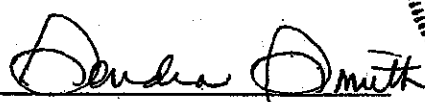
Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and therefore waives the requirements of formal competitive bidding for the purchase of playground equipment from GameTime by SouthWest Parks & Playgrounds, L.P. in the amount of \$85,161.00 for Harmony Pointe and Copper Creek Parks.

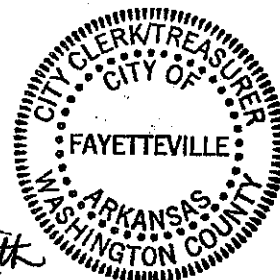
PASSED and APPROVED this 21st day of November, 2005.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



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

18-Dec-07

City Council Meeting Date

Alison Jumper *AS*
Submitted By

Parks and Recreation
Division

Operations
Department

Action Required:

A resolution awarding RFP# 07-17 and approval of a contract with RJR Enterprises, Inc. in the amount of \$196,000 with a 6.12% project contingency of \$12,000 for a total project cost of \$208,000 for Sweetbriar and Bryce Davis Park Improvements

\$208,000
Cost of this request
2250.9255.5806.00
4470.9470.5806.00
Account Number
02027.2, 02027.4
02045.2
Project Number

\$198,000
\$10,000
Category/Project Budget
\$196
Funds Used to Date
\$197,804
\$10,000
Remaining Balance

Playground and Picnic Improvements
Forestry, Safety and ADA
Program Category / Project Name
Parks Development
Sales Tax
Program / Project Category Name
Park Improvements
Park Improvements
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

[Signature]
Department Director 11-30-07
Date

Previous Ordinance or Resolution # 127-06, 20-07

Original Contract Date: _____

[Signature]
City Attorney 11/30/07
Date

Original Contract Number: _____

Paul A. Becker
Finance and Internal Service Director 11-30-07
Date

Received in Clerk's Office
ENTERED 11/30/07

[Signature]
Mayor 11/30/07
Date

Received in Mayor's Office
ENTERED 11/30/07 Bep

Comments:

City Council Meeting of December 18, 2007

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
Connie Edmonston, Parks and Recreation Director
From: Alison Jumper, Park Planner
Date: November 27, 2007
RE: RFP 07-17, Sweetbriar and Bryce Davis Park Improvements

RECOMMENDATION

A resolution awarding RFP #07-17 Sweetbriar and Davis Park Improvements to RJR Enterprises, Inc. in the amount of \$196,000 with a 6.12% project contingency of \$12,000 for a total project cost of \$208,000 for the construction of improvements in Sweetbriar and Bryce Davis parks.

BACKGROUND

On June 5, 2006, Parks and Recreation Staff met with citizens who expressed an interest in renovations occurring at Bryce Davis and Sweetbriar Parks. Residents wished to see the old playgrounds removed and replaced with newer, safer play structures. In addition, residents requested new picnic tables at Sweetbriar and for a second basketball area at Davis Park.

On August 1, 2006, City Council passed Resolution Number 127-06 authorizing Parks and Recreation to apply for a 50/50 matching grant from Arkansas Department of Parks and Tourism. This grant requires the City to keep these parks for outdoor recreational use in perpetuity. The grant was awarded in the amount of \$100,000 to the City. Resolution #20-07 to accept the grant was passed and approved on February 6th, 2007.

Arkansas Department of Parks and Tourism issued the Notice to Proceed on July 20, 2007 and a Request for Proposals was advertised on October 25th and November 1st, 2007 with a budget of \$196,000.

Funding will be used for playground replacement at Sweetbriar and Bryce Davis parks. Sweetbriar Park is a 4 acre park located at 2645 E. Sweetbriar Dr. in the northeast quadrant of the City. Bryce Davis Park is a 9.2 acre park located at 1595 N. Dartmouth Ave. in the northwest quadrant of the City. Outdated play equipment at both parks has been removed due to safety hazards.

DISCUSSION

Proposals were submitted by two venders, Arkoma Playground and Supply and RJR Enterprises, Inc. A selection committee was formed and met November 28th to review and select preferred playground designs for each of the parks. The committee selected RJR Enterprises's proposal. If approved, the construction of the projects will begin in January 2008 and will be completed in April 2008.

City Council Meeting of December 18, 2007

Agenda Item Number

BUDGET IMPACT

This project is funded with Parks Development Funds (\$98,000) and the Forestry, Safety, ADA Project (\$10,000) and the Arkansas Department of Parks and Tourism Outdoor Recreation Grant (\$100,000) . Total project cost including a 6.12 % project contingency is \$208,000. No additional maintenance costs are anticipated as these projects are replacing outdated play equipment.

Attachments:

Resolution 127-06

Resolution 20-07

Arkansas Department of Parks and Tourism Notice to Proceed

RFP 07-17-RJR Enterprises, Inc.

Contract Signed by Contractor

Purchase Requisition

RESOLUTION NO. _____

A RESOLUTION AWARDDING RFP #07-17 AND APPROVING A CONTRACT WITH RJR ENTERPRISES, INC. IN THE AMOUNT OF \$196,000.00 FOR CONSTRUCTION OF IMPROVEMENTS TO SWEETBRIAR AND BRYCE DAVIS PARKS; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$12,000.00.

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 awards RFP #07-17 and approves a contract with RJR Enterprises, Inc. in the amount of \$196,000.00 for construction of improvements to Sweetbriar and Bryce Davis parks. 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 \$12,000.00.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

RESOLUTION NO. 127-06

A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AN ARKANSAS PARKS AND TOURISM OUTDOOR RECREATION GRANT IN AN AMOUNT NOT TO EXCEED \$125,000.00 FOR IMPROVEMENTS TO SWEETBRIAR PARK, BRYCE DAVIS PARK AND GULLEY PARK.

WHEREAS, the City of Fayetteville, Arkansas seeks to improve recreation facilities and wishes to seek grant funding assistance; and,

WHEREAS, in order to obtain the funds necessary to develop and/or improve the site for such a recreation area, it is necessary to obtain a 50/50 Matching Grant from the Arkansas Department of Parks and Tourism's Outdoor Recreation Grant Program; and,

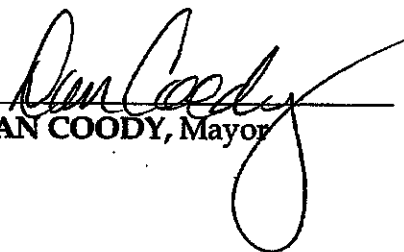
WHEREAS, the City Council of the City of Fayetteville, Arkansas understands the grantee and grantor will enter into a binding agreement which obligates both parties to the policies and procedures contained in the *Land and Water Conservation Fund Grants Manual* including, but not limited to the following: the park area defined by the project boundary map, submitted in the application, must remain in outdoor recreation use in perpetuity, regardless if the property is bought or developed with matching grant funds and; all present and future overhead utility lines within the project boundary must be routed away or placed underground and; the project area must remain open and available for use by the public at all reasonable times of the day and year; facilities can be reserved for special events, league play, etc. but cannot be reserved, leased, or assigned for exclusive use, and; the project area must be kept clean, maintained, and operated in a safe and healthful manner. The City Council of the City of Fayetteville, Arkansas is well aware and apprised of the above-mentioned project, and will provide the local portion of the development cost of the entire project.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to make application to the Arkansas Department of Parks and Tourism for assistance, in an amount not to exceed \$125,000.00, for improvements to Sweetbriar Park, Bryce Davis Park and Gulley Park. Therefore, such application shall be submitted as expediently as possible.

PASSED and APPROVED this 1st day of August, 2006.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



RESOLUTION NO. 20-07

A RESOLUTION AUTHORIZING THE PARKS AND RECREATION DIVISION TO ACCEPT AN ARKANSAS PARKS AND TOURISM OUTDOOR RECREATION 50/50 GRANT IN THE AMOUNT OF \$100,000.00 FOR IMPROVEMENTS TO SWEETBRIAR PARK, BRYCE DAVIS PARK AND GULLEY PARK; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE.

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

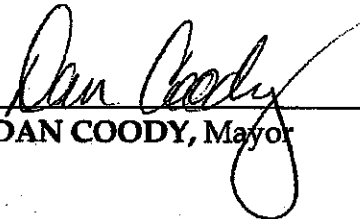
Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Parks and Recreation Division to accept an Arkansas Parks and Tourism Outdoor Recreation 50/50 Grant in the amount of \$100,000.00 for improvements to Sweetbriar Park, Bryce Davis Park and Gulley Park.

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 6th day of February, 2007.

APPROVED:

ATTEST:

By: 
DAN COODY, Mayor

By: 
SONDRA SMITH, City Clerk/Treasurer





**DEPARTMENT OF
PARKS & TOURISM**

1 Capitol Mall
Little Rock, AR 72201
501-682-7777
Arkansas.com

History Commission
501-682-6900 (V/T)
Ark-ives.com

Keep Arkansas
Beautiful Division
501-682-3507
KeepArkansasBeautiful.com

Personnel Section
501-682-7742 (V/T)

State Parks Division
501-682-1191 (V/T)
ArkansasStateParks.com

Tourism Division
501-682-7777 (V/T)

**Mike Beebe
GOVERNOR**

**Richard W. Davies
EXECUTIVE DIRECTOR**

**STATE PARKS,
RECREATION
& TRAVEL
COMMISSION**

Jay Bunyard
CHAIRMAN

Steve Arrison
VICE-CHAIRMAN

Bill Barnes

Danny Ford

Jim Gaslan

Darin Gray

Debra Haak

Bob Knight

Billy Lindsey

Monline McNully

Mike Mills

Ness Sechrest

Jim Shamburger

Wade Williams

DIVISION DIRECTORS

Larry Cargile
ADMINISTRATION

Greg Bulks

STATE PARKS

Joe David Rice

TOURISM

Nancy Clark

GREAT RIVER ROAD

Dr. Wendy Richler

HISTORY COMMISSION

Robert Phelps

KEEP ARKANSAS

BEAUTIFUL

**AN EQUAL
OPPORTUNITY/
AFFIRMATIVE ACTION/
AMERICANS WITH
DISABILITIES ACT
EMPLOYER**

Arkansas

THE NATURAL STATE

July 20, 2007

The Honorable Dan Coody
Mayor of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

RE: Project #A-10500-07-WA
Park Improvements at Sweetbriar
and Davis Parks

Dear Mayor Coody:

This letter serves as your Official Notification to Proceed. A copy of the contract agreement booklet is enclosed for your records. **Please retain this copy in the permanent files of the City of Fayetteville.** This booklet contains the Application Guide that was used to prepare your grant application, the Management Guide that outlines a summary of the regulations and procedures for administering your grant project, and a copy of the signed contract.

Part of our responsibility in administering Arkansas's Outdoor Recreation Grant Program is to inform and remind you of the federal Land and Water Conservation Fund program regulations that you have agreed to abide by in this contract. Listed below are some of those major responsibilities. Please re-read the enclosed documents carefully. If you have any questions concerning this information, please contact Bryan Kellar, Director, Outdoor Recreation Grants Program, at (501) 682-1301.

1. The Project site must be retained and maintained for outdoor recreation **in perpetuity**. This means that the land and facilities within the project boundary cannot be converted to uses other than outdoor recreation (i.e., no public, civic or private buildings such as a city hall, fire station, chamber of commerce, community center, etc.).
2. If the site is converted to some other use, it will have to be replaced entirely at your own cost with land and facilities of equal value and usefulness. Should the need for conversion ever arise, suitable replacement property will have to be approved by the Secretary of the Interior through this office, prior to any action taking place.

The Honorable Dan Coody

Page 2

July 20, 2007

3. All existing and future utility lines within the project boundary must be placed underground.
4. If you plan to add additional outdoor recreation facilities, please notify our office. Certain other facilities, such as local recreation centers may be eligible to be located within the project site. Please contact our office before making any improvements to the project site to determine what regulations apply.
5. A permanent LWCF/NCRGTF acknowledgment sign is required on all project sites. If, at any time, a new sign is needed, one is available "at cost" from this office.
6. If your project is locked at any time, you must post hours stating when the facility is open to the public. School-sponsored projects must display hours of public use.
7. All sites must comply with regulations under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, assuring access by the handicapped.
8. Your recreational facility must remain open to the general public and you must assure that no person is subjected to discrimination on the basis of race, color, or national origin.

Additionally, all grant recipients are required to follow the same bidding and purchasing procedures required by law of state agencies. These procedures are explained in the Management Guide which is part of the enclosed contract agreement booklet. I do not have the authority to waive or make exceptions to these procedures. Lately, several grantees have been denied grant reimbursements for failing to follow these procedures. Before advertising for bids or purchasing goods and services, make sure all procedures have been followed.

If I can provide you with any additional information, please feel free to contact me.

Sincerely,



Richard W. Davies
Executive Director

Enclosures

**CONTRACT AGREEMENT
STATE OF ARKANSAS
ARKANSAS DEPARTMENT OF PARKS AND TOURISM, LITTLE ROCK, ARKANSAS**

Applicant: City of Fayetteville

Project No. A-10500-07-WA

Project Title: Park Improvements at Sweetbriar and Bryce Davis Parks

Period Covered By This Agreement: Current date through June 30, 2008

Project Scope (Description of Project):

Sweetbriar Park

Removal of existing playground equipment and impact surfacing; grading and site preparation, picnic area and grill, ADA accessible parking and sidewalk; playground equipment for ages 2-12 including rubber tile impact surfacing. All park improvements will be furnished and installed by successful bidder.

Bryce Davis Park

Removal of existing playground equipment and impact surfacing; grading and site preparation, ADA accessible sidewalk; playground equipment for ages 2-5 including rubber tile impact surfacing; playground equipment for ages 5-12 including rubber tile impact surfacing; concrete half-court basketball court. All park improvements will be furnished and installed by successful bidder.

Project Costs:

Total Costs: \$200,000.00
Fund Support: \$100,000.00
Fund Amount: \$100,000.00

Attachments:

1. General Provisions

**2. 1 Land & Water Conservation Fund
Natural & Cultural Resources Grant Trust
Fund Project Management Guide**

**3. 1
Land & Water Conservation Fund/Natural
& Cultural Resources Grant Trust Fund
Application**

4. Attachment #1

**STATE OF ARKANSAS
ARKANSAS DEPARTMENT OF PARKS AND TOURISM
OUTDOOR RECREATION GRANTS PROGRAM**

STATEMENT OF AGREEMENT No. 2

Project No. A-10500-07-WA

The State of Arkansas, represented by the Executive Director, Arkansas Department of Parks and Tourism and the Applicant named above (hereinafter referred to as the Applicant) mutually agree to perform this agreement in accordance with the Land and Water Conservation Fund Act of 1965, 78 Stat. 897 (1964), and with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, and assurances attached hereto and hereby made a part hereof.

The State of Arkansas hereby promises, in consideration of the promises by the Applicant herein, to obligate to the Applicant the amount of money referred to above, and to tender to the Applicant that portion of the obligation which is required to pay the State of Arkansas share of the costs of the above project stage, based upon the above percentage of assistance, and also based upon receipt of those funds from Act 729 of 1987. The Applicant hereby promises, in consideration of the promises made by the State of Arkansas herein, to execute the project or project stage described above in accordance with the terms of this agreement.

The participant may not deviate from the scope of the project without the concurrence of the Arkansas Department of Parks and Tourism Executive Director. When one of the conditions in the agreement changes, such as change in the project scope, a revised estimate of costs, a deletion or additions of items, or a need to extend the project period, the participant will submit in writing a formal request to the Executive Director for its approval.

The following special project terms and conditions were added to this agreement before it was signed by the parties hereto:

(1) Historic Properties Preservation Act of 1966 (80 Stat. 915 16 U.S.C. 470), Executive Order 11593 (Protection and Enhancement of the Cultural Environment); (2) Uniform Relocation Assistance and Real Property Acquisition Policies (41 CFR 114-50) P. L. 91-646; (3) National Environmental Policy Act of 1969 (Public Law 91-190); (4) OMB Circular A-95; (5) Architectural Barriers Act of 1968 (P. L. 90-480); (6) Executive Order 12088 (Pollution Control); (7) Executive Order 1198 as amended (Floodplain Management); (8) OMB Circular A-102 (9) Executive Order 11246 as amended (Equal Employment Opportunity) 41 CFR Part 60; (10) Copeland "Anti-Kickback" Act (18 U.S.C. 874) DOL (29 CFR, Part 3); (11) Clean Air Act of 1970 (Construction Contract Amounts in Excess of \$100,000.00); (12) Nondiscrimination on the Basis of Handicap Section 504 Rehabilitation Act of 1973, DOL (43 CFR Part 17).

The Applicant agrees to comply with the requirements of the Arkansas Department of Parks and Tourism regulations by immediately erecting a project sign and by burying or relocating underground overhead lines at all development and acquisition project sites.

The applicant agrees to be responsible for operation and maintenance of said park in perpetuity.

The undersigned Applicant of the State of Arkansas does hereby agree and accept the same responsibility and obligations as set out in the herein described project and to the same extent and in the same manner, including all requirements, as does the State of Arkansas. The undersigned Applicant of the State of Arkansas further understands, agrees, and accepts that this project is not effective until this project agreement has been duly executed by the State of Arkansas and the said Applicant is notified accordingly: and no work shall be initiated and/or undertaken by said Applicant on the herein described project until it has received said notification by the State.

In witness whereof, the parties have executed this agreement as of the date entered below.

THE STATE OF ARKANSAS

APPLICANT

By


Executive Director
Arkansas Department of Parks & Tourism

City of Fayetteville

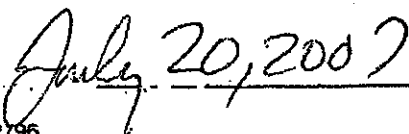
By


(Signature)

The Honorable Dan Coody, Mayor of Fayetteville

(Title)

Date


July 20, 2007

RFP 07-17, Sweetbriar and Bryce Davis Park Improvements
Proposal Form

Total price for this project shall not exceed \$196,000 which includes: required bonds and insurance; labor cost; equipment, materials and supplies; grading and site preparation; playground equipment and installation; playground concrete sub-base and surface tiles with installation; picnic tables, grill; sidewalks for ADA accessibility to the new amenities; striping for one ADA accessible handicap parking space; site restoration; shipping; and all applicable sales tax. In addition, the "Price per Proposal Specifications" is to include FOB to actual park project site in Fayetteville, AR and sales tax as regulated by the Arkansas Department of Finance Administration. Failure to meet this requirement could result in your proposal being rejected.

A.) PRICE PER PROPOSAL SPECIFICATIONS - \$ 76,000.00
SWEETBRIAR PARK IMPROVEMENTS

B.) PRICE PER PROPOSAL SPECIFICATIONS - \$ 120,000.00
BRYCE DAVIS PARK IMPROVEMENTS:

PRICE PER PROPOSAL SPECIFICATIONS: TOTAL (A+B) = \$ 196,000.00

NOTICE: Proposers bidding on both Sweetbriar and Bryce Davis can exceed individual estimates as long as the total of both parks does not exceed \$196,000.

CONTRACTOR'S NAME

RJR ENTERPRISES, INC.

CONTRACTOR'S LICENSE #

0093600408

CONTACT PERSON

RON BROWN

TITLE

PRES

ADDRESS

804 N 42ND STREET

ROGERS, AR 72756

TELEPHONE

479-621-3939 FAX 479-631-6574

EMAIL ADDRESS

RJBROWN@COK.NET

AUTHORIZED SIGNATURE

Ronald Brown

All inclusive proposals must be submitted no later than Friday, November 16th, 2007 at 2:00 PM. CST, to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked "RFP 07-17, Sweetbriar and Bryce Davis Park Improvements". Each bidder will be required to meet or exceed the specifications attached. Any deviation must be noted with specifications attached to bid. Questions related to

City of Fayetteville

RFP 07-17, Sweetbriar and Bryce Davis Park Improvements

Page 9 of 12

BRYCE DAVIS PARK IMPROVEMENTS

Project is estimated at \$120,000.

Tree Protection Fencing:	\$	<u>650.00</u>
Grading and Site Preparation: (Includes Erosion Control, Concrete Washout & Construction Entrance)	\$	<u>2,500.00</u>
Playground for Ages 2 - 5: (3,000 S.F.)	\$	<u>47,900.00</u>
Playground for Ages 5 -12: (2,158 S.F.) 1,700.00	\$	<u>13,000.00</u>
Surface Tiles: Sofsurfaces®SofTILE KrosLock® Interlocking tiles - Plus Series or approved equivalent	\$	<u>28,000.00</u>
Concrete Sub-base for Surface Tiles: (Complete in place)	\$	<u>16,000.00</u>
Site Prep and Installation of Sidewalk: (91 S.Y.) (4" thick)	\$	<u>3,000.00</u>
Installation of Concrete Half-court Basketball Court: (2,158 S.F.) (5" thick with Welded Wire Mesh)	\$	<u>9,000.00</u>
Site Restoration (Includes Seed/Straw):	\$	<u>950.00</u>
TOTAL COST:	\$	<u>120,000.00</u>

60900

RFP 07-17, Sweetbriar and Bryce Davis Park Improvements
Proposal Cost Breakdown

Note: Proposal may be rejected if all the information requested is not included in this package.

SWEETBRIAR PARK IMPROVEMENTS

Project is estimated at \$76,000.

Tree Protection Fencing:	\$	<u>350.00</u>
Existing Playground Removal:	\$	<u>150.00</u>
Grading and Site Preparation: (Includes Erosion Control, Concrete Washout & Construction Entrance)	\$	<u>3,150.00</u>
Playground for ages 2 - 12: (2,605 S.F.)	\$	<u>40,736.00</u>
Surface Tiles: Sofsurfaces®SofTILE KrosLock® Interlocking tiles - Plus Series or approved equivalent	\$	<u>15,120.00</u>
Concrete Sub-Base for Surface Tiles: (Complete in Place)	\$	<u>8,000.00</u>
Sidewalk and Picnic Pad: (129 S.Y.) (4" thick with fiber)	\$	<u>4,250.00</u>
Striping for (3) parking spaces and (1) ADA Accessible Parking Space:	\$	<u>395.00</u>
Two (2) - 7' Surface Mount Accessible Picnic Tables: (Includes installation.) Wabash Valley SY135P or approved equivalent	\$	<u>2,200.00</u>
One (1) Grill: (Includes installation.) Kay Park Recreation Model #SB1635F or approved equivalent	\$	<u>150.00</u>
Site Restoration (Includes Seed/Straw):	\$	<u>1,500.00</u>
TOTAL COST:	\$	<u>76,000.00</u>

RFP 07-17, Addendum 1



Date: Friday, November 09, 2007

To: All Prospective Vendors

From: Andrea Foren

RE: RFP 07-17, Sweetbriar and Bryce Davis Park Improvements

- **RFP 07-17, has the following modifications and clarifications:**

1. Contractors may choose to combine the play areas for ages 2-5 and 5-12 into one play area for Bryce Davis Park instead of providing two separate areas.

Please acknowledge receipt of this addendum (RFP 07-17, Addendum 1) by signing below, submitting this document as part of your proposal AND Faxing this document to (479)521-7714 immediately:

By: RONALD E BROWN
Printed Name

Signature: Ronald E Brown

Name of Firm: RJR ENTERPRISES, INC

Date: 10 / 9 / 07

CNA INSURANCE COMPANIES

BID BOND 15068711

KNOW ALL MEN BY THESE PRESENTS: That we R. J. R. Enterprises, Inc.

and WESTERN SURETY COMPANY

, Principal,
Surety, are held and firmly bound unto

City of Fayetteville

in the sum of

, Oblgee,

5% Amount of BidXXXXXXXXXXXX

Dollars (\$5% Amt of Bid)
for the payment of which we bind ourselves, our legal representatives, successors and assigns,
jointly and severally, firmly by these presents.

WHEREAS, Principal has submitted or is about to submit a proposal to Oblgee on a contract
for Sweetbriar Park and Bryce Davis Park Improvements

NOW, THEREFORE, if the said contract be awarded to Principal and Principal shall, within
such time as may be specified, enter into the contract in writing and give such bond or bonds as
may be specified in the bidding or contract documents with surety acceptable to Oblgee; or if
Principal shall fail to do so, pay to Oblgee the damages which Oblgee may suffer by reason of
such failure not exceeding the penalty of this bond, then this obligation shall be void; otherwise to
remain in full force and effect.

Signed, sealed and dated 11/15/07

R. J. R. Enterprises, Inc.

(Principal)

by

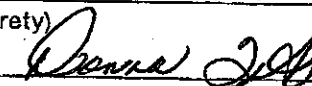


(Seal)

Western Surety Company

(Surety)

by



Donna Tito

Attorney-in-Fact

G-23054-C

Western Surety Company

A.3
RFP # 07-17 RJR Enterprises, Inc.
Page 16 of 28

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Brenda Lewis; Roland W Julian, Diana Ball, Cecil Bridgers, Christine Piker, Donna Tito, Adrian W Luttrell, Individually

of Rogers, AR, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 7th day of November, 2006.



WESTERN SURETY COMPANY

Paul T. Bruflat, Senior Vice President

State of South Dakota
County of Minnehaha

} ss

On this 7th day of November, 2006, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

November 30, 2012



D. Krell, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this _____ day of _____.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

ACORD CERTIFICATE OF LIABILITY INSURANCEOP ID JM
RJREN-1

07/02/07

PRODUCER Rogers Insurance Agency P.O. Box 2048 Rogers AR 72757-2048 Phone: 479-636-4551	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED RJR Enterprises, Inc. 804 North 42nd Street Rogers AR 72756	INSURERS AFFORDING COVERAGE INSURER A: The Barleysville Insurance Co INSURER B: Commerce & Industry Ins CO INSURER C: INSURER D: INSURER E:	NAIC #

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADPL	LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A				GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC	GL4J9678	07/01/07	07/01/08	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000	
A				AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS	BA4J9678	07/01/07	07/01/08	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$	
				GARAGE LIABILITY ☐ ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$	
A				EXCESS/UMBRELLA LIABILITY ☒ OCCUR ☐ CLAIMS MADE DEDUCTIBLE ☒ RETENTION \$ 0	BE4J9678	07/01/07	07/01/08	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$ \$	
B				WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WC3553796	09/14/06	09/14/07	☒ WC STATU-TORY LIMITS ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000	
A				OTHER Equipment rented/leased	GL4J9678	07/01/07	07/01/08	rented \$50,000 equip \$500 ded	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

COPY

CERTIFICATE HOLDER

KYLRE01

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



MARSH		CENTRAL LIFE INSURANCE		POLICY NUMBER	
152253-CAS-014-0508		08		CHL-00117835-02	
INSURED Marsh USA Inc. 800 Market Street, Suite 2600 St. Louis, MO 63101-2500 Attn: Kathy Seim		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE POLICY. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY DESCRIBED HEREIN.			
PLAYGROUND PlayPower, Inc. Miracle Recreation Equipment Co., Sell Play, LLC. E-Z Deck, Inc., PlayPower Expert, Inc., Kid Play, Inc. HACS PlayPower LT Farmington, Inc. 13820 East Reese Boulevard Suite 200		COMPANIES AFFORDING COVERAGE COMPANY A LIBERTY MUTUAL INSURANCE COMPANY COMPANY B TWIN CITY FIRE INS CO COMPANY C WAUSAU UNDERWRITERS INSURANCE CO COMPANY D NATIONAL UNION FIRE INS. CO. OF PITTSBURGH, PA			
THIS IS TO CERTIFY THAT POLICIES OF INSURANCE DESCRIBED HEREIN WERE ISSUED TO THE INSURED NAMED HEREIN FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THE CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, CONDITIONS AND EXCLUSIONS OF SUCH POLICIES. ACCIDENT LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR ☒ OWNERS & CONTRACTORS EXPLICIT \$10,000,000	EB1-641-004540-005	03/31/05	03/31/06	GENERAL AGGREGATE \$ 5,000,000 PRODUCTS-COMP/OP AGG \$ 5,000,000 PERSONAL & ADVERTISING \$ 1,000,000 EACH OCCURRENCE \$ 1,000,000 F&P DAMAGE (Any one leg) \$ 1,000,000 MED EXP (Any one person) \$ N/A
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☒ ALL OWNED AUTOS ☒ SCHEDULED AUTOS ☒ HIRE AUTOS ☒ NON-OWNED AUTOS ☒ \$1000 Comprehensive Ded. ☒ \$1000 Collision Ded. GARAGE LIABILITY ☐ ANY AUTO	03UENR19550 03UEN RZ1033	03/31/05 03/31/05	03/31/06 03/31/06	COMBINED SINGLE LIMIT \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per household) \$ PROPERTY DAMAGE \$ AUTO ONLY - FA ACCIDENT \$ OTHER THAN AUTO ONLY \$ F&P ACCIDENT \$ AGGREGATE \$
C	EXCESS LIABILITY ☒ UMBRELLA FORM OTHER THAN UMBRELLA FORM	BE2303590	03/31/05	03/31/06	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 SIR \$ 10,000
D	WORKERS COMPENSATION AND EMPLOYERS LIABILITY THE PROPRIETOR/ PARTNER/OF/RECIPIENT OFFICER/EMP	WCLJ-291-534835-054	07/01/04	07/01/05	☒ SCHEDULED TOY LIMITS ☐ OTHER FL EACH ACCIDENT \$ 1,000,000 FL DISEASE-POLICY LIMIT \$ 1,000,000 EL DISEASE-EACH EMPLOYEE \$ 1,000,000
DESCRIPTION OF OPERATION, LOCATION, VEHICLE & SPECIAL PERMS Re: PlayPower LT Farmington, Inc., formerly known as Little Tikes Commercial Play Systems. Subject to policy terms, conditions & exclusions, Kyle Recreation is included as Additional Insured to the above General Liability policy, only as required by contract, as respects the supply of playground equipment.					
VERIFICATION SIGNATURE Kyle Recreation Attn: Tom Kyle 8570 Central Road Little Rock, AR 72227					
ENDORSEMENT SHOULD ANY OF THE POLICIES DESCRIBED HEREIN BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE INSURER AFFORDING COVERAGE WILL ADVISE BY MAIL, 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN BUT FAILURE TO MAKE SUCH NOTICE SHALL IMPOSE NO OBLIGATION ON LIABILITY OF ANY AND UNDER THE INSURER AFFORDING COVERAGE, RE-ACCORD OR APPROPRIATE & ON THE LOSS OF THIS CERTIFICATE. MARSH USA INC. BY: Alfred A. Polerico <i>Alfred A. Polerico</i> VALID AS OF: 03/31/05					

A Division of
Newell Rubbermaid



commercial play systems

One Iron Mountain Drive
P.O. Box 897
Farmington, MO 63640-0897
(573) 756-4591
Fax: (573) 756-0319

February 14, 2003

LITTLE TIKES COMMERCIAL PLAY SYSTEMS INC.'S COMMITMENT TO THE ENVIRONMENT

We at Little Tikes Commercial Play Systems, are committed to protecting the environment for our most precious commodity...OUR CHILDREN.

In Little Tikes Commercial Play Systems' efforts to be part of the solution and not part of the problems we take environmental issues seriously. Through our product designs and material requirements we strive to provide our customers with a high percentage of environmentally friendly products that are made from pre-consumer, post-consumer and/or can be recycled after the products life cycle.

Little Tikes Commercial Play Systems Inc.'s product lines such as Kid Builders, Play Builders and MaxPlay will consist of a post-consumer content of 76.5 to 87%. The range reflects the play equipment installed with or without Little Tikes Commercial Play System's 100% post-consumer car tires recycled into Kid Tiles Playground Safety Surfacing. Pre-consumer material content usage 4 to 17%.

Total recycled material content 80.5 to 100%.

Pre-consumer and Post-consumer content use percentage is based on a yearly usage, individual components or models content percentage may vary.

Sincerely,

K. Michael Hayward
Director of External Services
Little Tikes Commercial Play Systems Inc.

License No. 0093500408

State of Arkansas

Contractors Licensing Board

RJR ENTERPRISES, INC.
804 N 42ND ST
ROGERS, AR 72756

This is to Certify That RJR ENTERPRISES, INC.

is duly licensed under the provisions of Act 150 of the 1965 Acts as amended
and is entitled to practice Contracting in the State of Arkansas within the
following classification:

LIGHT BUILDING

RESIDENTIAL

SPECIALTY

Institutional & Kitchen Equipment

Remodeling, Renovations, Restoration,
Alterations

with the following suggested bid limit \$500,000

from May 11, 2007 until April 30, 2008

when this Certificate expires.

Witness our hands of the Board, dated at North Little Rock, Arkansas:



Decil L. Malone

Ray [Signature]

CHAIRMAN

SECRETARY

May 11, 2007

little tikes

commercial play systems

CERTIFICATE OF COMPLETION

Presented to

Ron Brown

upon successful completion of the
LTCPS Play Equipment Installer's School
on

October 14, 1998 in Farmington, Missouri

Presented this fourteenth day of October 1998

David Jensen III
National Sales Manager

Valeria Callaway
Director of Training

City of Fayetteville

RFP 07-17, Sweetbriar and Bryce Davis Park Improvements Contract

This contract executed this ____ day of _____, 2007, between the City of Fayetteville, Arkansas, 113 W Mountain, Fayetteville, Arkansas, 72701 and RJR Enterprises, Inc. at 804 N. 42nd Street Rogers, Arkansas 72756.

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. RJR Enterprises, 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 as stated in RJR Enterprises, Inc. proposal, and in accordance with specifications attached hereto and made a part hereof under RFP# 07-17, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay for completion of the project based on prices indicated in RJR Enterprises, Inc. proposal. Payments will be made after approval and acceptance of work and submission of invoices. Payments will be made approximately 30 days after receipt of invoice.
3. The Work for Sweetbriar and Davis Park Improvements Construction shall be substantially completed within 90 consecutive calendar days from issuance of Notice to Proceed and completed and ready for final payment 25 days consecutive calendar days thereafter.
4. Liquidated Damages. CITY OF FAYETTEVILLE and RJR Enterprises, Inc. recognize that time is of the essence and that CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3 above. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, CITY OF FAYETTEVILLE and RJR Enterprises, Inc. agree that as liquidated damages for delay (but not as a penalty) RJR Enterprises, Inc. shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if RJR Enterprises, Inc. shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3 for completion and readiness for final payment or any proper extension thereof granted by CITY OF FAYETTEVILLE, CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3 for completion and readiness for final payment.

3. The Contract documents which comprise the contract between the City of Fayetteville and RJR Enterprises, Inc. consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Form identified as RFP# 07-17 with the specifications and conditions typed thereon.
 - B. RJR Enterprises, Inc. proposal.
 - C. The Notice to Prospective Proposers.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and RJR Enterprises, Inc. and may be modified only by a duly executed written instrument signed by the City of Fayetteville and RJR Enterprises, Inc.
5. RJR Enterprises, Inc. shall not assign its duties under the terms of this agreement.
6. RJR Enterprises, 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 RJR Enterprises, 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. RJR Enterprises, 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, RJR Enterprises, 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.
 1. Workmen's Compensation:
Statutory Amount
 2. Comprehensive General & Automobile Insurance
\$500,000 for each accident.
 3. Bodily Injury Liability:
\$500,000 for each accident.
 4. Property Damage Liability:
\$500,000 aggregate.

The premiums for all insurance required herein shall be paid by RJR Enterprises, Inc..

8. RJR Enterprises, 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 RJR Enterprises, 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 copying 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 Fayetteville City Council **in advance** of the change in scope, cost or fees.
12. Jurisdiction: Legal jurisdiction to resolve any disputes must be **Arkansas** with **Arkansas law** applying to the case.
13. Arbitration/Mediation: We will not agree to be forced to mediate or arbitrate any dispute.
14. Interest charges for late payments by the City: The City of Fayetteville does NOT agree to any interest or penalty for "untimely" payments.
15. Lien Waivers: The contractor shall ensure that the City of Fayetteville receives lien waivers from all material suppliers, subcontractors, and sub-subcontractors. The contractor shall give written notice to the material suppliers, subcontractors and sub-subcontractors providing work on the project that states the following:

'According to Arkansas law, it is understood that no liens can be filed against public property if a valid and enforceable payment and performance bond is in place.

The contractor shall have each subcontractor and sub-subcontractor and material supplier execute a written receipt evidencing acknowledgement of this statement prior to commencement of the work of the subcontractor or material supplier.

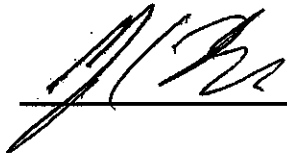
WITNESS OUR HANDS THIS _____ DAY OF _____, 2007.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

BY _____
DAN COODY, Mayor

ATTEST:

Sondra Smith, City Clerk



BY Ryan L. Brown Vice-President
PRINTED NAME AND TITLE

ATTEST: COMPANY SECRETARY

BUSINESS ADDRESS

804 N. 2nd St. Rogers, Ar 72756

City Of Fayetteville

(Not a Purchase Order)

Requestion No.:		Date: 11/27/2007	
P.O Number:		Expected Delivery Date:	
Vendor #: 8493	Vendor Name: RJR Enterprises, Inc.	Mail Yes: No:	No:
Address:	804 N. 42nd St.	Taxable Yes: No:	Quotes Attached Yes: No:
City: Rogers	State: AR	Division Head Approval: <i>[Signature]</i>	
Requester: Alison Jumper	Requester's Employee #: 2369	Extension:	
Item	Description	Quantity	Unit of Issue
1			
2	Sweetbriar and Bryce Davis Improvements per RFP # 07-17	1	L.S
3		1	L.S
4		1	L.S
5		1	L.S
6			
7			
8			
9			
10			
	Shipping/Handling		Lot
Special Instructions:			
Subtotal:		\$208,000.00	
Tax:			
Total:			
Purchasing Manager:		IT Manager:	
Other:		Department Director:	
Finance & Internal Services Director:		Budget Manager:	
Dispatch Manager:		Utilities Manager:	

City of Fayetteville Staff Review Form

A. 4
Wilson Estes Police Architects
Page 1 of 6

12/18/2007

City Council Meeting Date
Agenda Items Only

Coy Hurd

Submitted By

Building Services

Division

Operations

Department

Action Required:

The action required is for the Fayetteville City Council to consider and approve this addendum (in the amount of \$35,500) to the design contract of Wilson Estes Police Architects, and, to authorize the Mayor to sign the attached document. Please note the attached memorandum.

\$ 35,500.00

Cost of this request

\$ 3,735,841.00

Category / Project Budget

District Court/Prosecutor Facility

Program Category / Project Name

4470.9470.5314.03

Account Number

\$ 497,634.48

Funds Used to Date

Other Capital Improvement Fund

Program / Project Category Name

04008-1

Project Number

\$ 3,238,206.52

Remaining Balance

Sales Tax Capital Improvement Fund

Fund Name

Budgeted Item ☒Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Received in City
Clerk's Office

ENTERED

11/26/07

Received in
Mayor's Office

ENTERED

11/27/07

Mayor

Date

Comments:

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Mayor Dan Coody and the Fayetteville City Council

THROUGH: Gray Dumas, Director of Operations 

FROM: Coy Hurd, Building Services Director 

RE: Contract Addendum, Wilson Estes Police Architects

DATE: November 30, 2007

Recommendation

Staff recommends that the City Council consider and accept a contract addendum to the Wilson Estes Police Architects' contract to design the District Court and City Prosecutor Facility. The proposed addendum is in the amount of \$35,500, and would be added to the present contract of \$264,300 (plus reimbursable expenses).

Background

On October 2, 2007, the Fayetteville City Council passed a resolution declaring that future city buildings (5,000 square feet and larger) would be LEED certified. The District Court and City Prosecutor Facility will be the first city-owned building bid and constructed after this resolution became effective.

Discussion

Because of the extra work needed to design a LEED building, provide cost/benefit analysis, commission the building's systems, provide needed process documentation, and, register the project with the certifying organization, Wilson Estes Police Architects requests additional compensation. When Wilson Estes' original contract was negotiated, LEED certification was not in their scope of work. Staff has negotiated the additional amount of \$35,500 for the LEED associated work, and submits that this amount is fair and equitable compensation for this additional needed work.

Memo of 11/30, page two

Budget Impact

Current design contract:	\$264,300
Proposed LEED design addendum:	35,500
Proposed revised contract amount:	\$299,800

The design effort for the District Court and City Prosecutor Facility (formally known as the Joint Public Safety Command Center) is included in the adopted *Five Year Capital Improvements Program (2006 – 2010)*.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN ADDENDUM TO THE CONTRACT WITH WILSON ESTES POLICE ARCHITECTS IN THE AMOUNT OF \$35,500.00 FOR SERVICES ASSOCIATED WITH GAINING LEED CERTIFICATION FOR THE DISTRICT COURT AND CITY PROSECUTOR FACILITY.

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 Addendum to the Contract with Wilson Estes Police Architects in the amount of \$35,500.00 for services associated with gaining LEED Certification for the District Court and City Prosecutor Facility. A copy of the Addendum, 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 the attached Addendum.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

Wilson Estes Police Architects



5799 Broadmoor
Suite 520
Mission, Kansas 66202
www.policearchitects.com

October 2, 2007

Att.: Coy Hurd
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Coy,

In accordance with all other terms and conditions of the current agreement with the City of Fayetteville under the AIA Standard Form of Architect's Services dated June 23, 2005, Wilson Estes Police Architects propose to provide the following Additional Services:

Provide comprehensive services for the design and construction documentation to achieve LEED silver certification for the Fayetteville District Court and Prosecutor's office. The scope of work shall include the addition of sustainable design engineering, cost benefit analysis, building systems commissioning, LEED required process documentation, and all fees necessary for project registration with USGBC and certification review.

Compensation for the above stated scope of services shall be a Guaranteed Fixed Fee of \$35,500.

Architect:

James Estes, Vice- President
Wilson Estes Police Architects

City:

Dan Coody, Mayor

Attest

Sondra Smith, City Clerk

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

18-Dec-07
City Council Meeting Date

David Jurgens/Paul Becker
Submitted By

Water and Wastewater Director
Division

Water/Wastewater/FISD
Department

Action Required:

Approval of a contract addendum to the engineering services contract with HDR/EES, Inc., in the amount of \$9,300.00, for completion of a comprehensive water and sewer rate study.

\$11,161,995.00

Cost of this request

\$

93,935

Category / Project Budget

Water/Sewer Rate Review & Analysis

Program Category / Project Name

5400-1840-5314.00

Account Number

\$

54,935

Funds Used to Date

Meter Capital

Program / Project Category Name

06010

Project Number

\$

39,000

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item

XX

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution # 90-06

Original Contract Date: 5/16/2006

Original Contract Number: 1039

City Attorney

Date

Received in City Clerk's Office

ENTERED
11/30/07

Finance and Internal Service Director

Date

Received in Mayor's Office

ENTERED
11/30/07

Mayor

Date

Comments:



City Council Meeting of December 18, 2007

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee

A handwritten signature in black ink, appearing to read "D. Jurgens", written over the "From:" line.

Date: 31 November 2007

Subject: Approval of a contract addendum to the engineering services contract with HDR/EES, Inc., in the amount of \$9,300.00, for completion of a comprehensive water and sewer rate study

RECOMMENDATION

City Administration recommends approval of a contract addendum to the engineering services contract with HDR/EES, Inc., in the amount of \$9,300.00, for completion of a comprehensive water and sewer rate study. Funds are available within the project budget.

BACKGROUND

HDR has been conducting an in-depth water and sewer rate study for the City of Fayetteville. This study has resulted in a detailed cost of service evaluation that is allowing the City leadership to evaluate water and sewer rates in a complete break from previous methodologies used. It has also created opportunities for more flexibility in rates, whereby they can be applied more accurately to different customer groups. The original contract was approved on May 19, 2006, in the amount of \$98,490.00.

DISCUSSION

The cost of service study, with the ability to allocate costs across various customer groups based on the actual costs of providing the service to that group, has generated a great deal of discussion about the philosophy of applying rates to different customer classes. As a result, the consultant has needed to make more presentations to staff and the Water/Sewer Committee than were included in the original contract.

This addendum for \$9,300 allows for three additional trips for Water/Sewer and/or City Council meetings, at a rate of \$3,100 per trip. This is consistent with the original contract, and takes the total contract amount to \$107,790; the City will only be billed for trips actually required.

BUDGET IMPACT

No contingency was approved with the original contract, but \$39,000 remains and is available within the project budget. This expenditure will leave a balance of \$29,700.

RESOLUTION NO. _____

**A RESOLUTION APPROVING AN ADDENDUM TO THE
ENGINEERING SERVICES CONTRACT WITH HDR/EES, INC.
IN THE AMOUNT OF \$9,300.00 FOR COMPLETION OF A
COMPREHENSIVE WATER AND SEWER RATE STUDY.**

**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 Addendum to the Engineering Services Contract with HDR/EES, inc. in the amount of \$9,300.00 for completion of a comprehensive water and sewer rate study. A copy of the Addendum, 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 the attached Addendum.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

AMENDMENT TO SERVICES AGREEMENT

The Services Agreement (hereinafter "Agreement") dated May 19, 2006 between the City of Fayetteville and HDR Engineering, Inc. (hereinafter "HDR") shall be amended and modified by this amendment (hereinafter "Amendment") as follows:

WHEREAS:

Under the Agreement, HDR is to provide professional services in connection with City of Fayetteville Water and Sewer.

City of Fayetteville desires to amend said Agreement to adjust contract price of agreement.

HDR is willing to amend the Agreement for said contract price adjustment as agreed upon by the parties.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, City of Fayetteville and HDR do hereby agree to amend the Agreement as follows:

The Agreement and the terms and conditions therein shall remain unchanged except for the sections listed below:

"Compensation": Increased by \$9,300 for a not to exceed of \$107,790.

No cancellation, modification, amendment, deletion, addition, waiver or other change shall have effect unless specifically set forth in writing signed by the party to be bound thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year written below:

HDR ENGINEERING, INC.
"ENGINEER"

CITY OF FAYETTEVILLE
"OWNER"

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



ONE COMPANY | *Many Solutions*

November 29, 2007

Ms. Rainy Laycox
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Subject: Water and Sewer Rate Study Contract Addendum

Dear Rainy:

HDR Engineering, Inc. (HDR) was retained by the City of Fayetteville (City) to conduct a comprehensive water and sewer rate study. As you know, we are nearing the completion of this study but potentially still have a series of public meetings to complete and finalize the study. The original contract budget for the study and these meetings have been expended by the prior meetings held with the Water and Sewer Commission. Therefore, HDR is respectfully requesting a contract addendum in the amount of \$9,300.00 to conduct these final meetings. This amount is intended to cover both labor and expenses associated with preparing handout materials for the presentations, attending the meeting/presentation and any associated travel-related expenses.

It has been assumed that a total of three additional public meetings will be required. Specifically, these meetings will be as follows:

- Water and Sewer Commission Meeting (Dec. 19th) – Select final rate designs for presentation to the City Council.
- Fayetteville City Council (date to be determined) – Presentation of the comprehensive water and sewer rate study
- Fayetteville City Council (date to be determined) – Public Hearing on the proposed rates

HDR Engineering, Inc.

500 108th Avenue NE
Suite 1200
Bellevue, WA 98004-5549

Phone: (425) 450-6200
Fax: (425) 453-7107
www.hdrinc.com

Ms. Rainy Laycox
November 29, 2007
Page 2 of 2

It is further assumed that the cost of each meeting is as follows:

Labor (Preparation/Meeting)	10 Hrs. @ \$215/hr	\$2,150.00
Airfare		500.00
Car Rental		100.00
Hotel		150.00
Meals		50.00
Misc. Expenses (copes, phone, technology charges, etc.)		<u>150.00</u>
Grand Total Per Meeting		\$3,100.00

Given the assumed three (3) additional meetings, the total requested addendum is \$9,300.00. In making this request, HDR will only bill the City for the number of meetings presented. Similar to the existing contract, HDR would propose to bill the City on a fixed fee basis of \$3,100.00 per meeting.

Should this contract addendum be acceptable, please sign two copies and return them to me for final signature. This signature provides us with written notification of your agreement to this addendum and terms and conditions.

Should you have any questions about this invoice, please do not hesitate to contact me. Thanks again for the opportunity to provide assistance to the City.

Sincerely,

HDR ENGINEERING, INC.



Tom Gould
Vice President

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

11/20/2007

City Council Meeting Date

Kevin Springer

Submitted By

Budget & Research

Division

Finance & Internal Services

Department

Action Required:

Approve a resolution adopting the Proposed 2008 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. Behn
Department Director

11-7-07
Date

Previous Ordinance or Resolution #

Original Contract Date:

DDF-Whit
City Attorney

11/07/2007
Date

Original Contract Number:

Paul A. Behn
Finance Director

11-7-07
Date

Received in City Clerk's Office

ENTERED

11/7/07

Don Cook
Mayor

11/2/07
Date

Received in Mayor's Office

Comments:

Tabled to Dec. 18, 2007 12/4/07
Tabled to Dec. 4, 2007 11/20/07

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

FROM: Paul A. Becker, Finance Director *PAB.*
Kevin Springer, Budget Manager

DATE: November 7, 2007

SUBJECT: **Proposed 2008 Annual Budget & Work Program**

Recommendation:

Consider the Proposed 2008 Annual Budget & Work Program for adoption by the December 18, 2007 City Council meeting.

Discussion:

The Proposed 2008 Annual Budget & Work Program will be distributed to City Council on Tuesday, November 13, 2007. Listed below is a schedule of hearing dates for the Proposed 2008 Annual Budget & Work Program.

Date	Budget Meeting/ Location
Tuesday, November 13, 2007	<i>Distribution of the Proposed 2008 Budget City Council Agenda Session, Room 326</i>
Tuesday, November 20, 2007	City Council Meeting <i>Room 219</i>
Tuesday, November 27, 2007	Outside Agency Presentations (agenda session) <i>Room 326</i>
Tuesday, December 4, 2007	City Council Meeting <i>Room 219</i>
Tuesday, December 18, 2007	City Council Meeting <i>Room 219</i>

If you have any questions concerning the Proposed 2008 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 2008 ANNUAL BUDGET AND
WORK PROGRAM AS APPROVED AND AMENDED.**

**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 2008 Annual Budget & Work Program as approved and amended. A copy of the Amended Budget, marked Exhibit "A" is attached hereto and made a part hereof.

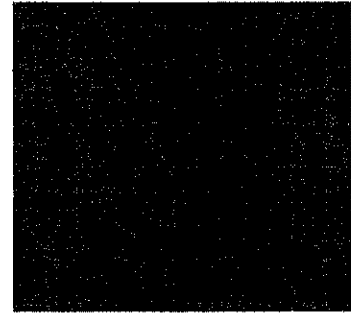
PASSED and APPROVED this 20th day of November, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

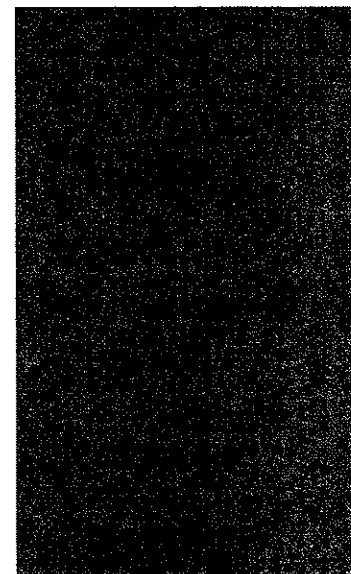


2008



City of Fayetteville, Arkansas

**Proposed
Annual Budget
& Work Program**



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

B. 2
Bid # 07-69 Downing
Sales and Service
Page 1 of 6

4-Dec-07
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-69 to Downing Sales and Service in the amount of \$163,101.00 for the purchase of one recycle truck for use by Solid Waste Division. Cost of this request includes \$100 for logos, radio antenna, and prepping for service.

\$163,201.00

Cost of this request

\$

490,601.00

Category/Project Budget

Fleet-Solid Waste Expansions

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

249,800.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

06015.1

Project Number

\$

240,801.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐


Department Director

11.16.07
Date

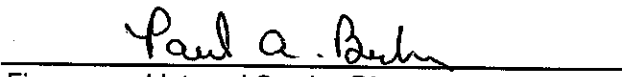
Previous Ordinance or Resolution #

Original Contract Date:


City Attorney

11/19/07
Date

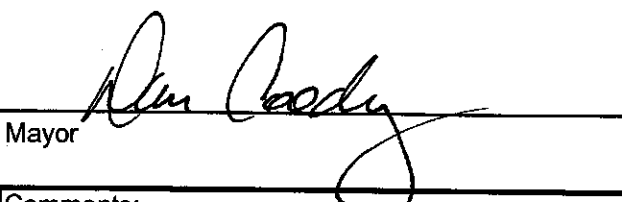
Original Contract Number:


Finance and Internal Service Director

11-19-07
Date

Received in City Clerk's Office

ENTERED


Mayor

11/19/07
Date

Received in Mayor's Office

ENTERED

Comments:

Tabled to Dec. 18, 2007 12/4/07



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



B. 2
9 Downing
and Service
Page 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT *2/10/08*

DATE: NOVEMBER 15, 2007

SUBJECT: Purchase of one Recycle Truck

RECOMMENDATION: That City Council approve the purchase of one Recycle truck for Solid Waste Division in the amount of \$163,101.00.

BACKGROUND: Bid #07-69 was opened on October 12, 2007 for one recycle truck for assignment to the Solid Waste Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Truck Centers of Arkansas provides a right side behind the cab vertical exhaust in lieu of the specified left side vertical exhaust mounted beside the cab. This change necessitates moving the recycle body farther back increasing overall length and places the hot exhaust pipe dangerously close to the operator's work area.

The second lowest bid from Diamond International Trucks meets all specifications, however it provides an early production 2007 exhaust particulate regeneration system that is unproven in house to house refuse service.

The third lowest bid from Downing Sales & Service meets all specifications. This bid provides a chassis of the same make, model, and engine as six most recent recycle fleet units. This chassis was produced prior to the 2007 exhaust particulate regeneration requirement.

After thorough review, Solid Waste and Fleet staff agree that where possible maintaining consistent design, make, and model within this portion of the fleet is in the best interest of the City of Fayetteville.

I recommend acceptance of the bid from Downing Sales & Service in the amount of \$163,101.00.

This purchase is an expansion unit approved in the 2007 budget process.

Funds are available for this purchase in the Fleet – Solid Waste Expansions #06015.1.

The Equipment Committee approved the purchase of this unit from bid #07-69 at the meeting of November 13, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-69 TO DOWNING SALES AND SERVICE FOR THE PURCHASE OF ONE (1) RECYCLE TRUCK IN THE AMOUNT OF \$163,101.00 FOR USE BY THE SOLID WASTE DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division.

PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



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

B. 2
Bid # 07-69 Downing
Sales and Service
Page 4 of 6

Equipment Committee Correspondence

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

FROM: David Bragg, Fleet Operations Supt

DATE: November 6, 2007

SUBJECT: Award of Bid 07-69

Bid #07-69 was opened on October 12, 2007 for one recycle truck for assignment to the Solid Waste Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Truck Centers of Arkansas provides a right side behind the cab vertical exhaust in lieu of the specified left side vertical exhaust mounted beside the cab. This change necessitates moving the recycle body farther back increasing overall length and places the hot exhaust pipe dangerously close to the operator's work area.

The second lowest bid from Diamond International Trucks meets all specifications, however it provides an early production 2007 exhaust particulate regeneration system that is unproven in house to house refuse service.

The third lowest bid from Downing Sales & Service meets all specifications. This bid provides a chassis of the same make, model, and engine as six most recent recycle fleet units. This chassis was produced prior to the 2007 exhaust particulate regeneration requirement.

After thorough review, Solid Waste and Fleet staff agree that where possible maintaining consistent design, make, and model within this portion of the fleet is in the best interest of the City of Fayetteville.

I recommend acceptance of the bid from Downing Sales & Service in the amount of \$163,101.00.

This purchase is an expansion unit approved in the 2007 budget.

Funds are available for this purchase in the Fleet Replacement Special Project 02082 – Sanitation Equipment

Cc:
Gary Dumas

APPROVED
3 FOR
1 AGAINST - FERRELL
11/13/2007
JRB

BID: 07-69
10/12/2007
2:00 PM
CITY OF FAYETTEVILLE

Bid 07-69, Recycle Truck



BIDDER		Manufacturer	Model	Total Bid Price
1	Diamond International Trucks, Inc.	International Kann	4400 Versa Haul	\$70,041.00 \$87,780.00 \$157,821.00
2	Downing Sales & Service, Inc.	Freightliner Kann	M2 (2007 model year) Versa Haul	\$75,321.00 \$87,780.00 \$163,101.00
3	Truck Centers of Arkansas	Freightliner Kann	M2 Versa Haul	\$69,561.00 \$87,780.00 \$157,341.00

*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: 10/15/07

City Of Fayetteville

(Not a Purchase Order)

Requisition No. _____ Date: **11/15/2007**
 P.O Number _____ Expected Delivery Date: _____

Vendor # **3842** Vendor Name: **DOWNING SALES AND SERVICE**

Address: _____ Fob Point: _____

City: _____ State: _____

Requester **Barbara Olsen** Zip Code _____ Ship to code: **050**
 Requester's Employee # **1940** Extension: **485**

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2007 FREIGHTLINER M2 WITH	1	EA	\$163,101.00	\$163,101.00	9700.1920.5802.00	.06015.1		
2	KANN VERSA HAUL RECYCLE BODY		EA		\$0.00				
3	BID 07-69. TO BE UNIT #494,		EA		\$0.00				
4	FIXED ASSET #700494		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:

Approvals:

Subtotal: **163,101.00**
 Tax: **EXEMPT**
 Total: **163,101.00**

Mayor: _____ Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

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

B. 3
RZN 07-2781 (Dandy)
Page 1 of 20

4-Dec-07

City Council Meeting Date

Jeremy Pate *X*
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 07-2781: Dandy, 405: Submitted by H2 Engineering, Inc. for property located 1/4 mile north of North Street on the east side of Leverett. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.55 acres. The request is to rezone the property to RMF-24, Residential Multi-Family, 24 units per acre.

Action Required:

n/a

n/a

Cost of this request

n/a

Category/Project Budget

n/a

Program Category / Project Name

n/a

Account Number

n/a

Funds Used to Date

n/a

Program / Project Category Name

n/a

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]

Department Director

11-16-07

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]

City Attorney

11-16-07

[Signature]

Finance and Internal Service Director

11-16-07

Date

Received in City Clerk's Office

ENTERED

11/16/07

Received in Mayor's Office

ENTERED

11/16/07

PR

Mayor

11/19/07

Date

Comments:

left on the second reading 12/4/07

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: November 15, 2007

Subject: Rezoning for Dandy 1368 N. Leverett (RZN 07-2781)

RECOMMENDATION

Planning staff and the Planning Commission recommended to approve rezoning the subject property from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-family, 24-units per acre for approximately 0.55 acres located at 1368 N. Leverett Ave.

BACKGROUND

The property is located at 1368 N. Leverett, north of North Street. There is an existing residential structure on the property. Property to the north, east, and west consists of multi-family developments.

DISCUSSION

This item was heard at the regular Planning Commission meeting on November 13, 2007. The Planning Commission voted 9-0-0 to recommend forwarding 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 07-2781, FOR APPROXIMATELY 0.55 ACRES, LOCATED ¼ MILE NORTH OF NORTH STREET ON THE EAST SIDE OF LEVERETT FROM I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL, TO RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE.

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

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

From I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-Family, 24 units per acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

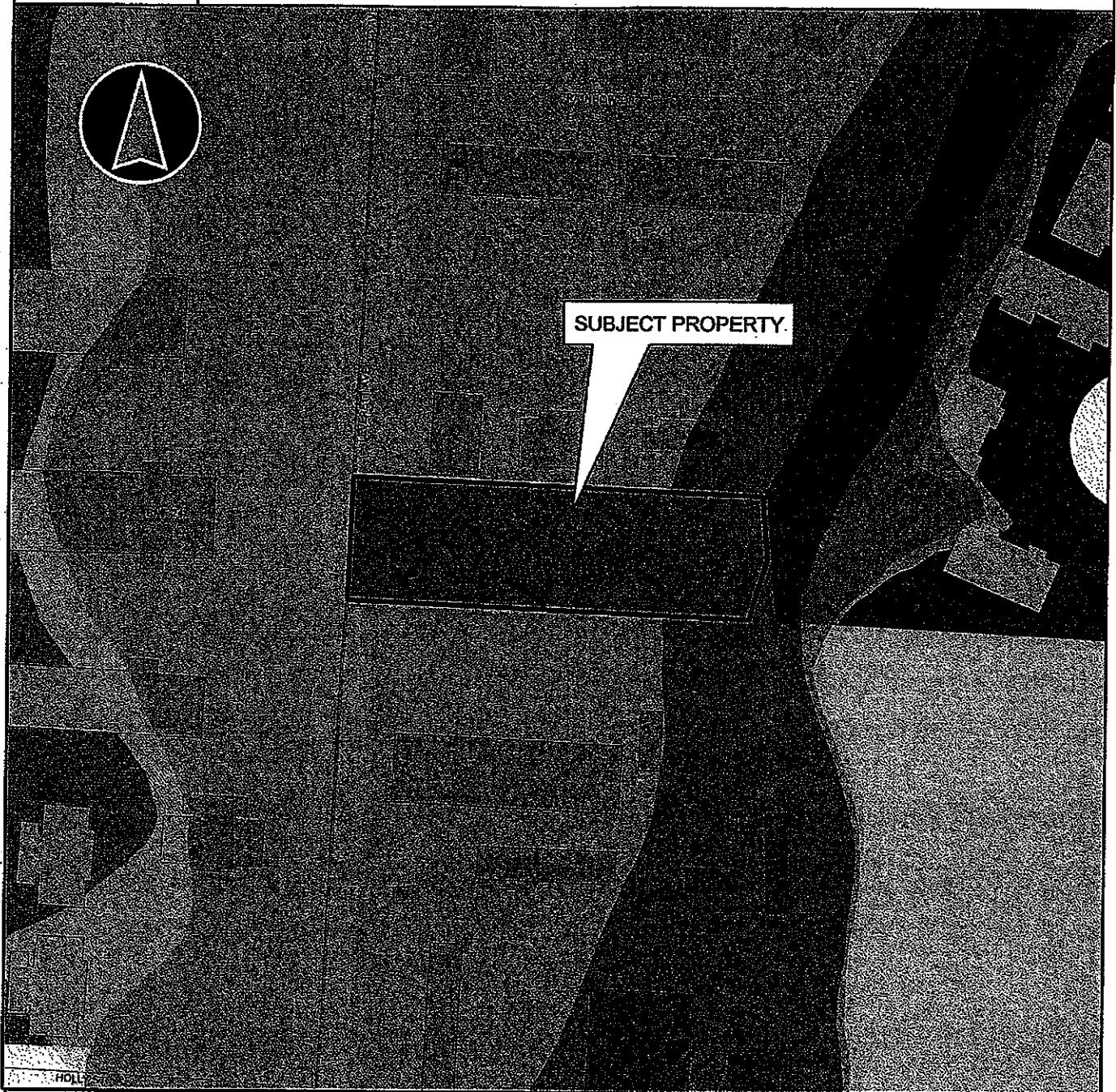
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN07-2781

Close Up View

DANDY/LEVERETT&NORTH



Overview



0 37.5 75 150 225 300 Feet

EXHIBIT "B"
RZN 07-2781

PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND MAG NAIL BEING THE NORTHWEST CORNER OF THE ABOVE SAID SOUTHEAST QUARTER; THENCE S02°32'46"W, ALONG THE WEST LINE OF THE ABOVE SAID SOUTHEAST QUARTER, A DISTANCE OF 222.63 FEET TO THE TRUE POINT OF BEGINNING; THENCE S87°26'23"E, LEAVING THE ABOVE SAID WEST LINE, A DISTANCE OF 279.49 FEET; THENCE S04°35'57"E, A DISTANCE OF 42.74 FEET; THENCE S16°29'37"W, A DISTANCE OF 43.59 FEET; THENCE N87°26'23"W, A DISTANCE OF 274.30 FEET TO A POINT ON THE ABOVE SAID WEST LINE; THENCE N02°32'46"E, ALONG THE ABOVE SAID WEST LINE, A DISTANCE OF 84.72 FEET TO THE POINT OF BEGINNING AND CONTAINING 23,793 SQUARE FEET OR 0.55 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT-OF-WAY OF LEVERETT AVENUE ON THE WEST LINE.



PC Meeting of November 13, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~November 6, 2007~~ Updated November 14, 2007

RZN 07-2781: Rezoning (DANDY, 405): Submitted by H2 ENGINEERING, INC. for property located at 1/4 MILE N OF NORTH ST ON THE E SIDE OF LEVERETT. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUST and contains approximately 0.55 acres. The request is to rezone the subject property to RMF-24, Residential Multi-family, 24 units per acre.

Planner: Jesse Fulcher

RECOMMENDATION:

Staff recommends approval of the requested rezoning to RMF-24, Residential Office, based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		✓ Forward to City Council (recommend approval)	
		☐ Denied	
Date: <u>November 13, 2007</u>			
Motion: <u>Graves</u>			
Second: <u>Ostner</u>			
Vote: <u>9-0-0</u>			
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>December 04, 2007 (1st reading if recommended)</u>			

BACKGROUND:

Property description: The subject property contains approximately 0.55 acres and is zoned I-1, Heavy Commercial/Light Industrial. The property is located at 1368 N. Leverett, north of North Street. There is an existing residential structure on the property. Property to the north, east, and west consists of multi-family developments.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North and East	Multi-family dwellings	RMF-24, Residential Multi-family
West	Multi-family dwellings	RMF-40, Residential Multi-family
South	Industrial	I-1, Heavy Commercial/Light Industrial

Proposal: The applicant proposes a rezoning of the subject property to allow for the development of multi-family dwelling units.

Request: The request is to rezone the subject property from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-family, 24-units per acre.

INFRASTRUCTURE:

Streets: The site has access to Leverett Avenue, a Collector Street, which is currently an improved two-lane road. Street improvements to Leverett Avenue will be evaluated at the time of development.

Water: A 6" waterline is located adjacent to the property, along Leverett Ave. Water may need to be extended through the site at the time of development.

Sewer: There is an 8" main along Leverett Ave. Sewer service may need to be extended through the site at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

Fire: The subject property is located approximately 0.7 miles from Fire Station #2 at 708 N. Garland. Response time to the property is approximately 2.5 minutes, which is acceptable, and above the City's goal of having the first unit on the scene within 6 minutes, 90% of the time, and the City's goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. There should be no adverse effects on call volume.

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

LAND USE PLAN: The Future Land Use Plan adopted as part of the City Plan 2025 designates this site **City Neighborhood Area**. Rezoning this property to RMF-24 would be consistent with the future land use plan designation of the property for residential development. The proposed RMF-24 zoning would be compatible with the adjacent RMF-24 and RMF-40 zoning to the north, west and west.

FINDINGS OF THE STAFF

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

Finding: The proposed RMF-24 zoning for multi-family residential use is compatible with adjacent and nearby multi-family residential land uses. Developments in the vicinity are predominantly multi-family with the exception of industrial and commercial uses south and along North Street. The proposed rezoning is consistent with the future land use designation for residential use.

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 in order to allow for a residential development that will be consistent with City land use objectives and policies. Additionally, the property owner is currently redeveloping the property to the north (LSD 07-2457 Leverett Commons). Preliminary plans indicate that two of the units on the north property will be rotated to allow access from the subject property. Rezoning the property to a multi-family zoning district will allow for coordinated development of each property.

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

Finding: There is an existing multi-family structure on the property. However, it is anticipated that the number of units proposed will cause a slight increase in the amount of vehicles trips generated. The relatively small size of the development (0.51 acres) should 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 rezoning will increase population density over the existing nonconforming land use. The proposed zoning would allow for a maximum of 12 multi-family units, as opposed to no residential uses permitted in the I-1 zoning district. However, this increase in residences is consistent with land use, zoning, and development patterns in the immediate vicinity.

Increased load on public services was taken into consideration and

recommendations from Engineering, Fire, and Police Departments are included in this report. Significant adverse impacts to public services would not result with the incorporation of standard improvements as part of the development.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.24 District I-1, Heavy Commercial And Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 12	Offices, studios and related facilities
Unit 13	Eating places
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Professional offices
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front, when adjoining A or R districts	50 ft.
Front, when adjoining C, I, or P districts	25 ft.

Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I, or P districts	10 ft.
Rear, when adjoining C, I, or P districts	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(VIII); Ord. No. 2351, 6-2-77; Ord. No. 2430, 3-21-78; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.039; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4992, 3-06-07; Ord. 5028, 6-19-07)

161.14 District RMF-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 24
----------------	---------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres

Professional offices	1 acres
----------------------	---------

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments:	
No bedroom	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two bedroom	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	25 ft.
HOD Single Family Front	HOD Single Family Side	HOD Single Family Rear
15 ft.	8 ft.	15 ft.
HOD Two Family Front	HOD Two Family Side	HOD Two Family Rear
15 ft.	8 ft.	15 ft.
HOD Multi Family Front	HOD Multi Family Side	HOD Multi Family Rear
15 ft.	8 ft.	15 ft.

Cross reference(s)—Variance, Ch. 156.

(F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07)



October 3, 2007

City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701

RE: LEVERETT COMMONS II PROPERTY REZONING - INFORMATION

Staff,

On behalf of our client, CNS, Inc., we are submitting a rezoning request, for parcel number 765-14013-000. The property is located ¼ mile north of the intersection of Leverett Ave. and North Street on the east side of Leverett and is currently zoned I-1. The request is to rezone the entire property to RMF-24 in anticipation of a Large Scale Development submittal consisting of 8 - 3 bedroom townhomes.

The property is currently owned by CNS, Inc. and no property sales are currently pending. The property to the east is zoned RMF-40, to the west is zoned RMF-24, to the South is zoned I-1, and to the north is zoned RMF-24. This development is very similar in design and density as the property to the north and less dense than the RMF-40 to the east. Overall, it will be compatible with the surrounding developments, and similar in appearance, signage and traffic generation. According to the Fayetteville GIS records, water is available via a 6" line on the west side of Leverett Ave. Sanitary sewer is available via an 8" line in the center of Leverett Ave.

Respectfully,

A handwritten signature in black ink, appearing to read 'T. Hennelly', with a stylized flourish at the end.

Thomas A. Hennelly, P.E.
President



October 3, 2007

City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701

RE: LEVERETT COMMONS II - PROPERTY REZONING - DESCRIPTION

Staff,

On behalf of our client, CNS, Inc., we are submitting a rezoning request, for parcel number 765-14013-000. The property is located ¼ mile north of the intersection of Leverett Ave. and North Street on the east side of Leverett and is currently zoned I-1. The request is to rezone the entire property to RMF-24 in anticipation of a Large Scale Development submittal consisting of 8 - 3 bedroom townhomes.

With the current zoning of I-1, this property does not comply with the future land use plans of the City. This area is dedicated as city neighborhood. The zoning is needed at this time, as stated earlier, in anticipation of the submittal of a large scale development. The addition of 8 units will not, in our opinion, appreciably increase the traffic danger or congestion. While the requested zoning will alter the population density of the area, it will not have a significant impact on City services or infrastructure. We feel that the current I-1 zoning is inappropriate for this predominantly residential area.

Respectfully,

A handwritten signature in black ink, appearing to read 'T. Hennelly', with a stylized flourish at the end.

Thomas A. Hennelly, P.E.
President

Date 11/6/2007

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 re-zoning **RZN (DANDY, 555)**: Submitted by **H2 Engineering** for property located at **1368 N. Leverett**, would substantially alter the population density and thereby undesirably increase the load on public services and create an undesirable increase in traffic danger and congestion. **The property is zoned I-1 and contains approximately 0.55 acres. The request is to re-zone the subject property to RMF-24.**

It is the opinion of the Fayetteville Police Department that this re-zoning will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. The re-zoning will not create an appreciable increase in traffic danger or congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



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: October 24, 2007
Re: October 24, 2007 Zoning Review

RZN - Dandy - H2 Engineering

These .55 acres are covered by Engine 2 located at 708 N Garland.

It is .7 miles from the station with an anticipated response time of 2.5 minutes.

The Fire Department anticipates 10(6 EMS and 4 Fire/Other) calls for service once this development is completed and all units are occupied.

This development should not affect our response times or calls for service.

RZN 07-2782 (Sweetser)

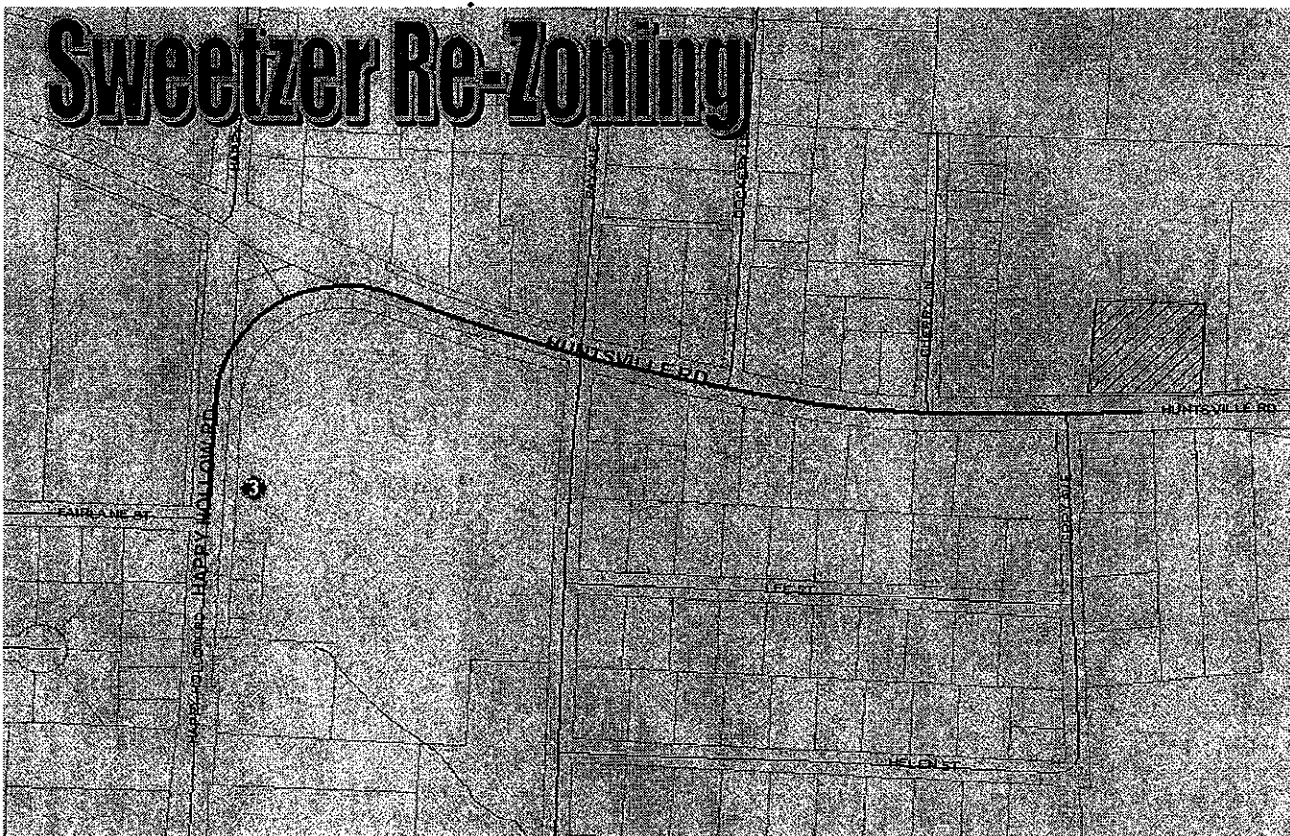
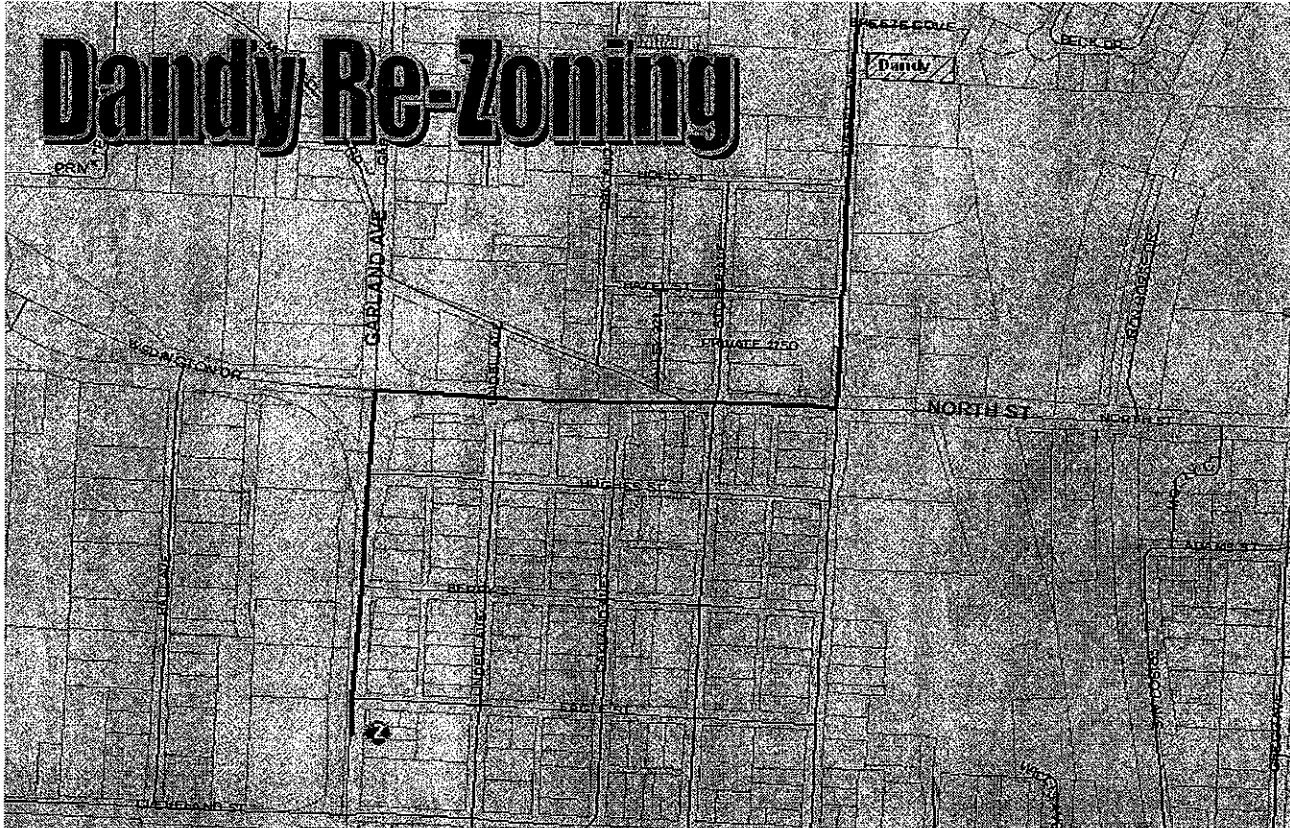
These .95 acres are covered by Ladder 3 located at the corner of Happy Hollow and E. Huntsville.

It is .6 miles from the station with an anticipated response time of 2 minutes.

With the maximum units allowed under the R-0 zoning, the Fire Department anticipates 12 (7 EMS and 5 Fire/Other) calls for service after the development is completed and all units are filled. We do not anticipate any effects on our response times or calls for service with this development.

If you have any questions concerning these comments please don't hesitate to call me

**Captain Dale Riggins
Fayetteville Fire Department**



RZN 00-000: Rezoning (Dandy, 555): Submitted by H2 Engineering for property located at 1368 N LEVERETT. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL and contains approximately 0.55 acres. The request is to rezone the property to RMF-24, RESIDENTIAL MULTI FAMILY-24 UNITS/ACRE.

Public water is located adjacent to the site. There is a 6" waterline along Leverett. Water service may need to be extended through the property at the time of development.

Sanitary sewer is available to the site. There is an 8" sewer main along Leverett. Sewer service may need to be extended through the property at the time of development. 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 Leverett Avenue. Leverett is currently an improved two lane paved roadway. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development.

R-PZD 07-2763: Residential Planned Zoning District (Skate Place II, 266): Submitted by H2 ENGINEERING, INC. for property located at 646 W. SYCAMORE STREET. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL and contains approximately 1.08 acres. The request is for Zoning, Land Use, and Development review of a Residential Planned Zoning District of 3 buildings with 5 units each for a total of 15 units and associated parking.

Public water is located adjacent to the site. There is a 6" waterline along Chestnut and an 8" main along Sycamore.. Water service may need to be extended through the property at the time of development.

Sanitary sewer is available to the site. There is an 8" sewer main along both Sycamore and Chestnut. Sewer service may need to be extended through the property at the time of development. 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 Sycamore Street and Chestnut Avenue. Sycamore is currently an improved four lane paved roadway. Chestnut is a newly constructed two lane roadway.

Standard improvements and requirements for drainage will be required for the development.

RZN 07-2782: (SWEETSER, 566): Submitted by DAVE JORGENSEN for property located at 2220 E. HUNTSVILLE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.95 acres. The request is to rezone the subject property to R-O, Residential Office.

Public water is located adjacent to the site. There is a 12" waterline along Hunstville Road.. Water service may need to be extended through the property at the time of development.

Sanitary sewer is available to the site. There is a 6" sewer main along Hunstville Road. Sewer service may need to be extended through the property at the time of development. Improvements

RZN07-2781

DANDY/LEVERETT&NORTH

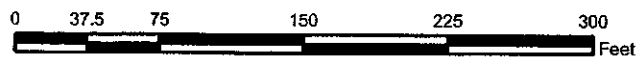
Close Up View



SUBJECT PROPERTY

HOLLY

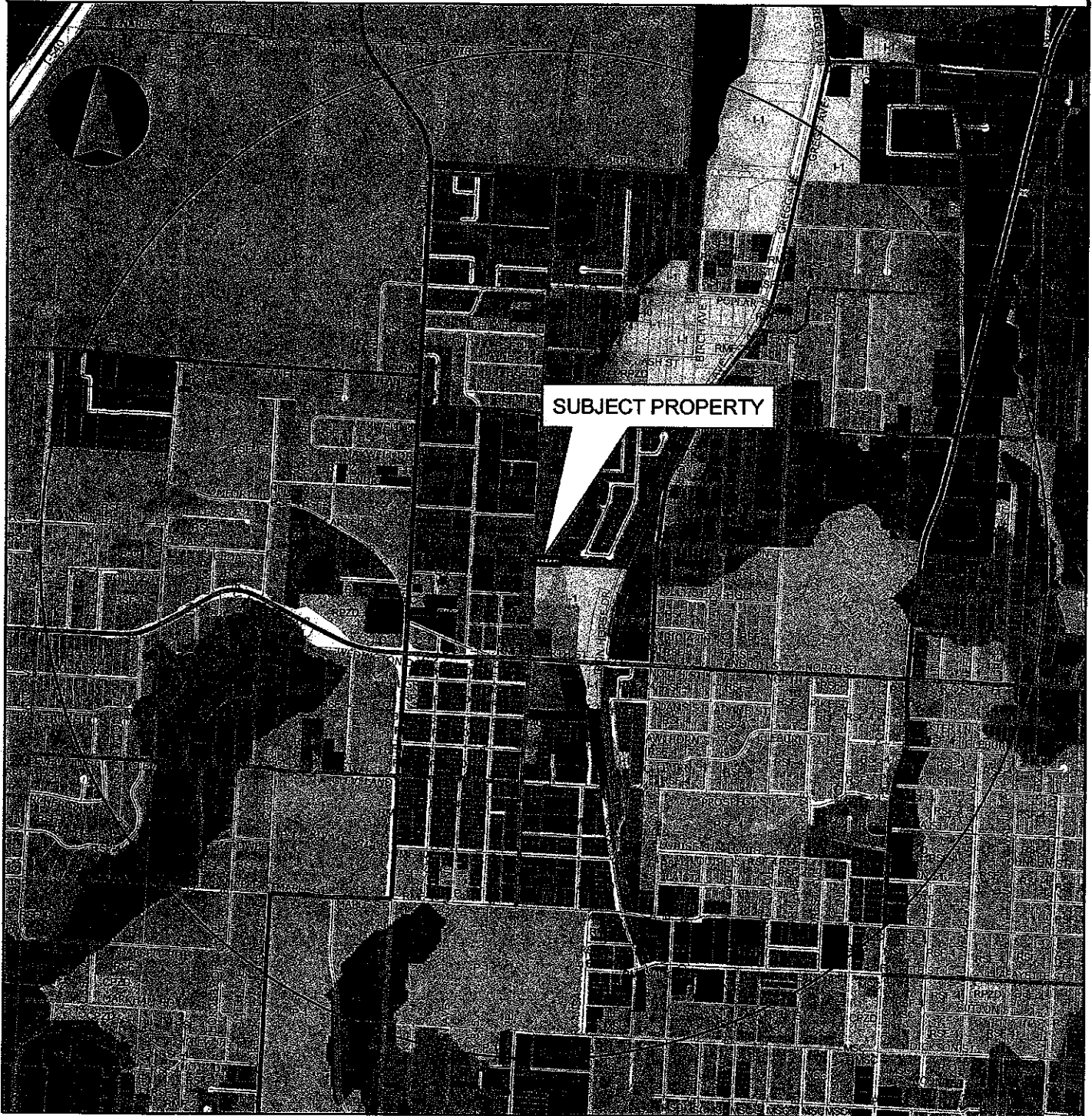
Overview



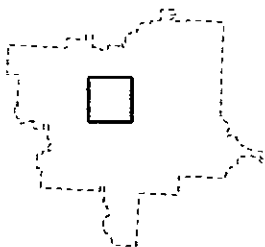
RZN07-2781

One Mile View

DANDY/LEVERETT&NORTH



Overview



Legend

Subject Property

 RZN07-2781

Boundary

 Planning Area

 Overlay District

 Outside City

Legend

 Hillside-Hilltop Overlay District

0 0.25 0.5 1
 Miles

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

C. 1
Rausch Coleman Homes, LLC
Page 1 of 6

18-Dec-07

City Council Meeting Date

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Approval of an agreement for the Promotion of Affordable Housing with Rausch Coleman Homes, LLC

\$0.00

Cost of this request

Account Number

Project Number

Category/Project Budget

Funds Used to Date

\$	-
----	---

Remaining Balance

Program Category / Project Name

Program / Project Category Name

Fund Name

Budgeted Item

--

Budget Adjustment Attached

--

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Finance and Internal Service Director

Date

Received in City Clerk's Office

Mayor

Date

Received in Mayor's Office

Staff recommends approval of lease.

CITY COUNCIL AGENDA MEMO

To: Mayor and Council
Thru: Gary Dumas, Director of Operations
From: Yolanda Fields, CR Director
Date: December 5, 2007
Subject: Approval of Agreement with Rausch Coleman for the Promotion of Affordable Housing

RECOMMENDATION

Staff recommends approval of Agreement.

BACKGROUND

Affordable housing is decent housing affordable to individuals and families earning less than 80% of the area median income and paying no more than 30% of their income for housing. We have experienced a challenge with providing this type of housing product to the community. In July of this year the City Council made the affordable housing challenge a goal to be tackled. Staff has been and will continue to work to find ways to create affordable/attainable housing stock and to maintain the affordable/attainable housing stock we currently have.

DISCUSSION

The U.S. Department of Housing and Urban Development (HUD) provides funding for the HOME program which is administered through the Arkansas Development Finance Authority (ADFA). ADFA is Arkansas' largest source of low cost financing for low-to-moderate income housing development. The HOME program may be used to assist eligible low-income homebuyers to finance the purchase of a home.

Rausch Coleman, LLC will be building affordable/attainable housing and will be applying for HOME funding to provide homeowner assistance for the homes. The City of Fayetteville will be partnering with this developer in the effort to increase the affordable/attainable housing stock.

BUDGET IMPACT

No impact.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE THE PROMOTION OF
AFFORDABLE HOUSING AGREEMENT WITH RAUSCH
COLEMAN HOMES, LLC**

WHEREAS, the City Council has placed the promotion of affordable housing in Fayetteville as a high priority for Fayetteville; and

WHEREAS, City Staff prepared a Request For Proposals to find an appropriate housing builder/residential developer to work with toward the goal of increased affordable housing for our citizens; and

WHEREAS, the City Selection Committee chose Rausch Coleman Homes, LLC as the best possible partner to create more affordable housing in Fayetteville.

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

Section 1: The City Council of the City of Fayetteville, Arkansas hereby approves the Promotion of Affordable Housing Agreement with Rausch Coleman Homes, LLC (attached as Exhibit A) and agrees that City Staff should partner with Rausch Coleman Homes, LLC by soliciting grants, etc. to achieve the goal of increased number and availability of affordable housing in Fayetteville.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

PROMOTION OF AFFORDABLE HOUSING AGREEMENT

WHEREAS, the City of Fayetteville desires to promote and facilitate affordable housing for the citizens of Fayetteville; and

WHEREAS, the City advertised a Request For Proposals from house builders/residential developers to work with the City to provide and increase affordable housing in Fayetteville; and

WHEREAS, a City Selection Committee evaluated all of the Responses to the RFP and selected Rausch Coleman Homes, LLC as the most qualified and competent applicant.

Now Therefore, The City Of Fayetteville And Rausch Coleman Homes, LLC Hereby Agree:

1) Term:

This agreement shall begin upon the signed approval of Rausch Coleman Homes, LLC and Mayor Dan Coody and shall run for an initial term through December 31, 2008. This agreement shall be automatically renewed under the identical terms for up to four one year periods beginning January 1, 2009, unless either party notifies the other in writing one month prior to the renewal date.

2) Voluntary Termination:

Either party may terminate this agreement without cause by giving the other party thirty days' written notice of its intention to terminate the agreement.

3) Notices:

Any and all notices provided for under this agreement shall be delivered (in person or by first class mail) to:

Rausch Coleman Homes LLC
ATTN: Fred Rausch
300 E. Main
Farmington, AR 72730

Office of the Mayor
City Administration Building
113 W. Mountain
Fayetteville, AR 72701

4) Response and Request For Proposals Incorporated:

This agreement incorporates and includes as if set forth word for word all the terms, conditions, proposals, recititals, and representations within the City's Request For Proposals and Rausch Coleman Homes, LLC Response thereto.

5) Grants and Donations:

The City shall work with Rausch Coleman Homes, LLC to attempt to obtain and utilize grants and donations for affordable housing projects to be accomplished by Rausch Coleman.

6) Assignment:

This agreement may not be assigned without the express written consent of the other party.

7) Entire Agreement:

The Request For Proposals, Rausch Coleman Homes, LLC's Response thereto and this document make up the entire agreement and no other oral or written terms, conditions, promises, etc. shall have any effect or validity.

8) Venue and Jurisdiction:

The proper venue and jurisdiction for any dispute involving this document is and shall be Washington County, Arkansas.

9) Freedom of Information Act:

City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, 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 photocopying costs pursuant to the FOIA may be assessed for this compliance.

In Agreement With All Written Above, we sign our names below and represent that we have the proper authority and power to bind Rausch Coleman Homes, LLC and the City of Fayetteville.

RAUSCH COLEMAN HOMES, LLC

CITY OF FAYETTEVILLE

By: 
FRED RAUSCH

By: _____
DAN COODY, Mayor

Title: *Manager*

Attest:

By: _____
Sondra E. Smith, City Clerk/Treasurer

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

18-Dec-07

City Council Meeting Date

Jeremy Pate *[Signature]*
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 07-2603: Kooshesh, 438: Submitted by Carmen Cubillo for property located at 956 and 918 North 46th Avenue. The property is zoned R-A, Residential-Agricultural and contains approximately 1.59 acres. The request is to rezone the property to R-O, Residential Office.

Action Required:	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] 11-29-07
Department Director Date

Previous Ordinance or Resolution # n/a

[Signature] 11-30-07
City Attorney Date

Original Contract Date: n/a

Original Contract Number: n/a

Paul A. Behn 11-30-07
Finance and Internal Service Director Date

Received in City Clerk's Office
[Stamp: ENTERED 11/29/07]

[Signature] 11/30/07
Mayor Date

Received in Mayor's Office
[Stamp: ENTERED 11/30/07]

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

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

Date: November 29, 2007

Subject: Rezoning for Kooshesh 956 and 918 46th Avenue (RZN 07-2603)

RECOMMENDATION

Planning staff and the Planning Commission recommended to approve rezoning the subject property from R-A, Residential Agricultural to R-O, Residential Office for approximately 1.59 acres located at 956 and 918 46th Avenue in west Fayetteville.

BACKGROUND

The property is located on the east side of 46th Avenue approximately 300 feet south of Wedington Drive, and contains one single family residence and a 912 square foot garage/shop that has been historically used as a screen printing shop and other non-residential uses. The property contains approximately 1.59 acres and is zoned R-A. The property is bordered by single family residences zoned R-A to the north and south, Covenant Church to the east, and the undeveloped Woodstock PZD site to the west that is zoned R-PZD for 342 dwelling units and 100,390 square feet of non-residential space.

DISCUSSION

This item was heard at the regular Planning Commission meeting on November 26, 2007. The Planning Commission voted 8-0-0 to recommend forwarding 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 07-2603, FOR APPROXIMATELY 1.59 ACRES, LOCATED AT 956 AND 918 NORTH 46TH AVENUE FROM R-A, RESIDENTIAL-AGRICULTURAL, 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 R-A, Residential-Agricultural 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 , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

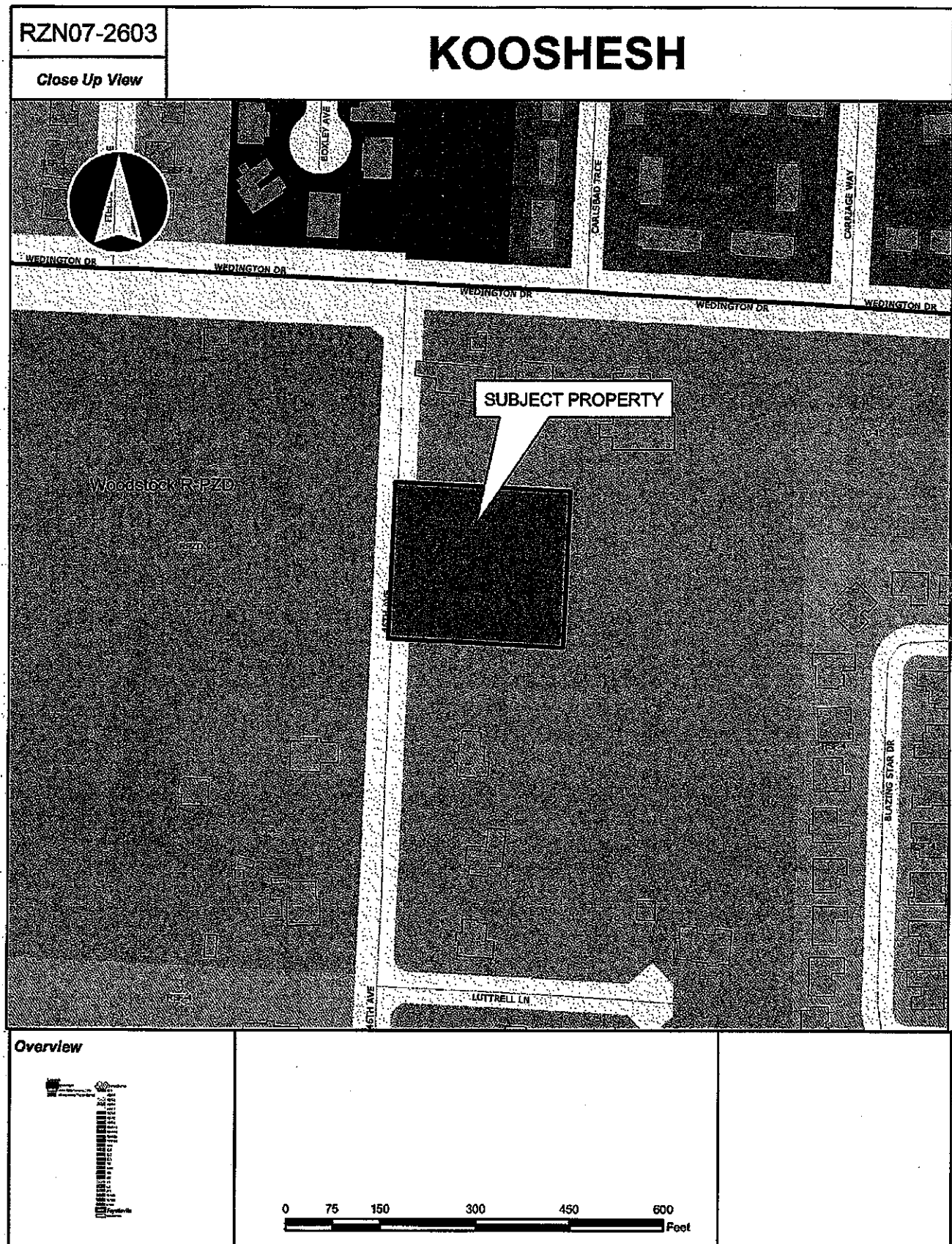


EXHIBIT "B"
RZN 07-2603

A PART OF THE NORTHEAST QUARTER (NE/4) OF THE SOUTHWEST QUARTER (SW/4) OF SECTION TWELVE (12), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST OF THE 5TH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS BEGINNING AT A POINT 310.0 FEET SOUTH OF THE NW CORNER OF SAID 40 ACRE TRACT; THENCE SOUTH 250.0 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES EAST 277.7 FEET; THENCE NORTH 250 FEET; THENCE NORTH 89 DEGREES 20 MINUTES WEST 277.7 FEET; TO THE POINT OF BEGINNING.



PC Meeting of November 26, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~November 20, 2007~~ Updated November 29, 2007

RZN 07-2603: (KOOSHESH, 438): Submitted by CARMEN CUBILLO for property located at 956 AND 918 N. 46TH AVENUE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.59 acres. The request is to rezone the subject property to R-O, Residential Office.

Property Owner: Cyrus Kooshesh
Planner: Andrew Garner

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>		
☐ Approved	☒ <u>Forwarded (recommend approval)</u>	☐ Denied
Motion: <u>Lack</u>	Second: <u>Ostner</u>	Vote: <u>8-0-0</u>
Date: <u>November 26, 2007</u>		
CITY COUNCIL ACTION: Required <u>YES</u>		
☐ Approved ☐ Denied		
Date: <u>December 18, 2007 (1st reading if recommended)</u>		

BACKGROUND:

Background: This item was heard at the June 11, 2007 Planning Commission meeting. The item was tabled indefinitely at the applicant's request, pending the City Council's policy decision for the requested rezoning of the Woodstock project directly across 46th Street from the subject property. The Planning Commission meeting minutes from June 11, 2007 are attached with this report. On October 2, 2007 the City Council approved the Woodstock R-PZD, rezoning the 29.63-acre property from R-A, Residential Agricultural to allow for a mixed use development with 342 dwelling units and 100,390 square feet of non-residential space, an overall density of 11.5 units per acre. Based on the results of the Woodstock rezoning the applicant has brought the subject rezoning request back to the Planning Commission for consideration.

Property description: The subject property contains approximately 1.59 acres. The property is located at 956 and 918 46th Avenue, approximately 300 feet south of Wedington Drive. The property is one parcel and contains one 2,457 square foot single family residence and a 912 square foot garage/shop that was used in the past as a screen printing shop. The parcel is zoned R-A.

Proposal: The applicant proposes to rezone the property from R-A to R-O.

Recommendation: Staff recommends approval of the rezoning request based on the findings herein.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single Family Residential	R-A
South	Single-Family Residential	R-A
East	Covenant Church	R-A
West	Undeveloped (approved for Woodstock mixed use PZD)	R-PZD 07-2576

INFRASTRUCTURE:

Streets: The site has access to 46th Avenue. 46th Avenue is an unimproved, narrow roadway in this location. Improvements to the adjacent streets will be evaluated at the time of development.

Water: Public water is located adjacent to the site. There is an 8" waterline along 46th Avenue. Water service may need to be extended through the property at the time of development.

Sewer: Sanitary sewer is available on the site. There is a 6" sewer main through the property. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire: These 1.59 acres are covered by Engine 7 at 835 Ruppel Road. It is 0.70 miles from the station with an expected response time of 2.75 minutes. The Fire Department anticipates 9 calls for service, per year, once the development is completed and maximum build-out has occurred. No adverse effects on call volume or response time to this development are anticipated.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density or create an undesirable increase in the load on police services. The rezoning will not create an appreciable increase in traffic.

danger and congestion in the area depending on the volume of traffic accessing and exiting this area.

CITY PLAN 2025 FUTURE LAND USE PLAN: *The City Plan 2025 Future Land Use Plan designates this site as City Neighborhood Area. Staff finds that due to the City Neighborhood Area designation on the property and the recent City Council decision to rezone the Woodstock property to allow for a medium density mixed-use development, the policy decision has been made towards the trend for mixed use and higher density and greater intensity development in this neighborhood. The R-O zoning would be consistent with the City Neighborhood Area guiding policy to provide non-residential uses that are accessible for the convenience of individuals living in residential districts and where compatibility with existing development patterns occurs. Staff recognizes that the current R-A zoning is not appropriate given the anticipated growth in this area along Wedington. Additionally, given the policy decision to rezone the Woodstock property a more intense zoning on this property is consistent with the Future Land Use Plan. With the Woodstock approval, this neighborhood has been immediately defined with a land use pattern that is planned to be varied, a change from the rather old rural-residential pattern surrounded by new development that currently exists. While the property will remain zoned R-A on the north, east, and south sides for the time being, the R-O zoning would be compatible with the surrounding zonings and existing and planned land uses.*

FINDINGS OF THE STAFF

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

Finding: The property is designated as City Neighborhood Area in the City Plan 2025 Future Land Use Plan. The proposed R-O zoning is consistent with the City's land use planning objectives, principles and policies to encourage compatible and livable neighborhoods and mixed-use development indicated by the City Neighborhood designation. The second and third guiding policies listed under City Neighborhood Areas are to:

"Provide non-residential uses that are accessible for the convenience of individuals living in residential districts where compatibility with existing desirable development patterns occurs."

"Reduce the length and number of vehicle trips generated by residential development by enhancing the accessibility to these areas..."

The surrounding property is established single-family residences, a church, and rural residential use; with the undeveloped property to the west approved for a 29-acre mixed use development. The subject property is a large single-family lot that has been used in the past as a single family residence with a screen-printing

shop in the detached garage/shop on the property. The subject neighborhood is a pocket of older large lot residences that have been surrounded by new development just off of a major arterial street, Wedington Drive. The land uses transition from a busy transportation corridor along Wedington, immediately into the established large lot residences and undeveloped land around the subject property, to a new RSF-4 subdivision further to the south. Staff finds that rezoning the property to R-O in this transitional area and adjacent to the planned Woodstock development would provide the opportunity for non-residential uses that are accessible for the convenience of the large number of residences living in the immediate area, and could reduce both the length and number of vehicle trips generated by the existing and proposed residential development in the neighborhood.

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

Finding: Staff finds a rezoning on the subject property and the surrounding R-A property to allow for more intense uses is justified and needed. The subject property is approximately 1.59 acres and does not meet the minimum requirements for a lot in the R-A zoning district. The historic use on the property for a screen-printing shop is not permitted under the current zoning. It should be noted that if this use was allowed at the time the current City ordinances were adopted or the property was annexed, it may continue under City ordinance. In addition, if the owner wishes to change the nonconforming use in the old shop to a different use, they may apply for a conditional use permit to do so, as long as the historic nonconforming use has not been abandoned for more than six months. The applicant has applied for such a conditional use permit if the subject rezoning request is denied. This area is identified on the CityPlan 2025 as a City Neighborhood Area, indicating more intense uses and an urban development pattern.

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 R-A to R-O would create an increase in traffic compared with that allowed under the existing zoning, though it is noted the property has historically been utilized for non-residential uses. The adjacent 46th Avenue is an unimproved two-lane road and would be required to be improved if the property redevelops for more intense uses. Wedington Drive is a principal arterial street approximately 300' to the north and is currently being improved to its Master Street Plan standard by the City. Without improvements to 46th Avenue the proposed R-O zoning would create or increase traffic danger and congestion. With the street improvements required as part of the Woodstock development across the street, 46th Street would be fully

improved along the project frontage. If the Woodstock project is not developed prior to development or re-development of the subject property, street improvements to 46th Street would be evaluated and likely required.

Police: It is the opinion of the Fayetteville Police department that an appreciable increase in traffic danger and congestion would not be created by this rezoning.

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

Finding: The proposed zoning would increase the potential population density. The property contains 1.59 acres under R-A zoning which would allow for a maximum of 1 unit. The proposed R-O designation specifies a range of density from 4-24 units per acre. Two family units are allowed by right in the R-O zoning district and require a minimum of 60' per lot. With the subject property containing approximately 250' of frontage onto 46th Avenue, a feasible maximum of four two-family lots, or a total of eight units could be developed. Rezoning the property increases the possible number of residential units by 7 units over that allowed under the current zoning. However, staff does not find that this increase in residential density would 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.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

It may be practical to continue utilizing the property as a large lot single family residence similar to some of the other lots to the south. However, the lot size is nonconforming under the existing zoning and redevelopment on the property would not be allowed by right. As discussed in Finding No. 2 staff finds that rezoning the property to allow for more intense uses is needed due to the development pressure and the future land use designation of this area. This parcel and the surrounding property were developed many years ago and remain a small pocket of R-A zoning on large lots generally surrounded by new

development. However, more intense land use on this property should be done sensitively and appropriately to be compatible with the remaining pocket of older residential development, and to provide a more comprehensive approach to the policy decision of rezonings in the area.

- 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.

Fayetteville Unified Development Code

161.03 District R-A, Residential-Agricultural

- (A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

- (B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

- (C) *Density.*

Units per acre	One-half
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- (D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

- E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

- (F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which

exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

- (G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.16 District R-O, Residential Office

- (A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

- (B) *Uses.*

- (1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Offices, studios and related services
Unit 25	Professional offices

- (2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

- (C) *Bulk and area regulations.*
(Per dwelling unit for residential structures)

- (1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

- (2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

- (3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments:	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

- (D) *Density.*

Units per acre	4 to 24
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- (E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Front, in the Hillside Overlay District	15 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Side, in the Hillside Overlay District	8 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.
Rear, in the Hillside Overlay District	15 ft.

- (F) *Height regulations.* There shall be no maximum height limits in R-O Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet.

- (G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4726, 7-19-05; Ord. 4943, 11-07-06)

RZN 07-2603: (KOOSHESH, 438): Submitted by CARMEN CUBILLO for property located at 956 AND 918 N. 46TH AVENUE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.59 acres. The request is to rezone the subject property to R-O, Residential Office.

Andrew Garner, Senior Planner, gave the staff report. Garner discussed staff's findings that the requested zoning could result in some objectionable uses and nuisances depending on the scale, transition and use of the property. Garner stated that the current R-A zoning may not be appropriate given the anticipated growth in this vicinity, however, a straight rezoning does not ensure a compatible development pattern in this pocket of old rural-residential uses surrounded by new development. Staff recommended denial of the rezoning at this time.

No public comment was received.

Cyrus Kooshesh (applicant) was present for the application. He discussed the history of the property and how it was annexed into the City, and that R-A zoning is not in compliance with the size of the lot or the historical uses on the lot. It was discussed that a silk-screening shop has been on this property for approximately 30 years, but has recently moved out to other areas. He discussed that some of the surrounding neighbors provided letters of support for the requested rezoning, agreeing with the neighbors' letters that professional offices were needed in this area of town. He stated understanding of staff's concerns with the proposed rezoning, and offered a Bill of Assurance to limit development on the property to no more than three buildings, no more than two stories in height, and no more than 2,500 square feet per floor for each building. He noted that the City Fire and Police Departments stated that rezoning would create no adverse impacts. He also stated that he is almost going bankrupt with this property and needs to improve it and continue the non-residential use.

Commissioner Cabe asked staff about the status of the Woodstock PZD being proposed across the street.

Jeremy Pate, Director of Current Planning, stated that the Woodstock PZD is a large mixed use proposal that has been through the technical plat review meeting, and that there were substantial revisions to the project that are being addressed by the applicant. He stated that he is not sure when it will be re-submitted.

Commissioner Anthes asked staff if they had reviewed the Bill of Assurance and if it would change staff's recommendation.

Garner responded that he had worked with the applicant and given some suggestions on some of the items offered in the Bill of Assurance. Garner also stated that he had discussed other options with the applicant to continue the historical non-residential use in the garage/shop by applying for a conditional use permit.

Commissioner Graves asked staff about this request being a spot-zone, and whether the applicant's

Planning Commission
June 11, 2007
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Bill of Assurance would negate the spot-zone status.

Pate responded that this would still be an R-O zoning surrounded by R-A, even with the Bill of Assurance. Mr. Pate also discussed that a policy decision to increase the intensity and density of uses in this area has not yet been made by City Council. The timing for this request seems premature.

Kit Williams, City Attorney, added that a spot-zone is generally referring to an area where a proposed zoning could result in conflicting or incompatible land uses with the surrounding area.

Commissioner Graves stated he agreed with staff that the timing of the request is premature. As it stands now, completely surrounded by unlike property, he would support staff and vote to deny.

Commissioner Anthes stated that she shared the same concern, but hated to take away the applicant's ability to use the property for its historical non-residential uses, and would like to see a conditional use permit application to allow for the existing nonconforming nonresidential uses in the garage/shop on the property to continue. Two options were available: 1) Denial, which would result in waiting one year to resubmit; and 2) tabling or a conditional use permit request.

Commissioner Lack agrees that a conditional use permit would be a good option. He also stated that he is inclined to deny the rezoning request with the Bill of Assurance to protect the applicant from unnecessarily limiting the use and value of his property in the future. If the surrounding zoning and uses change in the future, such as proposed with the Woodstock PZD, a more intense zoning on this property may be encouraged. He would like to table this item.

Commissioner Anthes asked for the applicant's input. It may be better to table to a date specific to see if surrounding property has been rezoned after some period of time.

Kooshesh stated that, yes, he would be willing to table the item. He asked if the conditional use permit was a different application. He also asked if tabling the item for six months was appropriate.

Commissioner Graves asked staff that if this rezoning is denied, may the applicant ask for a different zoning at any time, and may a conditional use permit be applied for at any time?

Pate responded that a conditional use permit may be submitted now, even under the existing zoning.

Motion:

Commissioner Lack made a motion to table the item until the applicant deems it appropriate to bring the item back before the Planning Commission.

Commissioner Myres seconded the motion, and asked if the tabling should be for a specific time period.

Planning Commission
June 11, 2007
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Commissioner Lack responded that he is okay with the item being tabled indefinitely and the applicant bring back the item at his discretion.

Williams answered a question from the commission that usually when an item is tabled indefinitely by the City Council it is pulled off of any docket at the end of the calendar year. However, he is not sure how long an item may be tabled indefinitely by the Planning Commission.

Commissioner Anthes clarified for the applicant that tabling of this item does not prohibit an application for a conditional use permit or a different re-zoning request.

Upon roll call, the motion to table indefinitely, allowing the applicant to bring it back as he saw fit, passed with a vote of 6-0-0.

To: Mr. ANDREW M. GARNER, Senior Planner, Fayetteville Planning Commission and Fayetteville City Council

From: Cyrus Kooshesh
1812 33rd Ave.
Sterling, IL. 61081
Email: koosheshc@yahoo.com
Phone (815)973-6660

RECEIVED
OCT 22 2007
PLANNING DIV.

Re: REZONING REQUEST OF PARCEL #765-162570-000
956 N. 46TH AND 918 N. 46TH AVE. FAYETTEVILLE, AR 72704

Dear Mr. Garner, Honorable Members of Fayetteville Planning Commission and Fayetteville City Council:

On June 11, 2007 the Planning Commission reviewed the rezoning request of my property Located at 956 and 918, 46th Avenue in Fayetteville, Arkansas from R-A to R-O. The planning Commission decided to table my request upon their review. One of the main obstacles at the time was a request for rezoning by Woodstock Community (R-PZD07-2576). However since the rezoning of the Woodstock Community has been approved by the Planning Commission and the City Council, I am respectfully asking your favorable review of my rezoning request at your earliest scheduled meeting. It should be noted that at the time of my original request, I submitted three letters of support two of which were from the adjoining property owners. At this point I wish to withdraw my Bill of Assurance which I have submitted with my request, however I am open to any suggestion and condition that the Planning Commission or the City Council might have.

As I stated in my original request part of this property (918 46th Ave.) has been used as a local business in the past 25 years.

Please do not hesitate to contact me if you need any additional questions.

Respectfully,

Cyrus Kooshesh,

To: Fayetteville Planning Commission and Fayetteville City Council

From: Cyrus Kooshesh
1812 33rd Ave.
Sterlin, IL. 61081
Email: *Kooshesh@yahoo.com*

Carmen Cubillo as Agent
107 S. West Ave.
Fayetteville, AR 72701
Email: *ccubillo@aol.com*
Cell: 479-225-0055
Home: 479-521-5677

Re: REZONING REQUEST OF PARCEL #765-162570-000
956 N. 46TH AND 918 N. 46TH AVE. FAYETTEVILLE, AR 72704

Question #5a) Current Ownership

Cyrus Kooshesh residing at 1812 33rd Ave. Sterlin, IL 61081 is the current owner of record for Parcel #765-162570-000 located at 956 46th Ave., Fayetteville, AR 72704. Within this one parcel there are two buildings separate and apart.

Building One is a 2,457 sq. ft. residential building with an attached garage and driveway. Building Two is a separate 912 sq ft. finished building with a 575 sq. ft. attached garage and separate driveway. The buildings are separate and have maintained separate use since 1979. Building Two just received a new address at 918 North 46th Ave., Fayetteville, AR 72704. Owner purchased this lot with the two buildings existing and the current non compliance issues. (See Attached Property Record Card Description for Layout.)

There is no proposed or pending sale of the said property. Properties across the street and south have sold to a developer for the Woodstock Community Project.

5b) Need For Rezoning

Mr. Kooshesh is requesting rezoning from the current Residential Agricultural (R-A) to Residential-Office (R-O). Granting this request will put the lot in proper compliance with current ordinance requirements, make "best use" of the land, follow Fayetteville's 2025 master plan, and allow for the continued use of the property as a mixed-use residential office as it has been used since 1979. The rezoning is being requested for the following reasons:

- 1) The property is now in non-compliance with its current R-A zoning. R-A zoning according to the code must be lots of two (2) acres or more. This parcel is 1.6 acres and does not meet the code standards for R-A.
- 2) The property is now in a mixed commercial, multi dwelling, office use area. This area has changed significantly from when it was zoned R-A. The intersection of Wedington and 46th avenue is just north of this property. Many lots on Wedington have been rezoned for commercial and multi use. Nearby lots on 46th Ave. are zoned for multi-residential use. Directly across the street from this plot, the Woodstock Community Project is underway. If Mr. Kooshesh's plot were rezoned R-O the property would relate well to the similar surroundings. The property would also comply with the R-O zoning code.

3) Since 1979 the property has had a single family home and separate office-workshop. There have always been two separate tenants. The buildings have been rented separately as a residential home and as a business. The workshop/office has been used by a silk screen company. Customers came to place and pick up orders. It has been rented for the past 27 years.

4) Owner cannot make "best use" of this land if it remains R-A. Keeping land in non-compliance status is an undue hardship on owner. Owner wants to continue renting the property and have the use comply with the new updated zoning that is being requested. If owner were to sell the property zoned R-A future owners would encounter the same encumbrances with a small R-A lot of this size, thus reducing the property value.

5) Granting rezoning from R-A to R-O, fits in with the City of Fayetteville's 2025 Master Plan. The area where the plot is located is zoned purple. (Multi-use residential). An R-O mixed use zoning for this property fits well with the City of Fayetteville's future visions goals.

5c) Properties Relation to Surroundings Properties with New Rezoning, Land Use, Traffic, Appearance, and Signage

Land use in relation to neighbors would remain the same. There are few neighbors currently in the area. The south of Mr. Kooshesh's property borders an empty lot, owned by Dr. Kenny who supports the rezoning request. (Please see attached letters of support.) The East of the property borders the large parking lot of the Covenant Presbyterian Church. The church supports the rezoning request. (Please see attached letter of support.)

The North of the property borders three lots. An empty lot owned by the city of Fayetteville, another small empty privately owned lot and the back yard of another residential owner who might be selling soon. (Please see all attached letters of support for the R-O rezoning request from remaining neighbors.)

Across the street from this parcel is an empty field soon to be the Woodstock Community Project. Mr. Goff, the neighbor across the street and to the south, who is in support of the rezoning, has sold his land to those same developers.

Traffic use and parking will remain the same under the new R-O rezoning. Most of the traffic now comes from the intersection of W. Wedington Rd. and N. 46th Ave. and it will continue to do so under the new zoning.

Both buildings have independent drive ways, a two car garage, and a parking area. No parking increase will be needed under the new rezoning. Owner does have ample room on lot to pave a larger parking if needed for future tenants. Currently the two buildings have separate electric meters and share water. Owner wants to install a second water meter. Two separate addresses for the buildings have recently been established to facilitate mail delivery and utility billing.

The appearance of both buildings will improve if R-O rezoning is given. If R-O rezoning is granted the overall appearance of the buildings and property will improve. Owner is waiting to do improvements on the buildings and landscaping until rezoning is granted. Owner has estimates and is ready to begin work.

Signage is allowed both under the current R-A zoning and the requested R-O zoning. Rezoning would not change the ability to put up signs.

5d) Availability of Water & Sewer

There is both water and sewer currently existing on the property that has been used for 27 years. R-O rezoning would not affect the present water and sewer needs.

#6 a) Degree to which proposed zoning is consistent with land use planning objectives

As stated in 5b & 5c above the requested zoning is consistent with the land use planning's objectives, principals and policies. The requested zoning fits well with other projects under the Master 2025 plan. The degree to which this rezoning request complies and is consistent with the land use planning objectives is 100%.

6b) Is Proposed Zoning Justified/Needed

The rezoning from R-A to R-O is a timely and justified request. The request shows that there is a need for affordably priced small multi-use work spaces in our community. The property needs to be brought into compliance as soon as possible. R-O would also allow for the property to be used as residential or office if so desired thus allowing for the "best use" of the current buildings and land. (See Question 5b)

6c) Traffic Issues

Proposed zoning will not create any increases in traffic or traffic danger. Property rezoning will not affect any current use. No increase in traffic is foreseen from the rezoning from R-A to R-O since it has been used for multi use office/residential. (See Question 5c)

6d) Population Density/Public Services

The population density as a result of this rezoning will not be altered. Population in this property has varied but averages from 5-10 people and will remain about the same. Property will continue with the existing water and sewer.

6e) Impracticality of Using Land Under Current Zoning

It would be difficult to use 1.6 acres in a R-A zoning. Raising animals or growing crops necessitate more land than this. Considering the changes in the neighborhood agricultural zoning is no longer appropriate. The land use planning map shows the 2025 Master Plan aims towards residential office multi-use in this area.

The rezoning from R-A to R-O is justified and needed for the above reasons. Rezoning updates and modernizes this property in compliance with current and future city codes. In this changing neighborhood the rezoning from Residential Agricultural (R-A) to Residential-Office (R-O) is needed. Owner hopes to make "best use" of his land under the requested R-O rezoning and come into compliance. Owner will and can supply any additional information requested. Thank you for your consideration of this rezoning request.

Millard Goff
845 N. 46th Ave.
Fayetteville AR 72704

Re: Rezoning of Lot 765-16257-000 From A-R to O-R
Address: 956 46th Ave. Fayetteville, AR 72704

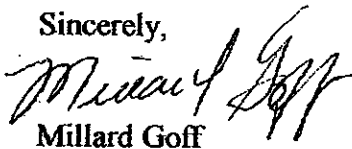
4/18/07

Dear City Planners and City Officials,

This is my letter in support of the proposed zoning change for Cyrus Kooshesh's property. I am the owner of lot 756-16264-000. My lot is across the street and just south of Mr. Kooshesh's Lot 765-16257-000. I understand that Mr. Kooshesh's property is currently Zoned A-R (Agricultural Residential) and he is requesting that it be changed to R-O (Residential-Office).

As far as my knowledge, Mr. Kooshesh's property has always had a single family home in one building and operated a small business in the other separate building. This area currently has a variety of use properties and zonings. I think the R-O property would be more appropriate considering the past use, and future use. I have spoken to Mr. Kooshesh about his plans with the property and I am supporting the change of zoning to R-O that he is requesting. Thank you.

Sincerely,



Millard Goff

Dr. Mary Alice Kenny
846 N. 46th Ave.
Fayetteville AR 72704

Re: Rezoning of Lot 765-16257-000 From A-R to O-R
Address: 956 46th Ave. Fayetteville, AR 72704

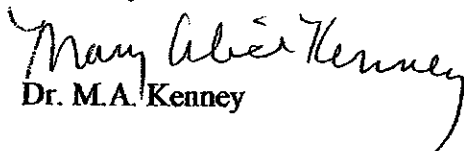
4/18/07

Dear City Planners and City Officials,

This is my letter in support of the proposed zoning change for Cyrus Kooshesh's property. I am the owner of lot 765-07662-000. My lots northern border contacts Mr. Kooshesh's Lot 765-16257-000. I understand that Mr. Kooshesh's property is currently Zoned A-R (Agricultural Residential) and he is requesting that it be changed to R-O (Residential-Office).

As far as my knowledge, Mr. Kooshesh's property has always had a single family home in one building and operated a small business in the other separate building. This area currently has a variety of use properties and zonings. I think the R-O property would be more appropriate considering the past use, and future use. I have spoken to Mr. Kooshesh about his plans with the property and I am supporting the change of zoning to R-O that he is requesting. Thank you.

Sincerely,


Dr. M.A. Kenney

Covenant Presbyterian Church of NWA
4511 W. Weddington Dr.
Fayetteville AR 72704-5853

Re: Rezoning of Lot 765-16257-000 From A-R to O-R
Address: 956 46th Ave. Fayetteville, AR 72704

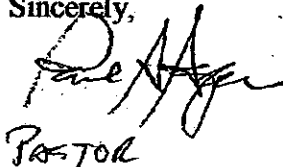
4/18/07

Dear City Planners and City Officials,

This is our letter supporting the proposed zoning change for Cyrus Kooshesh's property. We are owners of lot 756-16255-001. My lot borders Mr. Kooshesh's Lot 765-16257-000 to the east. We understand that Mr. Kooshesh's property is currently Zoned A-R (Agricultural Residential) and he is requesting that it be changed to R-O (Residential-Office).

As far as our knowledge, Mr. Kooshesh's property has always had a single family home in one building and operated a small business in the other separate building. This area currently has a variety of use properties and zonings. We think the R-O property would be more appropriate considering the past use, and future use. We have spoken to Mr. Kooshesh about his plans with the property and we are supporting the change of zoning to R-O that he is requesting. Thank you.

Sincerely,



Pastor

Date 5/30/07

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether rezoning **RZN 07-2603: (KOOSHESH, 438)**: Submitted by CARMEN CUBILLO for property located at 956 AND 918 N. 46TH AVENUE 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.

It is the opinion of the Fayetteville Police Department that this PZD **will not** substantially alter the population density or create an undesirable increase in police services. It **will not** create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: May 24, 2007
Re: May 23, Zoning Review – Fire Department Comments

R-PZD 07-2578 (Bailey Meadows)

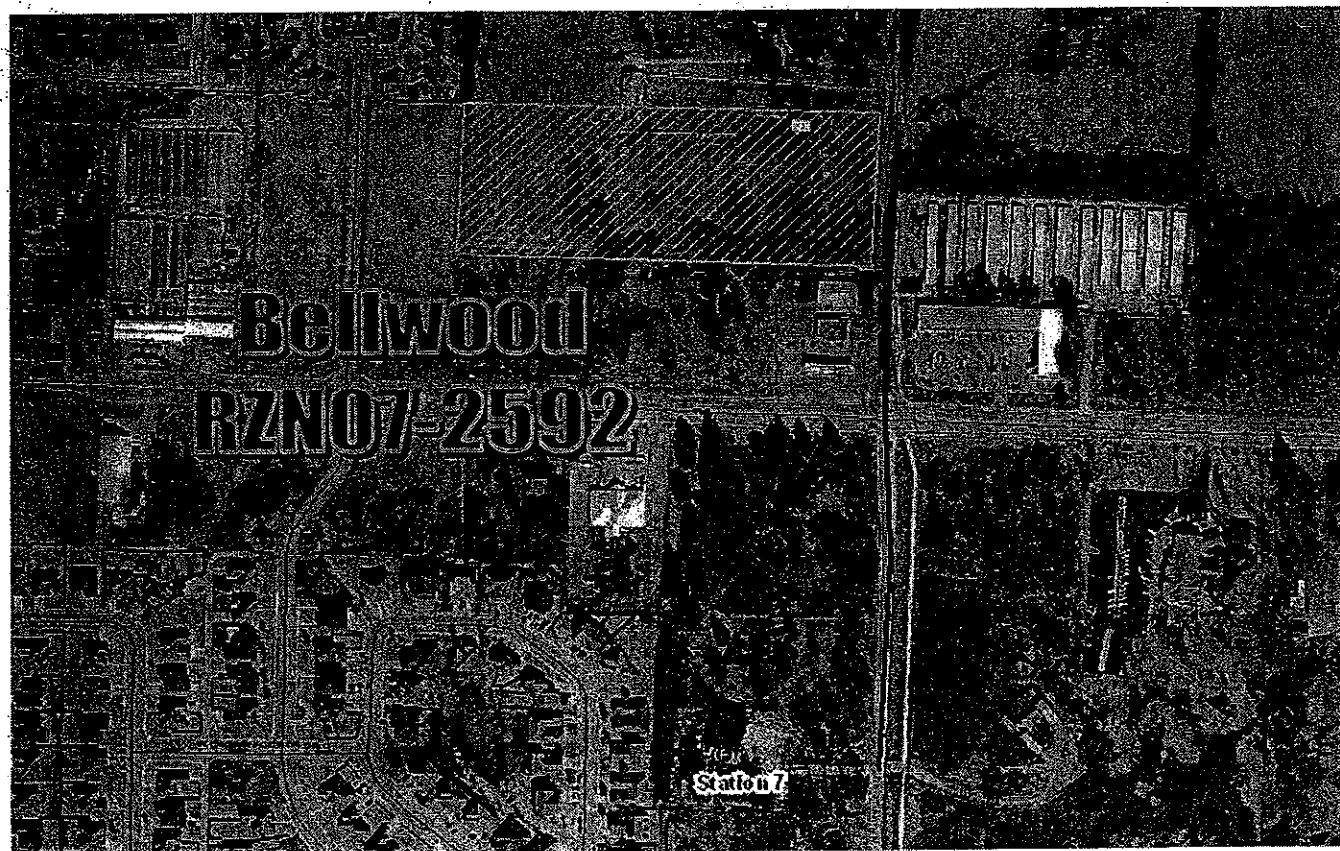
These 4.73 acres are covered by Engine 6 located at 900 S. Hollywood.
It is 4.1 miles from the station with an anticipated response time of 7 minutes.
The Fire Department anticipates 1 call for service, per year, once the development is completed and maximum build-out has occurred.
There is no measured hydrant flow recorded in this area.
There should be no adverse effects on our call volume to this development.

RZN 07-2602 (Armac Engineering)

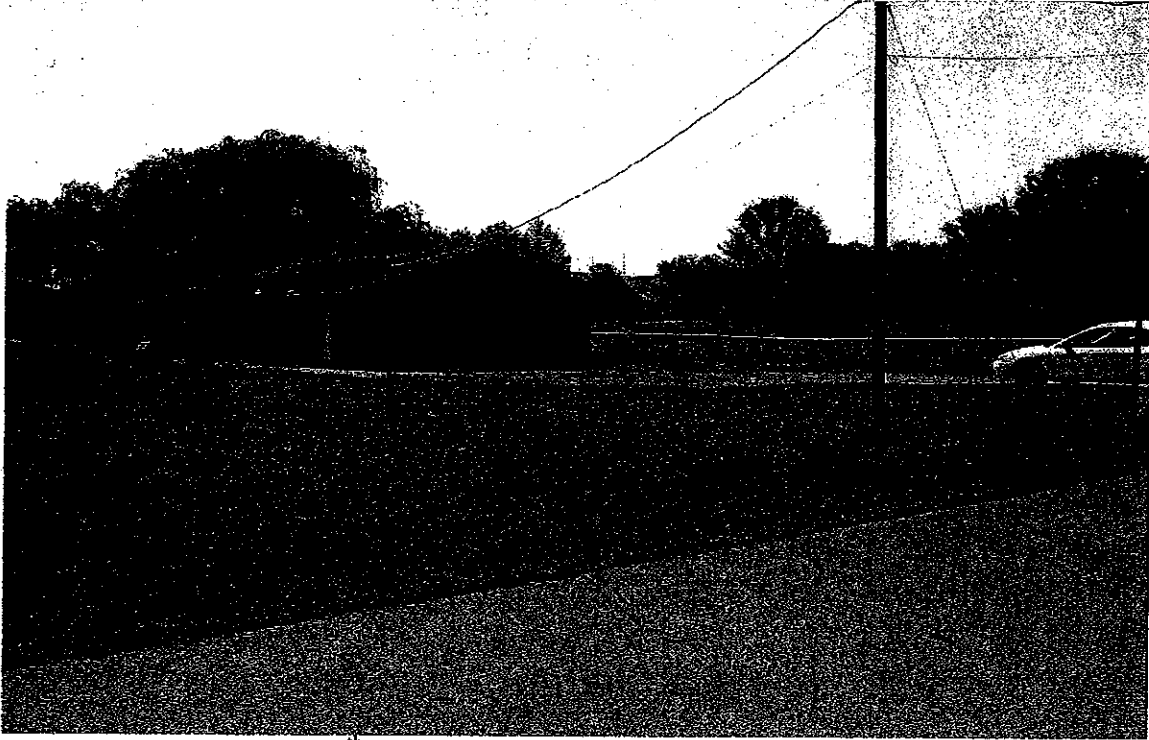
This .18 acres is covered by Engine 1 and Ladder 1 located at 303 W Center.
It is .6 miles from the station with an anticipated response time of 2.25 minutes.
The Fire Department anticipates 1 call for service, per year, once the development is completed and maximum build-out has occurred.
There is no measured hydrant flow recorded in this area.
There should be no adverse effects on our call volume or response time to this development.

RZN 07-2603 (Kooshesh)

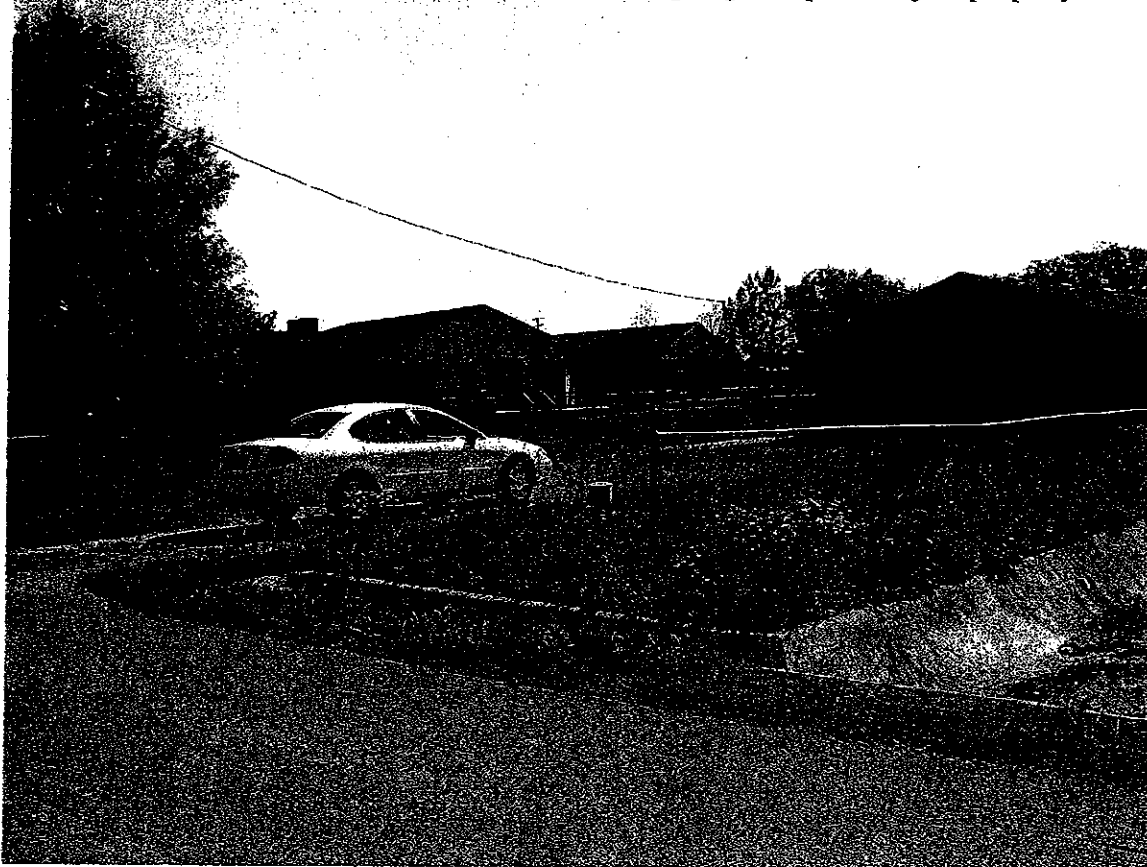
These 1.59 acres are covered by Engine 7 located at 835 N Ruppel Road.
It is .7 miles from the station with an anticipated response time of 2.75 minutes.
The Fire Department anticipates 9(6 EMS & 3 Fire/Other) calls for service, per year, once the development is completed and maximum build-out has occurred. The service impact of this type development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.
The measured hydrant flow in this area has been recorded at 1520 gallon/minute.
There should be no adverse effects on our call volume or response time to this development



RZN 07-2603
Kooshesh



Looking southeast from 46th Avenue at the 912 SF garage/shop on subject property.



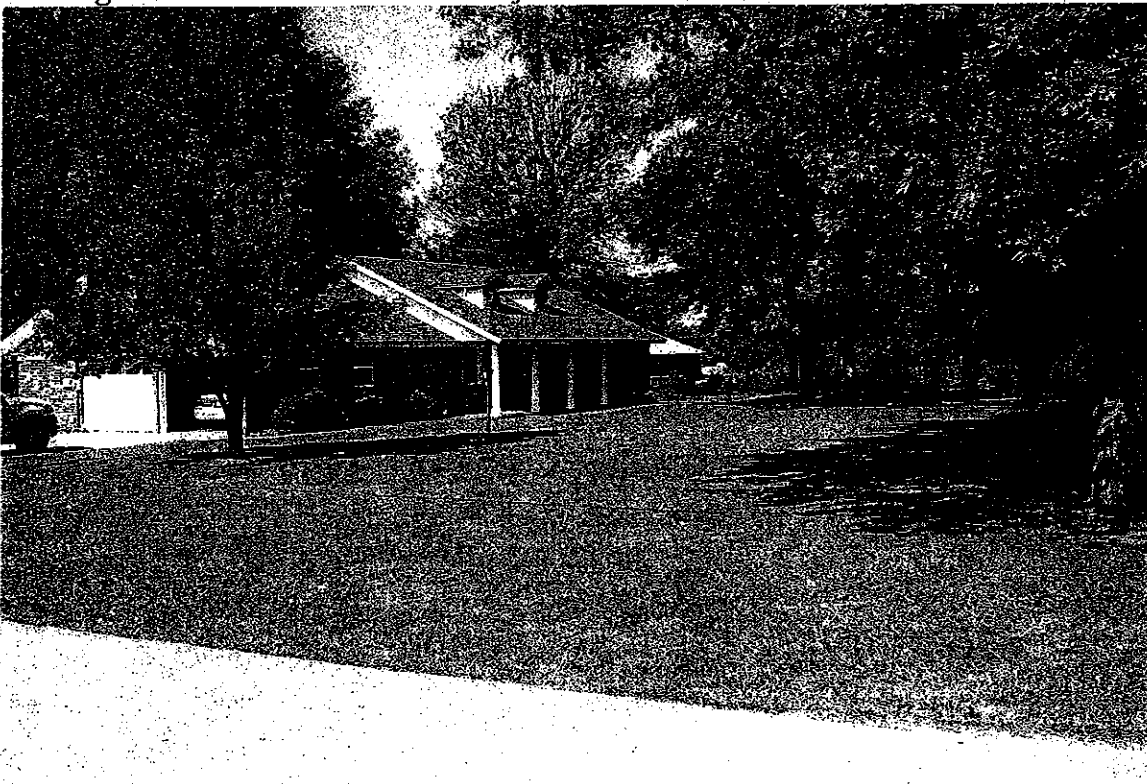
Looking northeast from 46th Avenue at the garage/shop and 2,457 SF residence on the subject property.

RZN 07-2603

Kooshesh

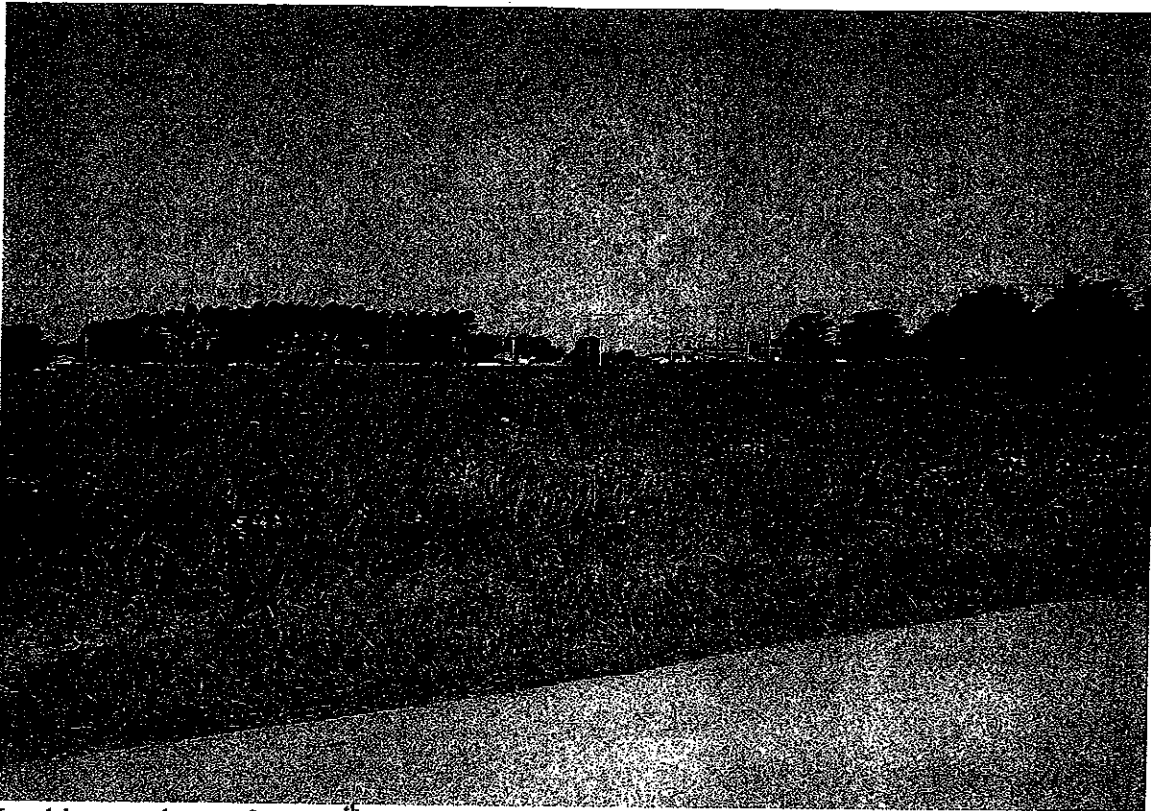


Looking east from 46th Avenue at the adjacent residence to the south.



Looking west from 46th Avenue at the residence to the southeast.

RZN 07-2603
Kooshesh



Looking northwest from 46th Avenue at the adjacent property to the west.



Looking southwest from Wedington Drive at the adjacent residence to the north.

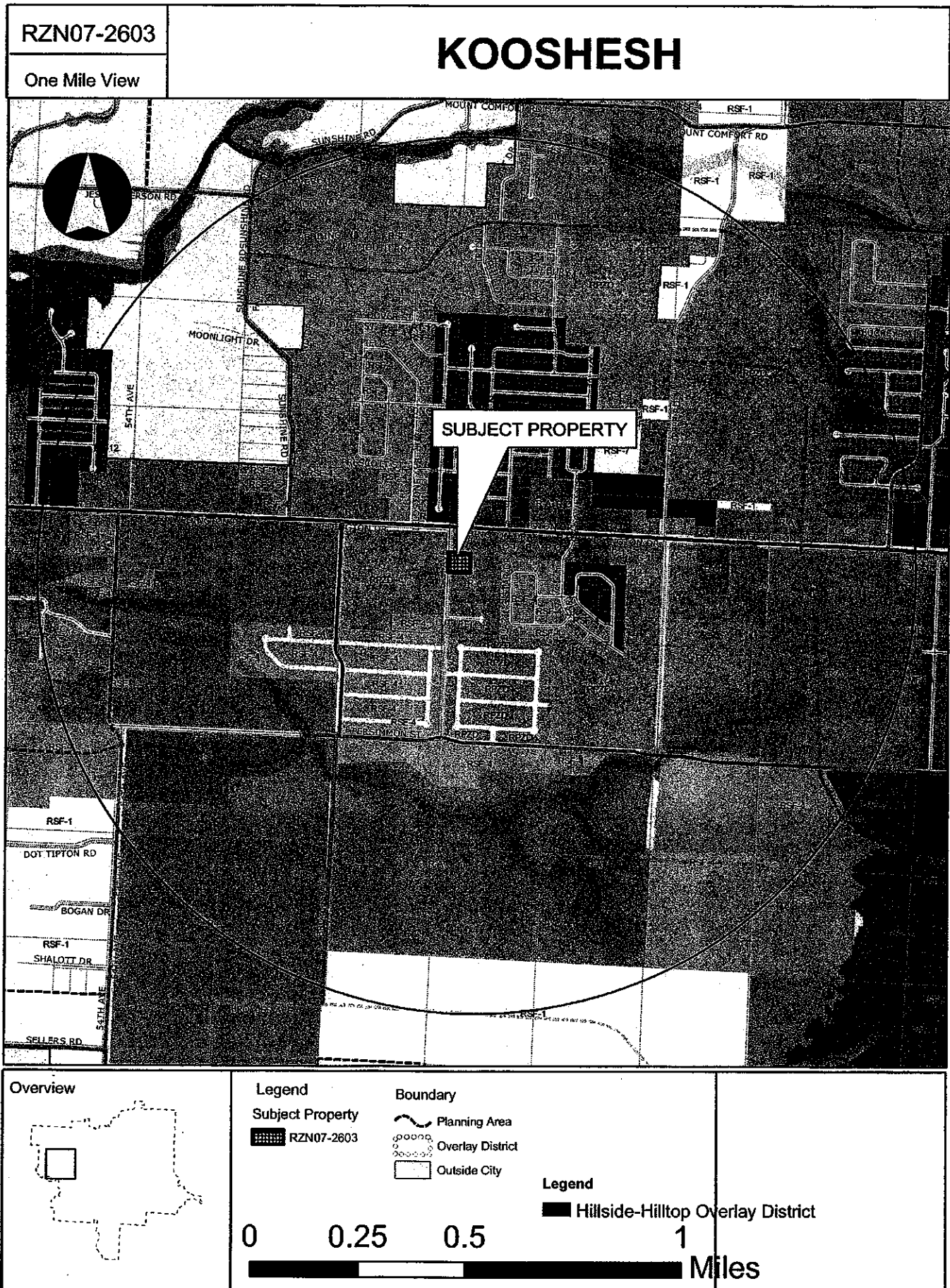
RZN 07-2603
Kooshesh



Looking southwest from Wedington Drive at the church adjacent to the east.



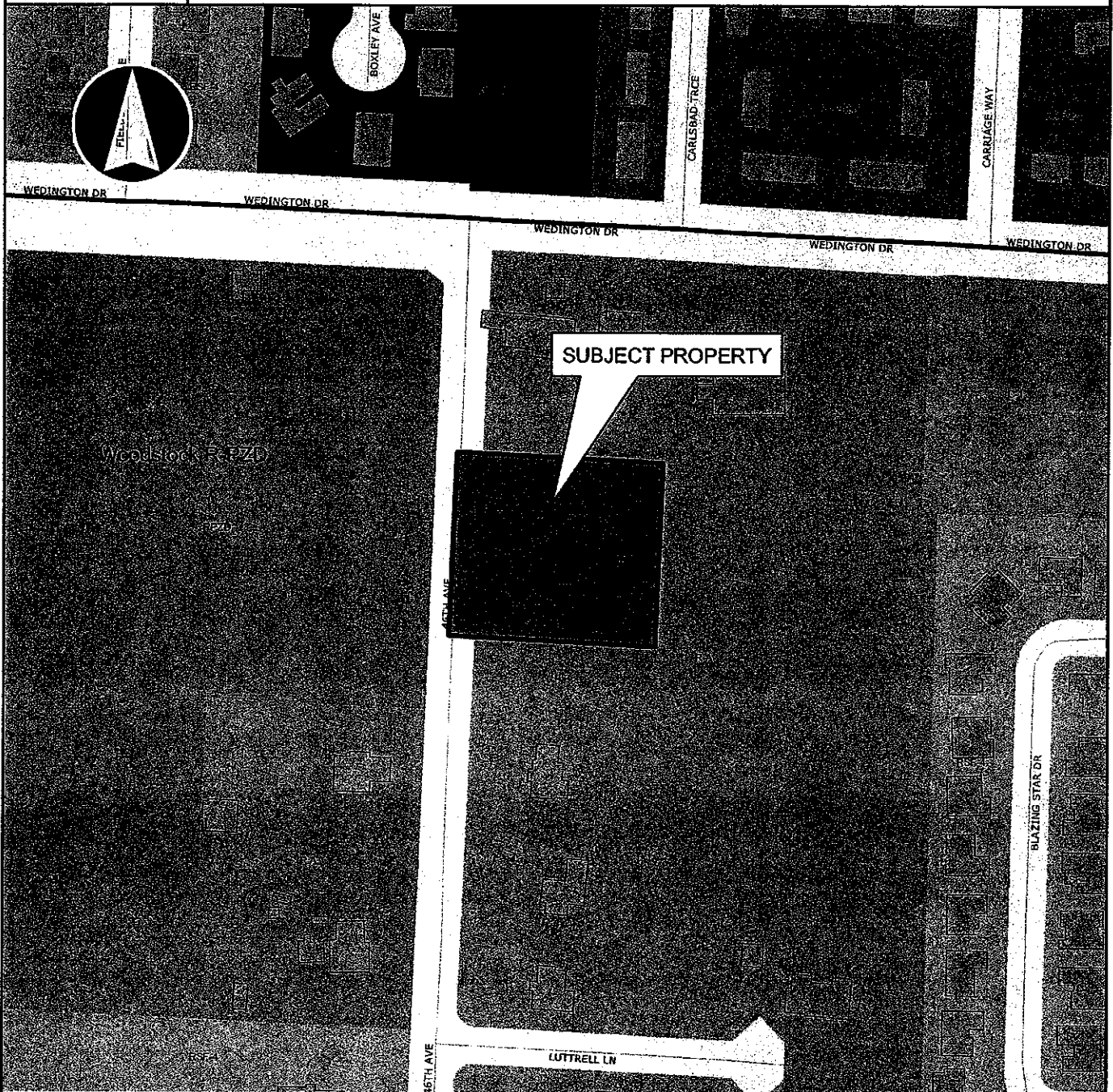
Looking west from the church parking lot into the backyard of subject property.



RZN07-2603

Close Up View

KOOSHESH



Overview



A horizontal scale bar with markings at 0, 75, 150, 300, 450, and 600 feet. The bar is divided into segments by vertical lines corresponding to these markings. The word "Feet" is written at the right end of the bar.

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

18-Dec-07

City Council Meeting Date

Jeremy Pate

Submitted By

Planning

Division

Operations

Department

Action Required:

VAC 07-2804: (The City of Fayetteville, 405): Submitted by The City of Fayetteville for property located east of Leverett Avenue, south of Robinson Apartments and north of Leverett Townhomes. The request is to vacate 9,802.11 square feet of an unused right-of-way and dedicate in its place a general utility easement on the subject property.

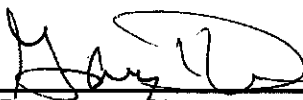
\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item

☐

Budget Adjustment Attached

☐

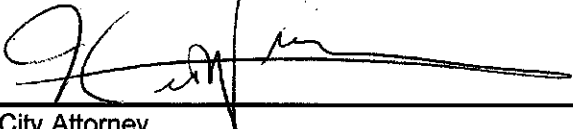

Department Director

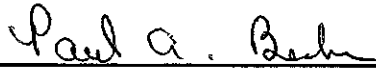
11-29-07
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

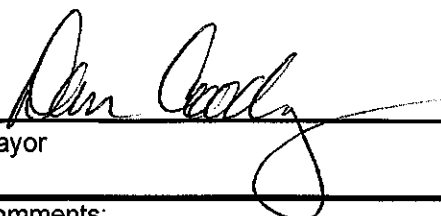

City Attorney


Finance and Internal Service Director

11-30-07
Date

Received in City Clerk's Office




Mayor

11/30/07
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 8

Date: November 29, 2007

Subject: Easement Vacation for City of Fayetteville (VAC 07-2804)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating 9,802.11 square feet of the unused 20-foot road right-of-way that is located on the subject property.

BACKGROUND

The property is located within a 20-foot wide east-west strip of unconstructed right-of-way east of Leverett Avenue, south of Robinson Apartments and north of Leverett Townhomes. While researching properties for land acquisition to accommodate Scull Creek Trail, a designated trail on the City of Fayetteville Trails Master Plan, the City discovered an unused 20-foot road right-of-way. This right-of-way does not currently have a road or public access and there are no plans to use the right-of-way in the future. Overhead utilities are located within the right-of-way, as are portions of two buildings in the Robinson Apartment complex. During the process of discussing Scull Creek Trail and the need for a portion of property from Robinson apartments for the trail, the property owner requested the right-of-way vacation as a land trade for the property along Scull Creek for the trail.

The applicant requests to vacate the 20-foot wide road right-of-way east of Leverett Avenue between the Robinson Apartments and north of Leverett Townhomes as indicated on the submitted site plan (9,802.11 square feet). As part of the vacation the applicant proposes to dedicate the vacated area, excluding the existing structures, as a general utility easement, as requested by utility companies.

DISCUSSION

The applicant submitted the required notification forms to the utility companies and City of Fayetteville with no objection. This item was heard at the regular Planning Commission meeting on November 26, 2007 and forwarded by vote of 9-0-0 on the consent agenda to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 07-2804 SUBMITTED BY CITY OF FAYETTEVILLE FOR PROPERTY LOCATED EAST OF LEVERETT AVENUNE, SOUTH OF ROBINSON APARTMENTS AND NORTH OF LEVERETT TOWNHOMES TO VACATE A PORTION OF AN UNUSED RIGHT-OF-WAY AND CREATE A GENERAL UTILITY EASEMENT ON THE SUBJECT PROPERTY, A TOTAL OF 9,802.11 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 portions of platted right-of-way are not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described rights-of-way:

See Exhibit "B" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Conditions of Approval as follows, and shall not be in effect until all conditions are met herein.

1. The subject 20-foot wide un-constructed right-of-way shall be dedicated as a general utility easement, excluding the existing structures in the Robinson Apartment complex.

Page 2
Ord.

PASSED and **APPROVED** this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

VAC 07-2804 (The City of Fayetteville)

Page 5 of 22

EXHIBIT

APPROX.
SCULL CREEK
CENTERLINE

765-05157-001
LAW QUAD APARTMENTS, LLC

765-18350-000
JESKE REVOCABLE
TRUST

765-05167-000
SWEETSER FAMILY
LIMITED PARTNERSHIP
Inst. No. 98076581

NOT TO SCALE

10'

10'

765-05160-000
MARGARET ROBINSON
REVOCABLE TRUST
Inst. No. 97080454

765-05167-000
SWEETSER FAMILY
LIMITED PARTNERSHIP
Inst. No. 98076581

BLOCK 25 OF
EWIN'S FARM SUBD.

BLOCK 25 OF
EWIN'S FARM SUBD.

S86°34'39"E 490.11'

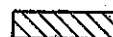
765-05161-000
CARLA BALDWIN ET AL.

765-05165-000
EAST AVENUE INVESTMENT
GROUP, LLC.

NORTHWEST CORNER
NW 1/4 NE 1/4 NW 1/4
9-16-30
SW CORNER
BLK 25
EWIN'S FARM

CL (UNDEVELOPED UNNAMED STREET)

LEVERETT AVENUE



20' RIGHT-OF-WAY TO BE
VACATED AND REPLACED
WITH 20' UTILITY EASEMENT

EXHIBIT "B"
VAC 07-2804

A PART OF BLOCKS 25 AND 26 EVIN'S FARM SUBDIVISION AS FILED WITH THE CIRCUIT CLERK, WASHINGTON COUNTY, ARKANSAS: THE CENTERLINE OF A TWENTY (20) WIDE STREET RIGHT-OF-WAY, TEN (10) FOOT EITHER SIDE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST (NW) QUARTER OF THE NORTHEAST (NE) QUARTER OF THE NORTHWEST QUARTER (NW) SECTION NINE (9), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, SAID POINT OF BEGINNING ALSO BEING THE SOUTHWEST (SW) CORNER OF SAID BLOCK TWENTY-FIVE (25); THENCE ALONG THE SOUTH LINE OF SAID BLOCK TWENTY-FIVE (25) SOUTH 86°34'39" EAST 490.11 FEET.

LESS AND EXCEPT: ANY AND ALL AREAS WITHIN THE EXISTING LEVERETT AVENUE RIGHT-OF -WAY.



PC Meeting of November 26, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~November 19, 2007~~ Updated November 29, 2007

VAC 07-2804: (CITY OF FAYETTEVILLE, 405): Submitted by CITY OF FAYETTEVILLE for property located at E OF LEVERETT AVE., S OF ROBINSON APTS. AND N OF LEVERETT TOWNHOMES. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE. The request is to vacate a portion of an unused right-of-way and create a general utility easement and trail on the subject property.

Property Owner: City of Fayetteville
Planner: Andrew Garner

Background/Property: The property is located within a 20-foot wide east-west strip of unconstructed right-of-way east of Leverett Avenue south of Robinson Apartments and north of Leverett Townhomes. While researching properties for land acquisition to accommodate Scull Creek Trail, a designated trail on the City of Fayetteville Trails Master Plan, the City discovered an unused 20-foot road right-of-way. This right-of-way does not currently have a road or public access and there are no plans to use the right-of-way in the future. Overhead utilities are located within the right-of-way, as are portions of two buildings in the Robinson Apartment complex. During the process of discussing Scull Creek Trail and the need for a portion of property from Robinson apartments for the trail, the property owner requested the right-of-way vacation as a land trade for the property along Scull Creek for the trail.

Surrounding Zoning and Use:

Direction from Site	Land Use	Zoning
North, South, East, West	Multi-family residential	RMF-24; RMF-40

Request: The applicant requests to vacate the 20-foot wide road right-of-way east of Leverett Avenue between the Robinson Apartments and north of Leverett Townhomes as indicated on the submitted site plan (9,802.11 square feet). As part of the vacation the applicant proposes to dedicate the vacated area, excluding the existing structures, as a general utility easement, as requested by utility companies. The required notification forms were submitted to the utility companies and the City with the following responses.

UTILITY COMPANY:

RESPONSE

AEP/SWEPCO

No Objections; provided a utility easement to be provided along the right-of-way.

Cox Communications

No Objections.

AT&T

No Objections; provided the entire area to be vacated will be granted as a general utility easement.

Ozarks Electric

No Objections.

Arkansas Western Gas

No Objections.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections.

Engineering

No Objections.

Transportation

No Objections.

Solid Waste and Recycling

No Objections.

Findings: Staff finds that vacating the requested right-of-way would not adversely affect access or provision of utilities on this or any other adjacent property, provided that the vacated area be dedicated as a general utility easement, excluding the existing buildings.

Public Comment: Staff has not received public opposition to this vacation request.

Recommendation: Staff recommends forwarding this request to the City Council with a recommendation of approval to vacate the utility easement VAC 07-2832 with the following condition of approval:

1. The subject 20-foot wide un-constructed right-of-way shall be dedicated as a general utility easement, excluding the existing structures in the Robinson Apartment complex.

PLANNING COMMISSION ACTION: yes Required

Recommendation to be: ☒ Forwarded for approval ☐ Denied ☐ Tabled

Motion: Graves

Second: Ostner

Vote: 7-0-1 (Lack recused)

Date: November 26, 2007

Comments: Forwarded on consent agenda.

The "CONDITIONS OF APPROVAL", as stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By

Title

Date



ENGINEERING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8206
Fax: (479) 575-8202

October 17th, 2007

RE: Evin's Farm Vacation

While researching properties for land acquisition to accommodate Scull Creek Trail, The City discovered an unused 20' road right of way. This right of way does not currently have a road or public access and there are no plans to use the right of way in the future. During the process of discussing Scull Creek Trail and the need for a portion of property from Robinson Apartments, the property owner requested the right of way vacation as a land trade for the property along the Scull Creek for the trail.

Overhead utilities are located within the right of way and a utility easement will be created over the entire right of way to accommodate the existing utilities.

Matt Mihalevich
Trails Coordinator

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 10/17/07UTILITY COMPANY: AEP/SWEPCOAPPLICANT NAME: City of Fayetteville APPLICANT PHONE: 444-3416REQUESTED 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**)

East of Leverett Avenue, south of Robinson Apartments and North of Leverett Townhomes

A part of Blocks 25 and 26 Evin's Farm Subdivision as filed with the Circuit Clerk, Washington County, Arkansas; the centerline of a twenty (20) wide street right-of-way, ten (10) foot either side being more particularly described as follows:

Beginning at the Southwest corner of the Northwest (NW) Quarter of the Northeast (NE) Quarter of the Northwest Quarter (NW) Section Nine (9), Township Sixteen (16) North, Range Thirty (30) West, said point of beginning also being the Southwest (SW) corner of said Block Twenty-Five (25); thence along the South line of said Block Twenty-Five (25) South 86°34'39" East 329.82 feet.

Less and except: Any and all areas within the existing Leverett Avenue right-of-way.

A GENERAL UTILITY EASEMENT WILL BE CREATED ON THE ENTIRE 20' RIGHT OF WAY

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:

UTILITY Easement to be provided Along Right of way[Signature]
Signature of Utility Company RepresentativeEngineer
Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 12-18-07UTILITY COMPANY: Cox COMMUNICATIONSAPPLICANT NAME: City of Fayetteville APPLICANT PHONE: 444-416
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**)

East of Leverett Avenue, south of Robinson Apartments and North of Leverett Townhomes

A part of Blocks 25 and 26 Evin's Farm Subdivision as filed with the Circuit Clerk, Washington County, Arkansas; the centerline of a twenty (20) wide street right-of-way, ten (10) foot either side being more particularly described as follows:

Beginning at the Southwest corner of the Northwest (NW) Quarter of the Northeast (NE) Quarter of the Northwest Quarter (NW) Section Nine (9), Township Sixteen (16) North, Range Thirty (30) West, said point of beginning also being the Southwest (SW) corner of said Block Twenty-Five (25); thence along the South line of said Block Twenty-Five (25) South 86°34'39" East 329.82 feet.

Less and except: Any and all areas within the existing Leverett Avenue right-of-way.

A GENERAL UTILITY EASEMENT WILL BE CREATED ON THE ENTIRE 20' RIGHT OF WAY

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 RepresentativePROJECT COORDINATOR
Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 10-12-07

UTILITY COMPANY: at&t

APPLICANT NAME: City of Fayetteville

APPLICANT PHONE: 444-3416

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**)

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UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

① No objections provided the following conditions are met: ENTIRE AREA TO BE VACATED
WILL BE GRANTED AS GENERAL UTILITY EASEMENT

Susan K. Clouser

Signature of Utility Company Representative

OSP ENGINEER-DESIGN

Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 9-25-07UTILITY COMPANY: OZARKS ElectricAPPLICANT NAME: City of FayettevilleAPPLICANT PHONE: 444-3416REQUESTED 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

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UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)
- ☐ No objections provided the following conditions are met:

Signature of Utility Company Representative

Title

Lead Staking Tech

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 10-3-07

UTILITY COMPANY: ARKANSAS WESTERN GAS COMPANY

APPLICANT NAME: City of Fayetteville APPLICANT PHONE: 444-3416

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

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UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)
- ☐ No objections provided the following conditions are met:

Steve R. Bandy
Signature of Utility Company Representative
FAYETTEVILLE ASSISTANT OPERATING MANAGER
Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 10-30-07

UTILITY COMPANY: Solid Waste & Recycling

APPLICANT NAME: City of Fayetteville

APPLICANT PHONE: 444-3416

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

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UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
 - ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)
-
- ☐ No objections provided the following conditions are met:

Brian Pugh
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 10/31/07

UTILITY COMPANY: CITY OF FAYETTEVILLE - Transportation Division

APPLICANT NAME: City of Fayetteville APPLICANT PHONE: 444-3416

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
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- ☒ Street right-of-way

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 - ☐ 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] 10/31/07
Signature of Utility Company Representative
Transportation Supt.
Title
Operations Department
Transportation Division
CITY OF FAYETTEVILLE

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 11-2-07

UTILITY COMPANY: W & S

APPLICANT NAME: City of Fayetteville APPLICANT PHONE: 444-3416
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

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- ☐ 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

W & S ops mgr
Title

EXHIBIT

APPROX.
SCULL CREEK
CENTERLINE

765-05157-001
LAW QUAD APARTMENTS, LLC

765-18350-000
JESKE REVOCABLE
TRUST

765-05167-000
SWEETSER FAMILY
LIMITED PARTNERSHIP
Inst. No. 98076581

NOT TO SCALE

765-05160-000
MARGARET ROBINSON
REVOCABLE TRUST
Inst. No. 97080454

765-05167-000
SWEETSER FAMILY
LIMITED PARTNERSHIP
Inst. No. 98076581

BLOCK 25 OF
EVIN'S FARM SUBD.

BLOCK 26 OF
EVIN'S FARM SUBD.

765-05161-000
CARLA BALDWIN ET AL.

765-05166-000
EAST AVENUE INVESTMENT
GROUP, LLC.

NORTHWEST CORNER
NW 1/4 NE 1/4 NW 1/4
9-16-30
SW CORNER
BLK 25
EVIN'S FARM

LEVERETT AVENUE

586°34'39"E 490.11'

CL (UNDEVELOPED UNNAMED STREET)



20' RIGHT-OF-WAY TO BE
VACATED AND REPLACED
WITH 20' UTILITY EASEMENT

VAC07-2804

Close Up View

CITY OF FAYETTEVILLE



SUBJECT PROPERTY

LEVERETT AVE

Overview

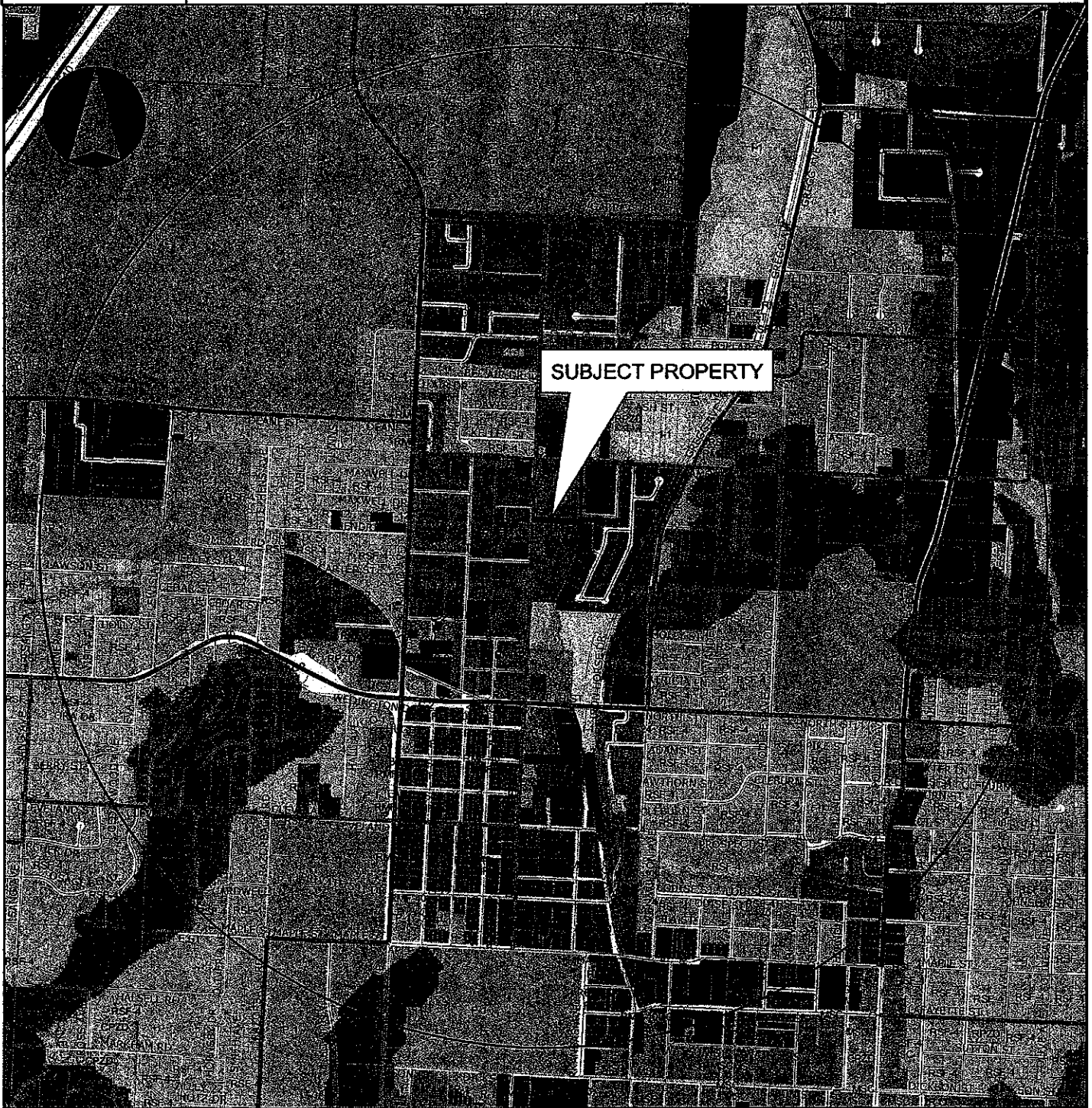


0 37.5 75 150 225 300
Feet

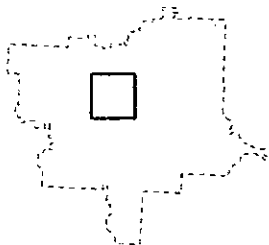
VAC07-2804

One Mile View

CITY OF FAYETTEVILLE



Overview



Legend

Subject Property

VAC07-2804

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1
Miles

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

C. 4
VAC 07-2832 (Lots 6-9
Timberlake Office Park)
Page 1 of 16

18-Dec-07

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 07-2832: (Lots 6-9 Timberlake Office Park, 96/135): Submitted by H2 Engineering for property located at Lots 6-9 of the Timberlake Office Park. The request is to vacate 1.83 acres of an erosion control easement traversing through the subject property.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

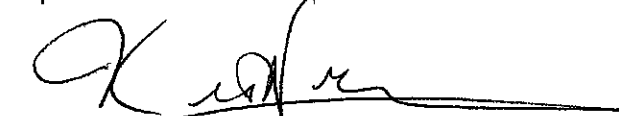
Budgeted Item ☐

Budget Adjustment Attached ☐

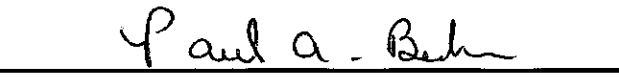

Department Director 11-29-07
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney 11-30-07
Date

Original Contract Number: n/a


Finance and Internal Service Director 11-30-07
Date

Received in City Clerk's Office



Mayor 11/30/07
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 ^{JK}

Date: November 29, 2007

Subject: Easement Vacation for Lots 6-9 Timberlake Office Park (VAC 07-2832)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating 1.83 acres of the erosion control easement that is located on the subject property.

BACKGROUND

The property is located at Lots 6-9 of the Timberlake Office Park north of Zion Road. The Timberlake Office Park subdivision has been recently platted and does not have any development on it other than streets, infrastructure, and a pre-existing single family residence. The subject property is located at the northeast end of this subdivision. The property is at the top of a steep slope above Lake Fayetteville and the outfall at Clear Creek. There is a large easement bisecting this property that was dedicated as part of the development of Lake Fayetteville in 1949. This easement was for preservation and stabilization of the slope above the lake. Staff has discussed this easement with the Arkansas Soil and Water Conservation Commission who have indicated no problems with vacating a portion of this easement. The portion of the easement bisecting Lots 6-9 of Timberlake Office Park would have to be vacated prior to development on the property. On September 10, 2007 the Planning Commission approved development of a 20,500 square foot professional office building and associated parking lot (LSD 07-2677) on Lot 9 of the Timberlake Office Park subdivision. The LSD was approved with the condition that the easement be vacated prior to obtaining construction permits for the development.

DISCUSSION

As this easement only grants rights to the City of Fayetteville for erosion control adjacent to Lake Fayetteville, the applicant was only required to submit the required notification forms to the City of Fayetteville. No objections were received. This item was heard at the regular Planning Commission meeting on November 26, 2007 and forwarded by vote of 9-0-0 on the consent agenda to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 07-2832 SUBMITTED BY H2 ENGINEERING FOR PROPERTY LOCATED AT LOTS 6-9 OF THE TIMBERLAKE OFFICE PARK TO VACATE THE EROSION CONTROL EASEMENT ON THE SUBJECT PROPERTY, A TOTAL OF 1.83 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 platted erosion control 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 erosion control 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.

PASSED and APPROVED this day of , 2007.

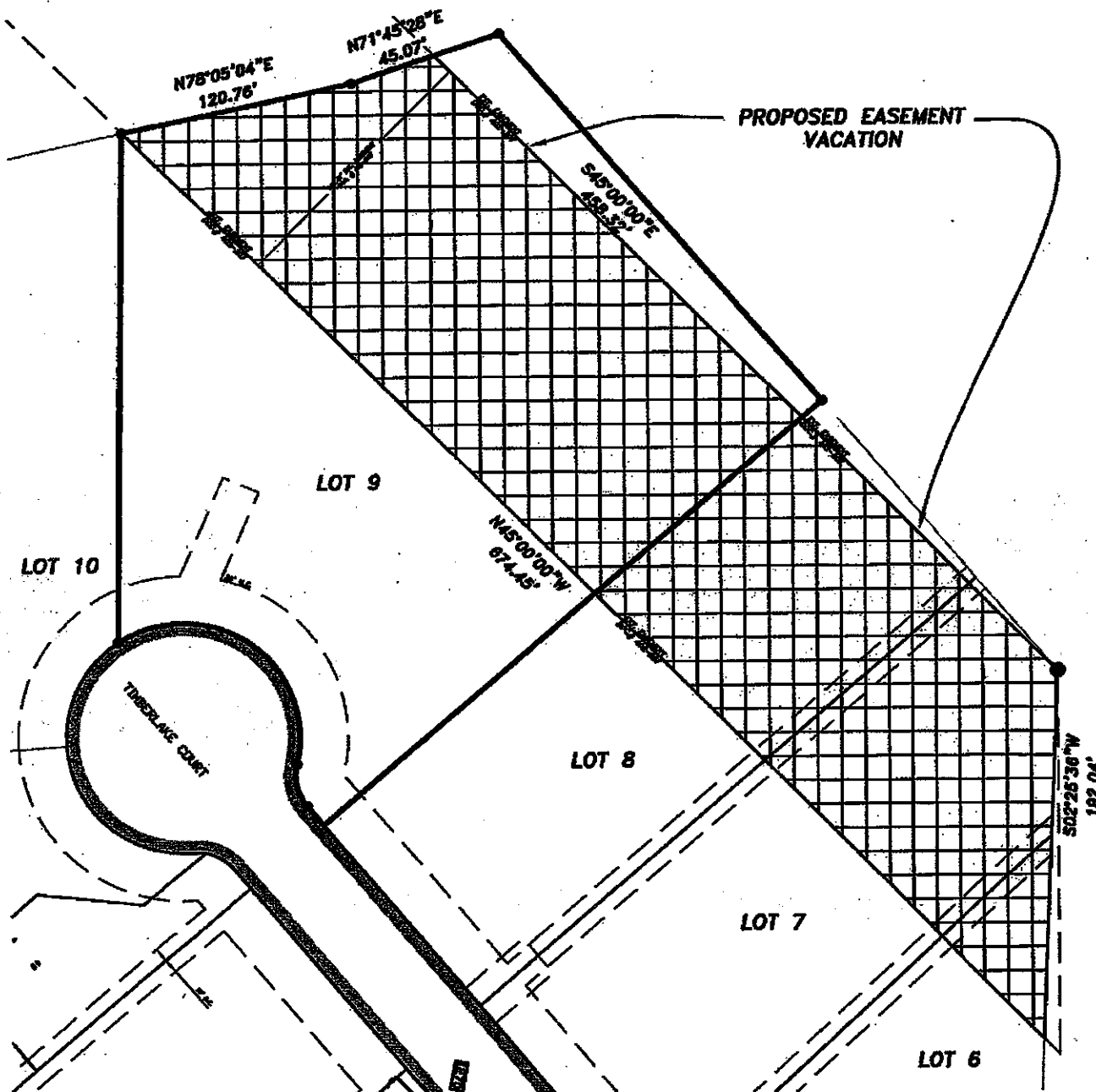
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"



SCALE: 1"=80'

EASEMENT VACATION EXHIBIT

H2
ENGINEERING, INC.
2756 MILLENNIUM DRIVE
Suite 1
FAYETTEVILLE, ARKANSAS 72708
PHONE: (479) 582-4284
FAX: (479) 582-9284

EXHIBIT "B"
VAC 07-2832

LOCATED IN A PART OF THE EAST ½ OF THE NE ¼ OF SECTION 23, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NE CORNER OF SECTION 23; THENCE SOUTH 2,140.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 02 DEGREES 25 MINUTES 36 SECONDS WEST, 192.04 FEET; THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, 674.45 FEET; THENCE NORTH 78 DEGREES 05 MINUTES 04 SECONDS EAST, 120.76 FEET; THENCE NORTH 71 DEGREES 45 MINUTES 28 SECONDS EAST, 45.07 FEET; THENCE SOUTH 45 DEGREES 00 MINUTES 00 SECONDS EAST, 458.32 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 1.83 ACRES MORE OR LESS.



PC Meeting of November 26, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~November 19, 2007~~ Updated November 29, 2007

VAC 07-2832: (LOTS 6-9 TIMBERLAKE OFFICE PARK, 96/135): Submitted by H2 ENGINEERING for property located at LOTS 6-9 OF THE TIMBERLAKE OFFICE PARK. The property is zoned R-O, RESIDENTIAL OFFICE. The request is to vacate a portion of an erosion control easement.

Property Owner: Zion Holdings, LLC
Planner: Andrew Garner

Background/Property: The property is located at Lots 6-9 of the Timberlake Office Park north of Zion Road. The Timberlake Office Park subdivision has been recently platted and does not have any development on it other than streets, infrastructure, and a pre-existing single family residence. The subject property is located at the northeast end of this subdivision. The property is at the top of a steep slope above Lake Fayetteville and the outfall at Clear Creek. There is a large easement bisecting this property that was dedicated as part of the development of Lake Fayetteville in 1949. This easement was for preservation and stabilization of the slope above the lake. Staff has discussed this easement with the Arkansas soil and water Conservation Commission who have indicated no problems with vacating a portion of this easement (see attached email). The portion of the easement bisecting the proposed development would have to be vacated prior to development on the property. On September 10, 2007 the Planning Commission approved development of a 20,500 square foot professional office building and associated parking lot (LSD 07-2677) on Lot 9 of the Timberlake Office Park subdivision. The LSD was approved with the condition that the easement be vacated prior to obtaining construction permits for the development.

Surrounding Zoning and Use:

Direction from Site	Land Use	Zoning
North and East	Lake Fayetteville Park	R-A
South and East	Undeveloped lots in Timberlake Office Park	R-O; PZD 06-2191 University Club Tower
West	Single family residence	R-O

Request: The applicant requests to vacate the preservation and slope stabilization easement traversing through Lots 6-9 of the Timberlake Office Park subdivision (1.83 acres). As this easement only grants rights to the City of Fayetteville for erosion control adjacent to Lake

Fayetteville, the applicant was only required to submit the required notification forms to the City of Fayetteville. The responses from the City are listed below.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections.

Engineering

No Objections.

Parks

No Objections.

Findings: Staff finds that vacating the requested portion of easement would not adversely affect preservation or slope stabilization associated with Lake Fayetteville, or any other adjacent property. The Fayetteville Water and Sewer, Parks, and Engineering Divisions have stated no objection to the requested vacation. The City also inquired of the Arkansas Soil and Water Conservation Commission regarding the potential to vacate this easement and received no objection.

Public Comment: Staff has not received public opposition to this vacation request.

Recommendation: Staff recommends forwarding to the City Council with a recommendation of approval to vacate the utility easement VAC 07-2832 with no conditions.

PLANNING COMMISSION ACTION: yes Required

Recommendation to be: ☒ Forwarded for approval ☐ Denied ☐ Tabled

Motion: Graves

Second: Ostner

Vote: 7-0-1 (Lack recused)

Date: November 26, 2007

Comments: Forwarded on consent agenda.

The "CONDITIONS OF APPROVAL", as stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By

Title

Date

From: Matt Casey
To: Garner, Andrew
Date: 11/19/07 2:12PM
Subject: Fwd: RE: easement question for Lake Fayetteville Dam

This is all we have Andrew.

Matt

>>> Sarah Wrede 8/13/2007 9:37 AM >>>

Response from Alvin Simmons at Arkansas Soil and Water Conservation Commission:

>>> "Alvin Simmons" <alvin.simmons@arkansas.gov> 08/10/07 2:13 PM >>>

Sarah:

Relative to State Dam Safety requirements, I see no problem with vacating a portion of this easement.

-----Original Message-----

From: Sarah Wrede [<mailto:swrede@ci.fayetteville.ar.us>]

Sent: Thursday, August 09, 2007 10:46 AM

To: Alvin Simmons

Subject: easement question for Lake Fayetteville Dam

Alvin,

I attached a pdf showing an easement (purple) that the City has south of the Lake Fayetteville Dam's spillway. The easement is labeled as being for erosion control. We are considering vacating the south eastern portion of the easement that is not in the floodplain. We could not find any information that necessitate us having that easement. Will you respond, an email will be fine, with whether or not you see any problems with vacating a portion of this easement? I spoke with Mike and said he are obligated to maintain the dam and 20 feet off of the toe but that there are no easement requirements.

Thank you,
Sarah

Sarah Wrede
NPDES Phase II Program Manager
Floodplain Administrator
City of Fayetteville
(479) 575-8208



October 12, 2007

Andrew Garner
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Re: Timberlake - Easement Vacation

Dear Staff,

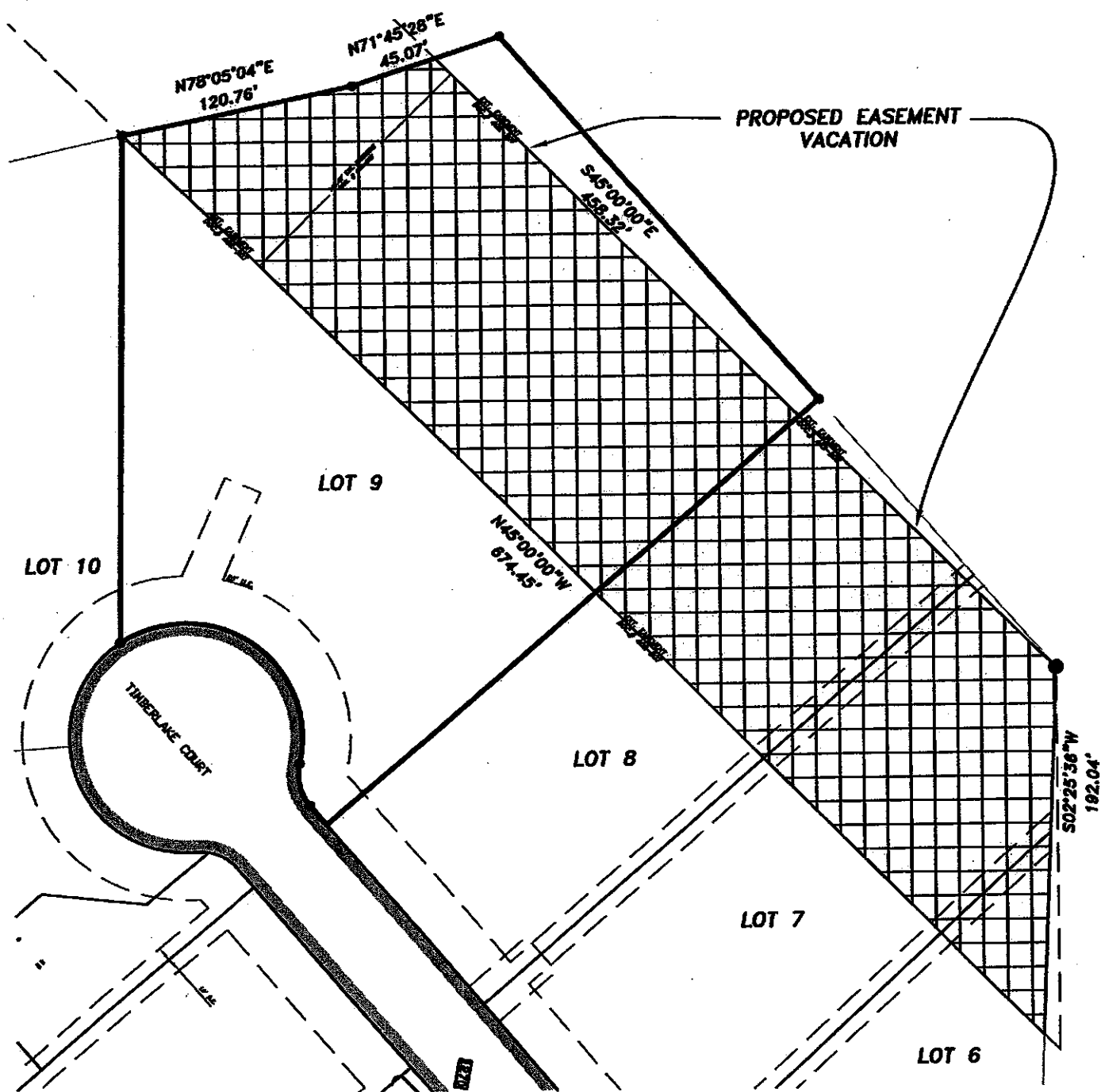
This correspondence is a written description of the petition to vacate a portion of an existing easement (Doc. # 402-207) lying on Washington County Parcel # 765-15568-002 in Fayetteville, Arkansas. The current owner of the property is Zion Holdings, LLC and Timberlake, a Residential-Office development, as been approved for this site. The presence of this easement hinders the developer's buildable space on lots 6 – 9 of Timberlake. We propose to vacate the easement as it is not currently being used for anything. Our understanding of the nature of the easement is that it was originally put into place with the construction of Lake Fayetteville and that it is no longer needed.

Thank you for your consideration in this matter. If you should have any questions or comments, please call me at 582-4234.

Sincerely,

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

Jeremy Thompson, P.E.
Project Engineer
H2 Engineering, Inc.



EASEMENT VACATION EXHIBIT

ADJACENT PROPERTY OWNER NOTIFICATION FORM
FOR
EASEMENT VACATION REQUEST

Date: October 16, 2007

Address / location of vacation: The proposed easement vacation is located in the northeast corner of Timberlake Office Park (see attached exhibit)

Adjacent property address: 113 W. Mountain, Fayetteville, AR 72701

REQUESTED VACATION:

I have been notified of the petition to vacate the following easement, described as follows:

LOCATED IN A PART OF THE EAST ¼ OF THE NE ¼ OF SECTION 23, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NE CORNER OF SECTION 23; THENCE SOUTH 2,140.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 02 DEGREES 25 MINUTES 36 SECONDS WEST, 192.04 FEET; THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, 674.45 FEET; THENCE NORTH 78 DEGREES 05 MINUTES 04 SECONDS EAST, 120.76 FEET; THENCE NORTH 71 DEGREES 45 MINUTES 28 SECONDS EAST, 45.07 FEET; THENCE SOUTH 45 DEGREES 00 MINUTES 00 SECONDS EAST, 458.32 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 1.83 ACRES MORE OR LESS.

ADJACENT PROPERTY OWNERS COMMENTS:

☐ I have been notified of the requested vacation and decline to comment.

☒ I do not object to the vacation described above.

☐ I do object to the requested vacation because:

City of Fayetteville

Connie Edmonston
Name of Property Owner (printed)

(CITY OF FAYETTEVILLE)

Connie Edmonston
Signature of Property Owner

Parks & Recreation Director

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: October 12, 2007

UTILITY COMPANY: City of Fayetteville, Water & Sewer

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:

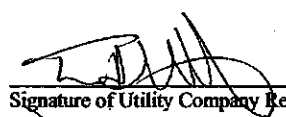
General location / Address:

LOCATED IN A PART OF THE EAST ½ OF THE NE ¼ OF SECTION 23, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NE CORNER OF SECTION 23; THENCE SOUTH 2,140.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 02 DEGREES 25 MINUTES 36 SECONDS WEST, 192.04 FEET; THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, 674.45 FEET; THENCE NORTH 78 DEGREES 05 MINUTES 04 SECONDS EAST, 120.76 FEET; THENCE NORTH 71 DEGREES 45 MINUTES 28 SECONDS EAST, 45.07 FEET; THENCE SOUTH 45 DEGREES 00 MINUTES 00 SECONDS EAST, 458.32 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 1.83 ACRES MORE OR LESS.

(Include legal description and graphic representation of what is being vacated)

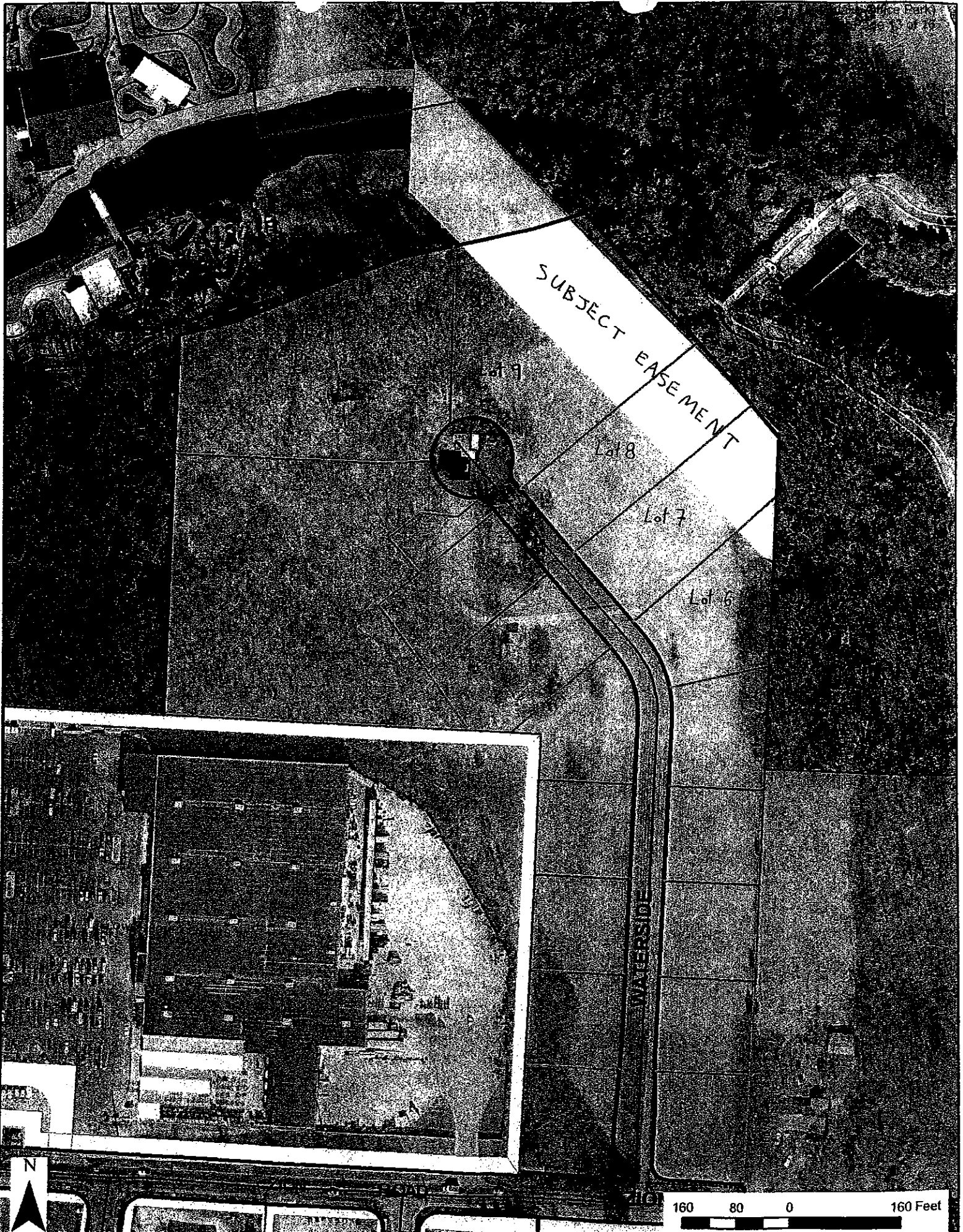
UTILITY COMPANY COMMENTS:

- ☒ 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.)


Signature of Utility Company Representative

Title

10-25-07
Date



VAC07-2832

Close Up View

LOTS 6-9 TIMBERLAKE OFFICE PARK



SUBJECT PROPERTY

LAKE FAYETTEVILLE

LAKE FAYETTEVILLE

PRIVATE 1347 DR

Overview

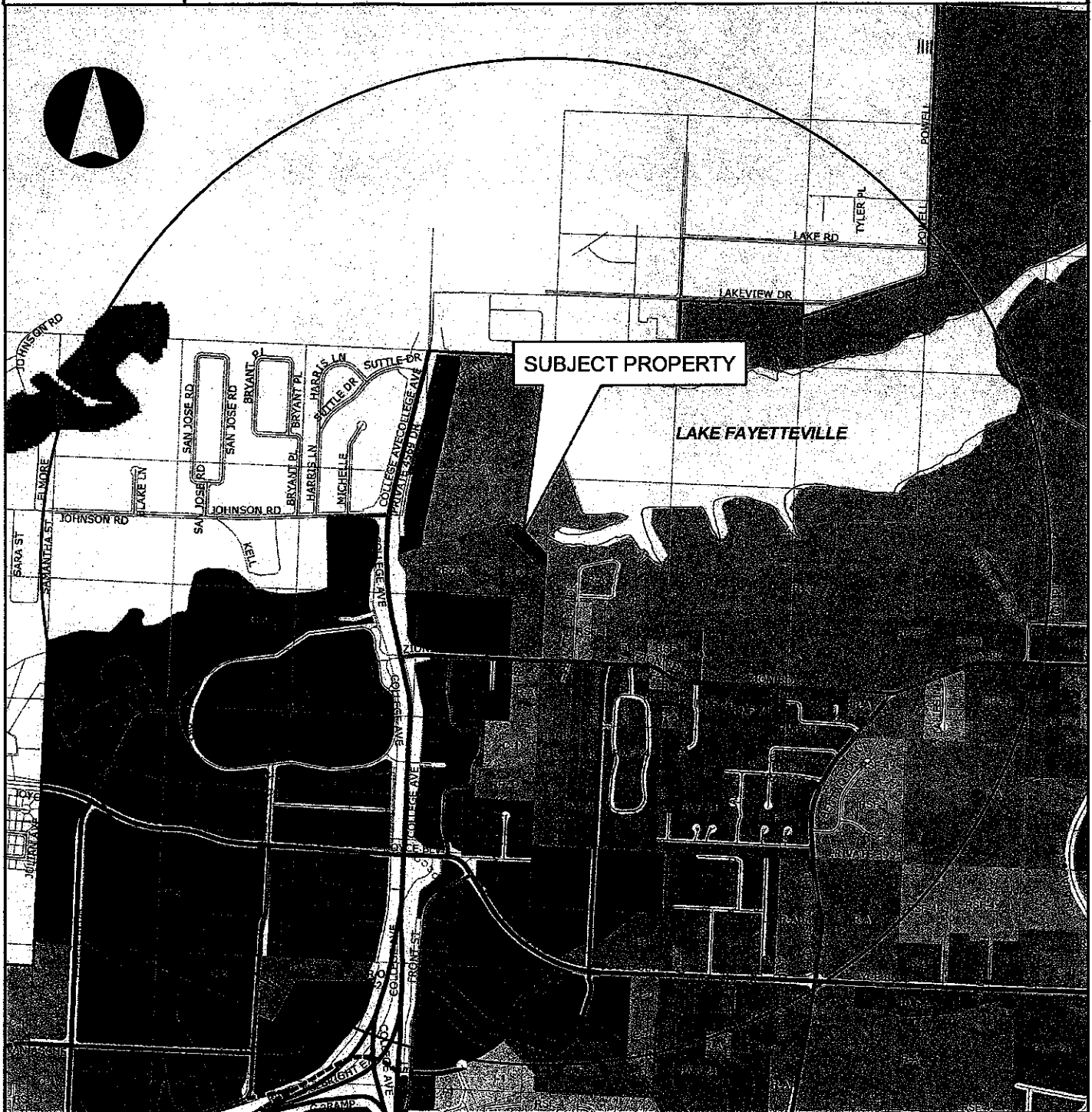


A horizontal scale bar with markings at 0, 75, 150, 300, 450, and 600 feet. The bar is divided into segments by vertical lines corresponding to these markings. The word "Feet" is written at the right end of the bar.

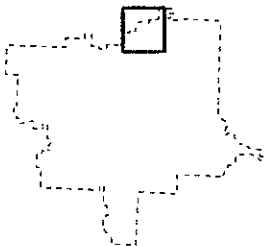
VAC07-2832

LOTS 6-9 TIMBERLAKE OFFICE PARK

One Mile View



Overview



Legend

Subject Property



VAC07-2832

Boundary



• Planning Area



Overlay District



Outside City

Legend



Hillside-Hilltop Overlay District

A horizontal scale bar with tick marks at 0, 0.25, 0.5, and 1. The word "Miles" is written at the right end of the bar.

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

C. 5
ADM 07-2849 (East Square Development)
Page 1 of 26

18-Dec-07

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 07-2849: Approval of a waiver from the Unified Development Code Ch. 166.20 Expiration of Approved Plans and Permits, to permit an extension for the East Square/Renaissance Planned Zoning District for a period of three years.

\$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

11.29.07
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney

11-30-07

Paul A. Behr
Finance and Internal Service Director

11-30-07
Date

Received in City Clerk's Office



[Signature]
Mayor

11/29/07
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 29, 2007

Subject: ADM 07-2849 (East Square Development Planned Zoning District Extension)

RECOMMENDATION

Planning staff recommends approval of an extension of the timeframe in which the East Square Development/Renaissance Hotel C-PZD must obtain all building permits associated with the approved PZD, which requires a waiver from the Unified Development Code, §166.20 *Expiration of Approved Plans and Permits*. Approval of the extension is to be conditioned upon all building permits associated with the PZD project being obtained by the applicant prior to December 20, 2010 or the project shall return through the Planned Zoning District review process, in accordance with the ordinances in place at the time of submittal.

BACKGROUND

The subject property is zoned C-PZD 05-1610, Commercial Planned Zoning District, and consists of approximately 1.01 acres located within the Original Town Plat on the block between Center Street and Mountain Street, and fronting onto Hwy 71B (College Avenue). On December 20, 2005, the City Council approved a C-PZD to establish specific zoning criteria and large scale development approval for the subject property. The new development includes an 18-story, 200-room hotel with condominiums, retail/tenant space, conference rooms, a ballroom, and a restaurant and bar, as well as a 7-1/2 story parking garage with 350 parking stalls. The dilapidated Mountain Inn, original parking deck, and other deteriorated structures that were located on this property were demolished and the property on which the hotel and parking structure will be constructed has been cleared for development. Other development associated with the project includes the renovation of several historic structures along East Avenue, which are being remodeled for adaptive reuse, including retail/commercial space, office space and residential dwellings.

Conditions placed on the development and zoning approval in December 2005 included a one-year expiration of the project in accordance with Chapter 166.20 *Expiration of Approved Plans and Permits*. The only permitted extension to this PZD was granted by the Planning Commission for a one-year period, which is set to expire on December 20, 2007. Should the PZD expire, all permits will be null and void, and staff will be required to begin the revocation process.

DISCUSSION

At this time, the applicant has received and maintains an active grading and footing/foundation permit for the hotel, and has proceeded with construction and renovation of the historic structures along East Avenue in the past year by way of tenant finish-out permits. In addition, the applicant has relocated several utility lines associated with the hotel construction.

Staff is recommending the City Council grant the applicant an extension to the timeframe in which the applicant must obtain all building permits associated with the East Square PZD. As with several other projects for which the City Council has recently granted extensions, this project was approved in 2005, before a more reasonable phasing schedule for such a large and complex project could legally be proposed for consideration. When this project was approved, there was in place a blanket one-year time period in which to obtain all building permits associated with the project. Since that time, this ordinance has been changed, and almost all larger or more complex projects have proposed a development phasing schedule that is more accurately based on the market, construction costs, and staging of construction.

Planning staff and Building Safety staff have participated in several meetings with the applicants and their independent contractors over the past year, working on a phased permitting process, due to the complexity of the review process for this project. Staff agrees with the applicant and their contractors in that it is important to phase the building permits, especially for the 18-story structure, to allow for a thorough review of all systems required for such a building. Staff supports the applicant's request for an extension to allow for this project to continue in the process of obtaining building permits without having to process a new Planned Zoning District application through the development review process, also meeting all new submittal requirements. We feel it is evident the developer is actively pursuing the development of this project, as evidenced in a recent presentation to the Council, which was the intent of the ordinance adoption.

The extension request is for a period of three years for all building permits to be obtained, to expire on December 20, 2010. Building permits would be able to be pulled for the buildings that can be permitted immediately, or at any time within the three years. However, the applicant shall be allowed until December 20, 2010 to receive all necessary building permits for the Planned Zoning District as approved by the Planning Commission and City Council. If the permits have not been issued by this time, the PZD approval shall be revoked. All other conditions of approval for the project shall remain applicable.

BUDGET IMPACT

None.

ORDINANCE NO. _____

**AN ORDINANCE TO WAIVE SECTION 166.20
OF THE UNIFIED DEVELOPMENT CODE AND
TO EXTEND THE EXPIRATION DATE FOR C-
PZD 05-1610 (EAST SQUARE DEVELOPMENT)
TO DECEMBER 20, 2010.**

WHEREAS, after the East Square Development C-PZD was approved by the Fayetteville City Council on December 20, 2005, the City Council amended the Planned Zoning District ordinance in the Unified Development Code to allow a greater period of time for large and/or complex projects to obtain building permits; and

WHEREAS, the East Square Development C-PZD is a very large and complex project that involves half of a city block, including an 18-story, 200-room hotel, commercial and office uses, residential dwelling units, a 350-space parking deck, conference space, major utility relocation and ancillary adaptive reuse projects of historic structures on East Avenue; and

WHEREAS, the applicant has proceeded with and completed much of the renovation of historic buildings along East Street, re-routed and installed new utility lines to serve the hotel building, and obtained grading, drainage and foundation permits as initial phases of the development plans; and

WHEREAS, the developer of East Square Development/Renaissance Hotel project requests an extension of the expiration date to obtain all building permits for all structures associated with the C-PZD project within the next three years; and

WHEREAS, the re-development of the old Mountain Inn property into a first-class hotel, conference and mixed-use project in the core of the City is in the best interest of the citizens of Fayetteville to contribute to and help sustain the vibrant and active downtown that Fayetteville enjoys,

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby waives Section 166.20 Expiration of Approved Plans and Permits of the Unified Development Code and grants an extension for C-PZD 05-1610 (East Square Development) with the condition that the

applicant shall obtain all building permits associated with the Planned Zoning District project by December 20, 2010.

PASSED and APPROVED this ___ day of ___, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

DRAFT

RECEIVED

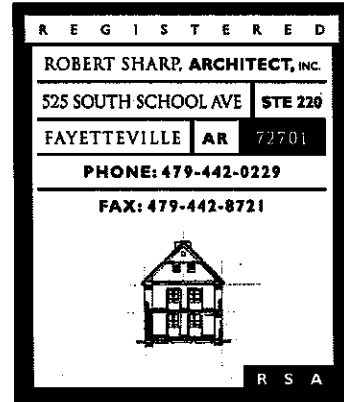
NOV 28 2007

PLANNING DIV.

November 28, 2007

Jeremy Pate, Director of Current Planning
City of Fayetteville
113 West Mountain Street
Fayetteville Arkansas 72701

Via Hand Delivery



**RE: PZD APPROVAL EXTENSION
EAST SQUARE PROJECT**

Dear Jeremy,

The East Square redevelopment project PZD 05-1610 was approved by the city Council on December 20, 2005 as a Planned Zoning District. At that time my client expected to have all permits in place and to begin construction on all phases within one year. Due to additional time needed for Marriott review, value engineering, and to develop final budgets and corresponding financing requirements, we are requesting more time to complete the design and planning work necessary for such a large and complex project.

As you know, significant progress has been made at this site: we have already sought and received a foundation permit for the hotel/condo tower, excavated the area of the hotel basement, underpinned the adjacent historic building, completed utility relocations, and renovated the historic buildings on this block. Construction documents for the hotel/condo tower are substantially complete, and final parking structure design is underway.

At the time of approval of this PZD, Fayetteville's ordinances only allowed a one year window in which to complete permitting and approval of the project, with a single one year extension. The current PZD law is more flexible and allows a longer time in which to design and seek permitting for the project. We ask that you extend our PZD approval to allow us an additional period of time in which to work out all the interrelated details of this complex undertaking. Specifically, we ask that PZD approval be extended to allow us to submit for building permits for an additional three year period. This additional three years would give my client the flexibility to design and construct the parking structure, hotel/condo tower, and renovations of the historic buildings along Center Street in a deliberate manner that is most advantageous in terms of phasing, construction staging areas, and cost control.

In summary, my client has expended significant time and resources towards the completion of this project. Our goals remain the same as the concept presented to the City Council, Planning Commission, city staff, and elected officials. Extending PZD approval for an additional three years is an opportunity for the City of Fayetteville to demonstrate its continued faith in this very important investment in the future of Fayetteville's downtown.

For the above reasons, I ask for your support, and the support of the City Council, in amending PZD 05-1610. I strongly feel that the benefits that this project represents to the City of Fayetteville are enormous.

Sincerely,

A handwritten signature in black ink, appearing to read "R Sharp", with a stylized flourish at the end.

Robert Sharp, Architect

cc: Richard Alexander
John Nock
File

ORDINANCE NO. 4804

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED C-PZD 05-1610, EAST SQUARE DEVELOPMENT, LOCATED AT THE NORTHWEST CORNER OF MOUNTAIN STREET AND COLLEGE AVENUE, CONTAINING APPROXIMATELY 1.01 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; WAIVING ANY POSSIBLY CONFLICTING DEVELOPMENT ORDINANCES; AND ADOPTING THE ASSOCIATED PLANNED ZONING DISTRICT

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

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

From C-4, Downtown Commercial, to C-PZD 05-1610 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved development standards as shown on the Planned Zoning District's plans, all conditions of approval determined appropriate and approved by the Planning Commission on November 14, 2005, and the City Council.

Section 3: That the City Council hereby expressly waives any development ordinances that might be in conflict with C-PZD 05-1610 including but not limited to §166.12 *Structures not allowed over public utility easements* and §166.18 *Master Street Plan Setbacks*, and approves the development proposal as presented herein.

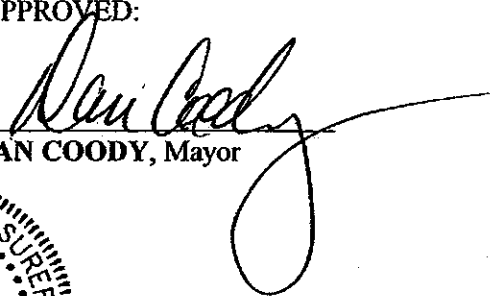
Section 4: That this ordinance shall take effect and be in full force at such time as all of the requirements of the development plan have been met.

Section 5: 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 20th day of December, 2005.

APPROVED:

By:


DAN COODY, Mayor

By:


SONDRA SMITH, City Clerk





PC Meeting of November 14, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 9, 2005 *Updated December 21, 2005*

C-PZD 05-1610: Planned Zoning District (EAST SQUARE DEVELOPMENT, 523):
Submitted by BOB KOHLER for property located at NW CORNER MOUNTAIN ST. AND COLLEGE AVE. The property is zoned C-4, DOWNTOWN COMMERCIAL and contains approximately 1.01 acres. The request is to approve a 16 story Commercial Planned Zoning District with a hotel, residential condominiums, meeting space, commercial space and a parking garage.

Property Owners: ONE EAST CENTER LLC

Planner: SUZANNE MORGAN

Findings:

Property Description: The property consists of a total of approximately 1.01 acres located within the Original Town Plat on the block between Center Street and Mountain Street, with additional frontage onto Hwy 71B (College Avenue). The Mountain Inn, parking deck, and other deteriorated structures on this property have been demolished and the property sits primarily vacant. The property is currently zoned C-4, Downtown.

Proposal: The applicant requests approval of a C-PZD to establish specific zoning criteria and large scale development approval. Development of a 16-story structure that will incorporate a hotel with 147 rooms, condominiums, retail/tenant space, conference rooms, a ballroom, and a restaurant and bar. A 7-1/2 story parking garage with 350 parking stalls is proposed. There are several waivers from the Unified Development Code requirements requested for this project to be approved.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Restaurants, Retail, Office	C-4, Downtown
South	Government/Federal Buildings	C-4, Downtown
East	Court House, Government Buildings	C-3, Central Commercial
West	Offices, Bank, Bank of Am. Condos (proposed)	C-4, Downtown

Process: The property on which this large scale development has been submitted consists of all and parts of several tracts of property. Several of the existing structures along Center Street will not be disturbed with the proposed development. The applicant requests approval for the establishment of zoning regulations on the entire tract of property and the development, proposed to be done in phases. They are as follows:

Phase I – 16-story Hotel Tower, 3-story building containing the ballroom, two structures on Center Street

Phase II – Retail/Tenant space and parking garage on Mountain Street

Permits for both Phases to be issued within one year of R-PZD approval.

The following bulk and area regulations are proposed by the applicant:

C-PZD 05-1610 East Square Development

(A) Proposed Uses.

Use Unit #	Type of Use
Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 29	Dance halls

(B) Density. Density = None (*25 units are proposed in the development; however, the applicant requests to reserve the right to increase the number of residential units.*)

(C) Bulk and area regulations. None.

(E) Setback requirements. Front: 0'; Side: 0'; Rear: 0'

(F) Height.

Hotel Tower:	16 stories maximum
	<i>(stories 11 to 16 are proposed for condominium units)</i>
Hotel w/ Ballroom:	3 stories
Parking Garage:	7-1/2 stories
Retail/Tenant:	1 story
2 Bldg.s on Center St:	3 stories and a basement

(G) *Building area.* 100%; The entire site is covered with buildings and impervious surface.

Parking Chart:

	Parking required	Parking Provided
Mountain Inn	214	113
East Square Development	369	350

Water & Sewer: Water and sewer lines are being relocated and extended to serve the development.

Utilities: Several alleys are requested to be abandoned, in which many of the existing utility lines are located. The applicant is coordinating with the utility companies which will serve this development.

Access: The parking deck will be accessed from Mountain Street *and Center Street via an existing alley*. The Downtown Master Plan recommends a modification of Mountain Street to allow for two-way traffic. At this time, no such proposal has been brought before the Street Committee or City Council for consideration, though it is anticipated in the future, likely before the subject project is constructed. Access from this parking deck is proposed to each of the retail spaces on the ground floor of the parking deck on either side of the entrance. Also, access from the parking deck will be available *from the third floor of the parking deck* to the Hotel Tower and a pedestrian bridge is proposed to the Bank of America Condominiums to the west. The applicant also proposes a drive-in on Mountain Street for drop-off access to the Hotel Tower.

Adjacent Master Street Plan Streets:

College Avenue (Principal Arterial, currently a 50' ROW, requires 110' ROW)
Mountain Street (MS-55, Main Street; currently a 55' ROW, requires 55' ROW)
Center Street (MS-55, Main Street; currently a 55' ROW, requires 55' ROW)

Commercial Design Standards: The applicant has submitted elevations of the proposed hotel, parking garage, ballroom and structures on Center Street. They incorporate a variety of exterior materials of brick, stucco, pre-cast concrete, steel, tile, slate, glass, ornamental iron, aluminum, pre-finished metal panels and fiber cement. All proposed structures are very visible to the public due to the height of the building or prominence on the surrounding streets. The parking garage, for example, will protrude further into the street than adjacent buildings. Design and architectural style of this structure is therefore as important in its affect of the downtown area as the hotel tower.

Tree Preservation: A Tree Protection Waiver has been submitted and signed by Landscape Administrator after an on-site visit to verify that no trees currently exist.

Parks: Park fees shall be charged for each multi-family unit proposed. The developer shall pay \$9,825 for 25 multi-family units prior to issuance of a building permit for the phase in which the units shall be constructed.

Public Comment: Staff has not received any objections to the requested C-PZD at this time.

Background: The Subdivision Committee forwarded this item to the Planning Commission on September 01, 2005. *The Planning Commission forwarded this item to the City Council at the regular meeting on November 14, 2005.*

Recommendation: Staff recommends forwarding C-PZD 05-1610 to the City Council with a recommendation for approval with the following conditions:

Conditions of Approval:

1. Planning Commission determination of improvements. *Staff recommends the following:*
 - ♦ Construction of sidewalks as indicated on the plat along College Avenue and from College Avenue to the alley on Mountain Street and Center Street.
 - ♦ The applicant shall comply with the plantings shown on the proposed Landscape Plan, including planters and street tree plantings in structural soil along College Avenue, Mountain Street and Center Street west to the alley. Tree species shall be approved by the Landscape Administrator.
 - ♦ New curb and gutter on Mountain Street and Center Street from the alley to College Avenue and along College Avenue;
 - ♦ Storm drainage improvements on all street frontage as shown on the site plan and as determined necessary by the City Engineer with further investigation to be conducted at the time of construction;
 - ♦ Pavement overlay and restriping along Mountain Street and Center Street from the alley to College Avenue and along College Avenue, as well as the alley where determined to be needed by the City Engineer as part of the construction process; an overlay of the entire width of Center Street, Mountain Street, and the alley is recommended as opposed to improvement of only one-half the street width.

The Planning Commission recommended in favor of the above improvements.

2. Planning Commission recommendation of a lesser dedication of right-of-way for College Avenue (Hwy 71B) from the required 55' from centerline to 30' from centerline. *Staff recommends approval of the requested lesser dedication. A Master Street Plan Amendment to modify the designation of College Avenue for a total 60' right-of-way (30' from centerline) from Rock St. to North St. has been forwarded by the Planning Commission to the City Council with a recommendation for approval and is currently being reviewed by the Street Committee. This project is in compliance with this original recommendation by the Planning Commission.*

The Planning Commission recommended in favor of lesser dedication of right-of-way for College Avenue.

3. Planning Commission recommendation of **granting** a waiver **variance** request to allow the construction of a pedestrian bridge over an existing alley (City right-of-way) that will connect the parking garage to Bank of America Condominiums **subject to City Council approval to allow construction over a City right-of-way.** *Staff recommends*

approval of the requested waiver to construct a structure over public right-of-way. The parking required for the condominium units will be provided in the parking deck as was approved by the Planning Commission and listed as a condition of approval for the Conditional Use Permit for Bank of America Condominiums.

The Planning Commission recommended in favor of the requested variance to allow construction over a City right-of-way.

4. Planning Commission determination of *granting* a waiver *variance* request to allow the construction of a parking deck and hotel entrance canopy over the existing right-of-way for Mountain Street as indicated on the proposed C-PZD site plan *and subject to City Council approval allowing the narrowing of Mountain Street to allow this construction over a City right-of-way.* The construction of this structure over the right-of-way will result in the removal of approximately 11 on-street parking spaces, and a maximum encroachment of 17' 3" into the right-of-way. The public sidewalk will be constructed under the proposed deck, which will essentially function as a covered, open walkway.

The Planning Commission recommended in favor of the requested variance to allow the construction over a City right-of-way.

5. Planning Commission determination of Commercial Design Standards and compatibility of materials and architectural features with the surrounding structures and historic downtown. *Staff finds that the proposed structures incorporate many elements within the architecture of the downtown and are compatible with the desirable features of adjacent structures. Staff and the Subdivision Committee expressed concerns with the design of the parking deck, especially because of its high visibility as it encroaches into the right-of-way and recommends particular elements on the southwest end cap be incorporated to create a better transition and view from the downtown square.*

The Planning Commission recommended in favor of compliance with Commercial Design Standards.

6. ~~The two retail structures proposed on Center Street shall be reviewed for compliance with the Design Standards set forth by the applicant and approved by the City Council. The Planning Commission shall review the proposed elevations at the time of building permit for compliance and compatibility with surrounding developments and shall approve or deny them accordingly.~~
7. The applicant shall dedicate the required amount of right-of-way for College Avenue (Hwy 71B) as determined by the City Council by warranty deed prior to issuance of a building permit.
8. All exterior lighting shall meet the requirements of the Outdoor Lighting Ordinance. A cut sheet showing the lighting plan and details shall be submitted to the Planning Division for review and approval prior to issuance of a building permit.
9. The applicant shall install six bike racks per ordinance requirements.

10. A Certificate of Occupancy for any phase of the project may not be issued prior to completion and issuance of a Certificate of Occupancy for the Parking Deck and all required improvements for that phase.
11. All development shall meet applicable building codes for separation and other ordinances of the City of Fayetteville.
12. Allowed uses in this C-PZD shall be restricted to Use Units 1, 2, 3, 4, 5, 12, 13, 14, 15, 16, 17, 19, 24, 25, 26, and 29.
13. ~~The maximum number of dwelling units that may be permitted is 25. The applicant does not propose a maximum density to reserve the right to subdivide the condominium units in the future.~~
14. Payment of Park fees in the amount of \$9,825 for 25 multi-family units shall be paid prior to issuance of a building permit for the phase in which the units will be located.
15. Signage shall be permitted in accordance with city ordinances for a property located in a C-4 zoning district. The parking structure shall be allowed signage in accordance with the C-4 zoning district requirements.
16. Planned Zoning District approval shall be valid for one calendar year, per city ordinance. The applicant has stated that it is the intent to obtain all permits for Phase I and Phase II within one year of City Council approval of the C-PZD.
17. ~~Prior to City Council consideration, the applicant shall modify the zoning information on the site plan to indicate the maximum number of condominium units proposed in the hotel tower, density and setback regulations. The applicant has complied with this condition.~~

Standard Conditions of Approval:

18. 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)
19. 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.
20. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

21. Prior to the issuance of a building permit the following is required:
- Grading and drainage permits
 - Separate easement plat for this project.
 - Project Disk with all final revisions
 - Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §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.

ADDITIONAL CONDITIONS OF APPROVAL (AS AMENDED BY THE CITY COUNCIL ON DECEMBER 20, 2005)

22. A minimum of 16 feet clear from the alley to the bottom of the pedestrian overpass shall be maintained to ensure adequate solid waste and emergency access.
23. All sidewalks located adjacent to the public right-of-way (and not within the public right-of-way) shall be within a pedestrian/sidewalk easement, to be filed of record.

Planning Commission Action: Required YES

☒ Approved ☐ Denied ☐ Tabled

Motion to approve: Clark

Meeting Date: November 14, 2005

Second: Vaught

Vote: 8-0-0

City Council Action: Required YES

☒ Approved ☐ Denied ☐ Tabled

Vote: 8-0-0

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

CPZD05-1610

EAST SQUARE DEVELOPMENT

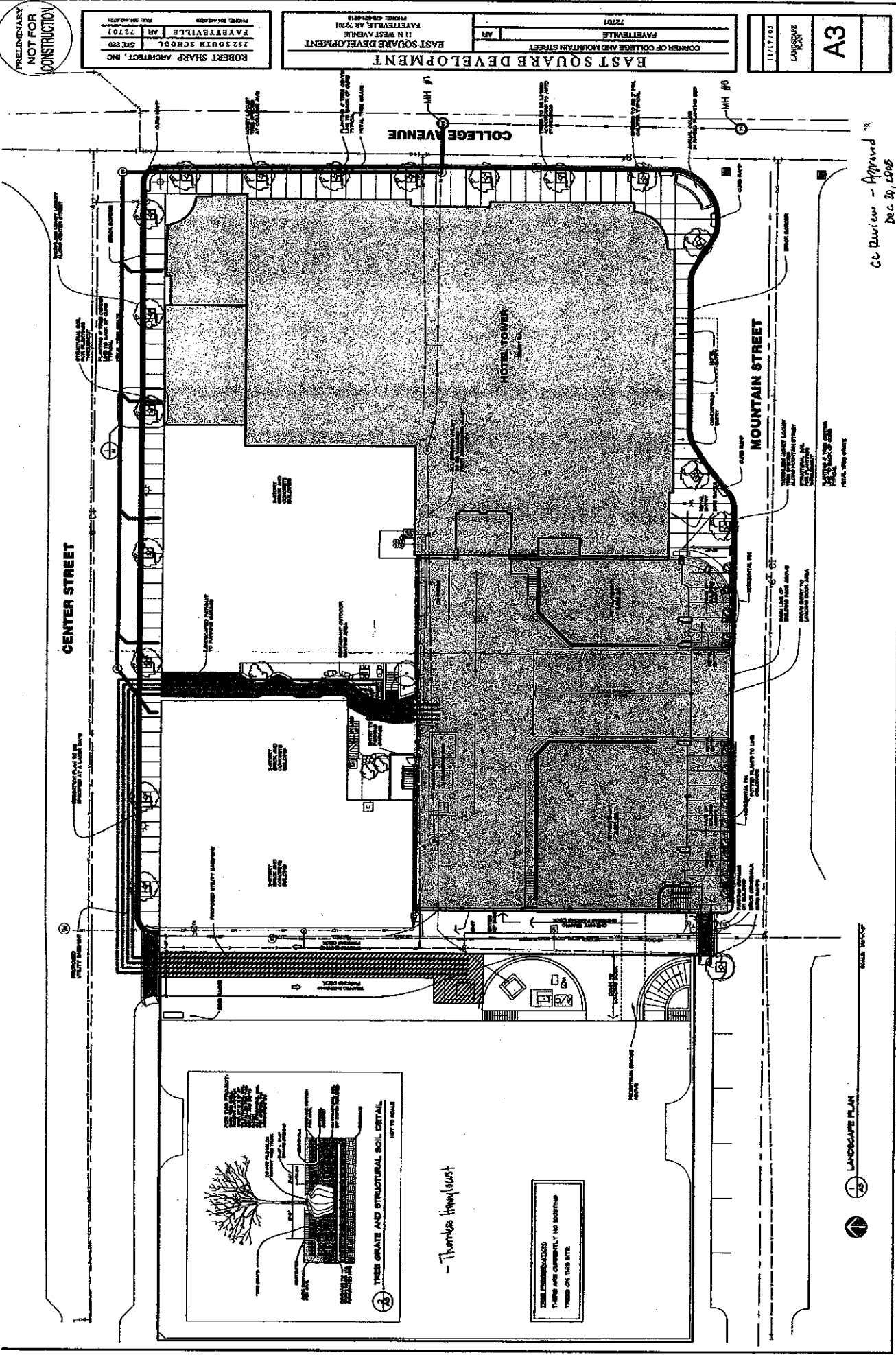
Close Up View



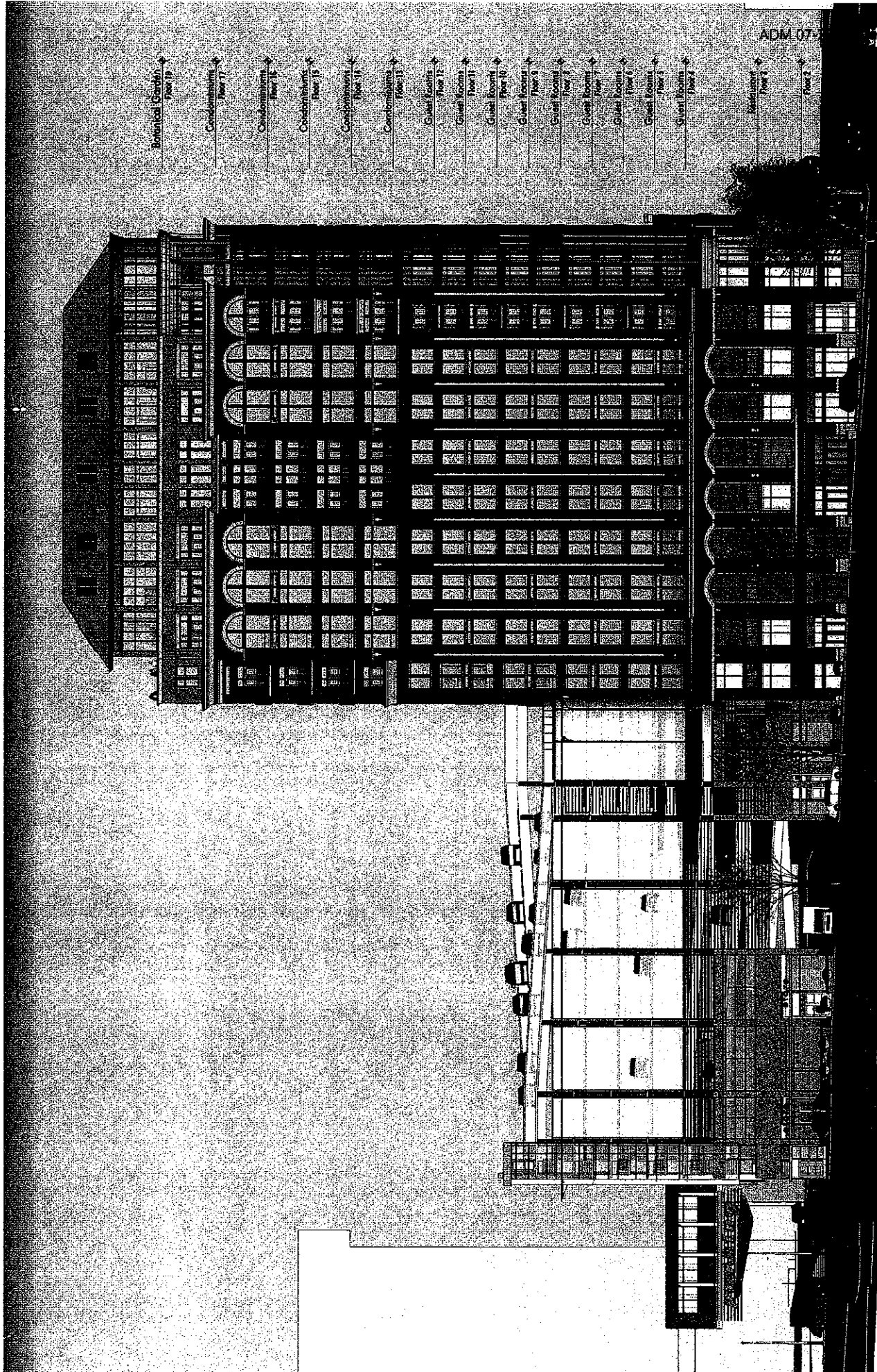
Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- CPZD05-1610
- vector.GDB.Footprint_2004

0 75 150 300 450 600 Feet



cc Review - Approved
Dec 29, 2005



ADM 07

- Botanical Garden Floor 19
- Condominiums Floor 17
- Condominiums Floor 16
- Condominiums Floor 15
- Condominiums Floor 14
- Condominiums Floor 13
- Guest Rooms Floor 12
- Guest Rooms Floor 11
- Guest Rooms Floor 10
- Guest Rooms Floor 9
- Guest Rooms Floor 8
- Guest Rooms Floor 7
- Guest Rooms Floor 6
- Guest Rooms Floor 5
- Guest Rooms Floor 4
- Guest Rooms Floor 3
- Guest Rooms Floor 2
- Guest Rooms Floor 1

Figure 1: South Elevation

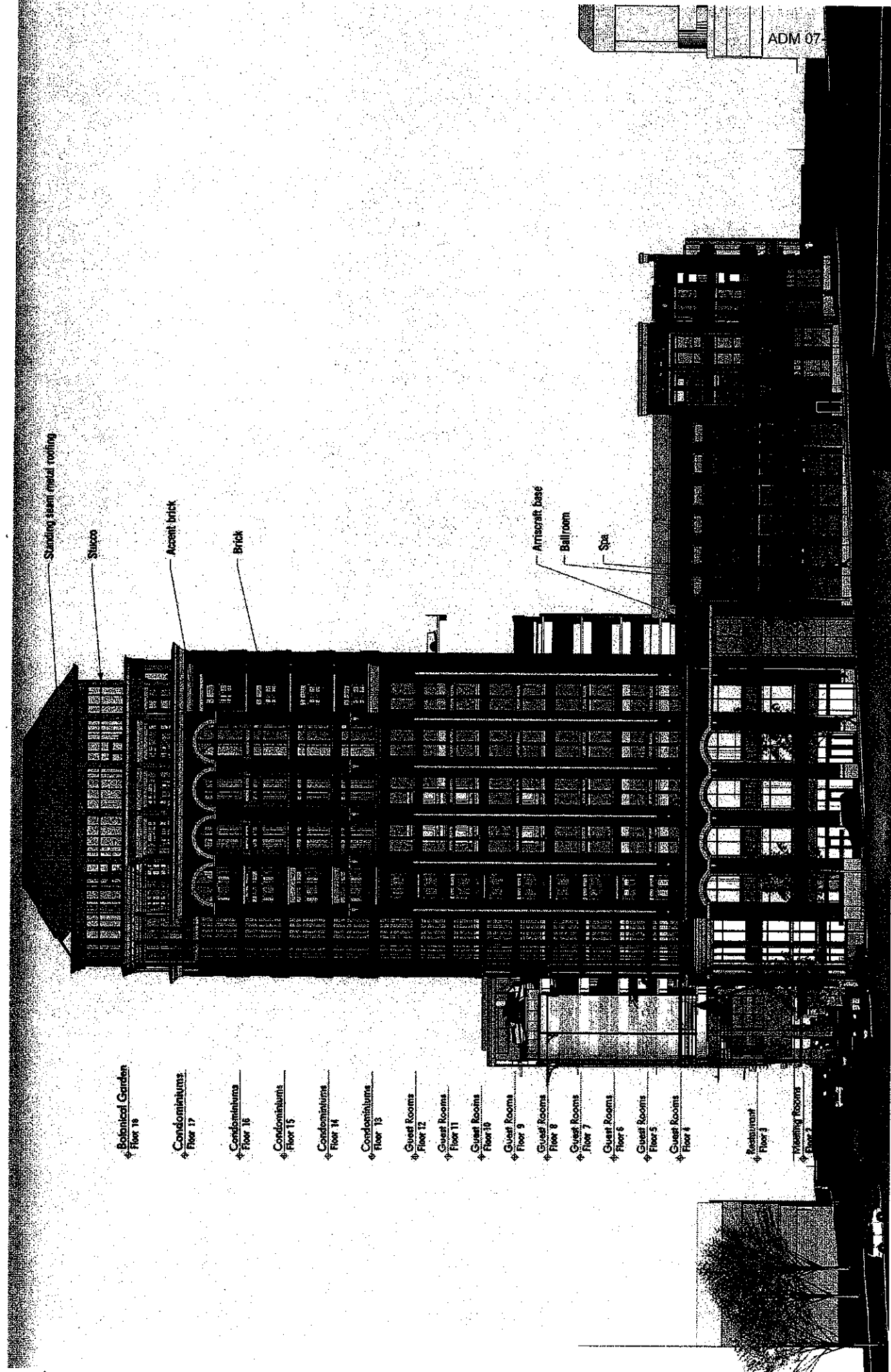
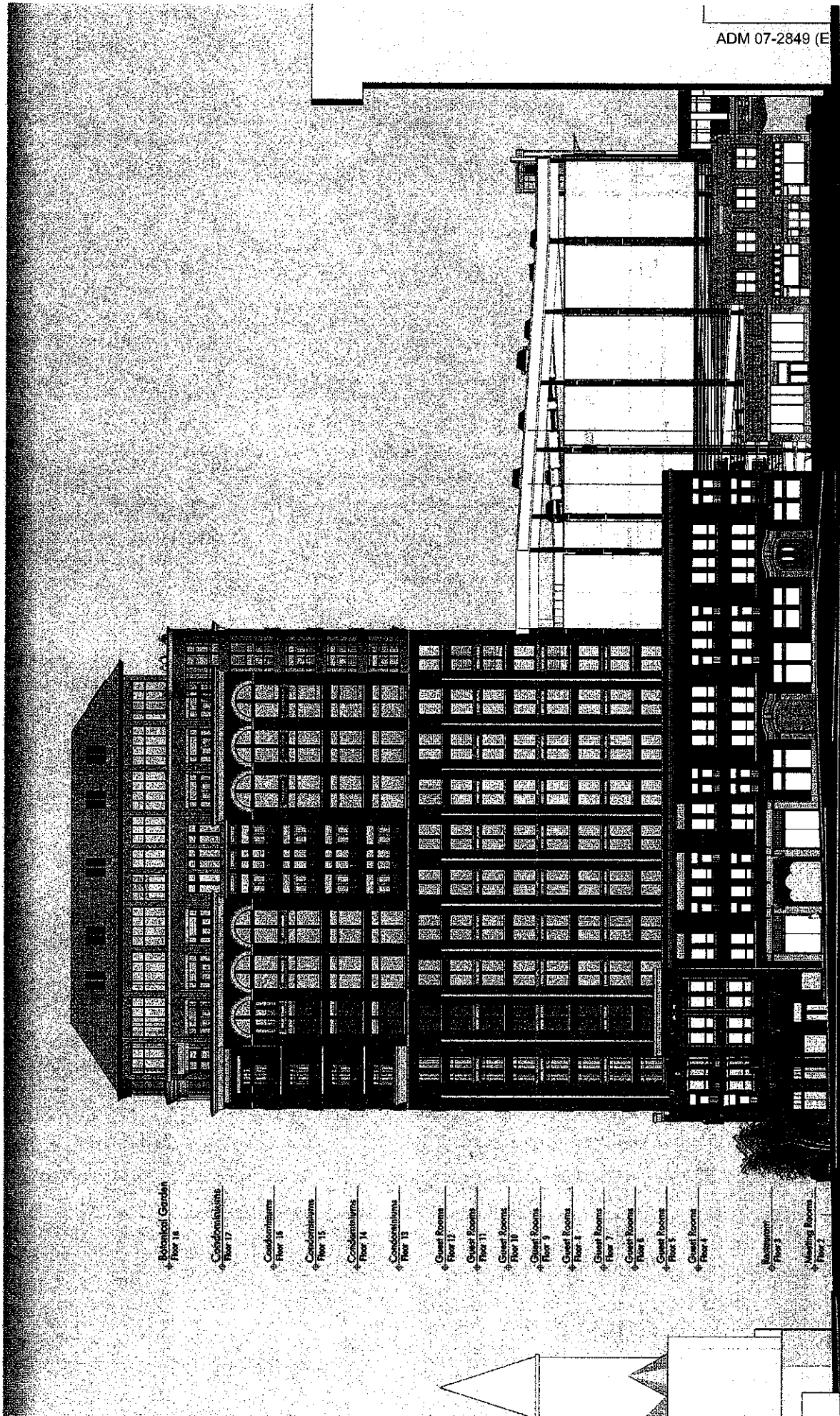


Figure 2: East Elevation

Figure 3: North Elevation

East Square Development Project



Potential Garden
Floor 18

Condominiums
Floor 17

Condominiums
Floor 16

Condominiums
Floor 15

Condominiums
Floor 14

Condominiums
Floor 13

Guest Rooms
Floor 12

Guest Rooms
Floor 11

Guest Rooms
Floor 10

Guest Rooms
Floor 9

Guest Rooms
Floor 8

Guest Rooms
Floor 7

Guest Rooms
Floor 6

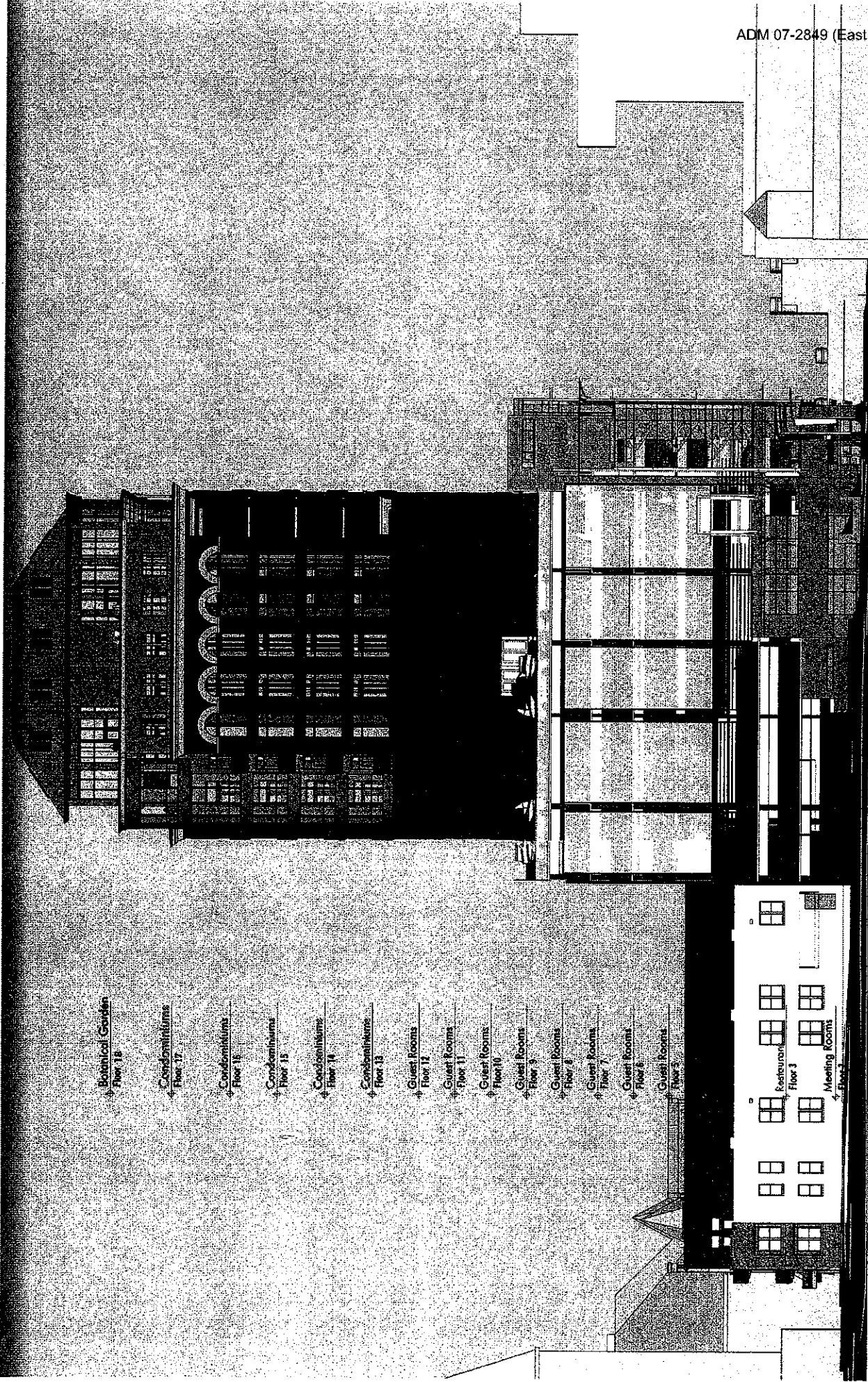
Guest Rooms
Floor 5

Guest Rooms
Floor 4

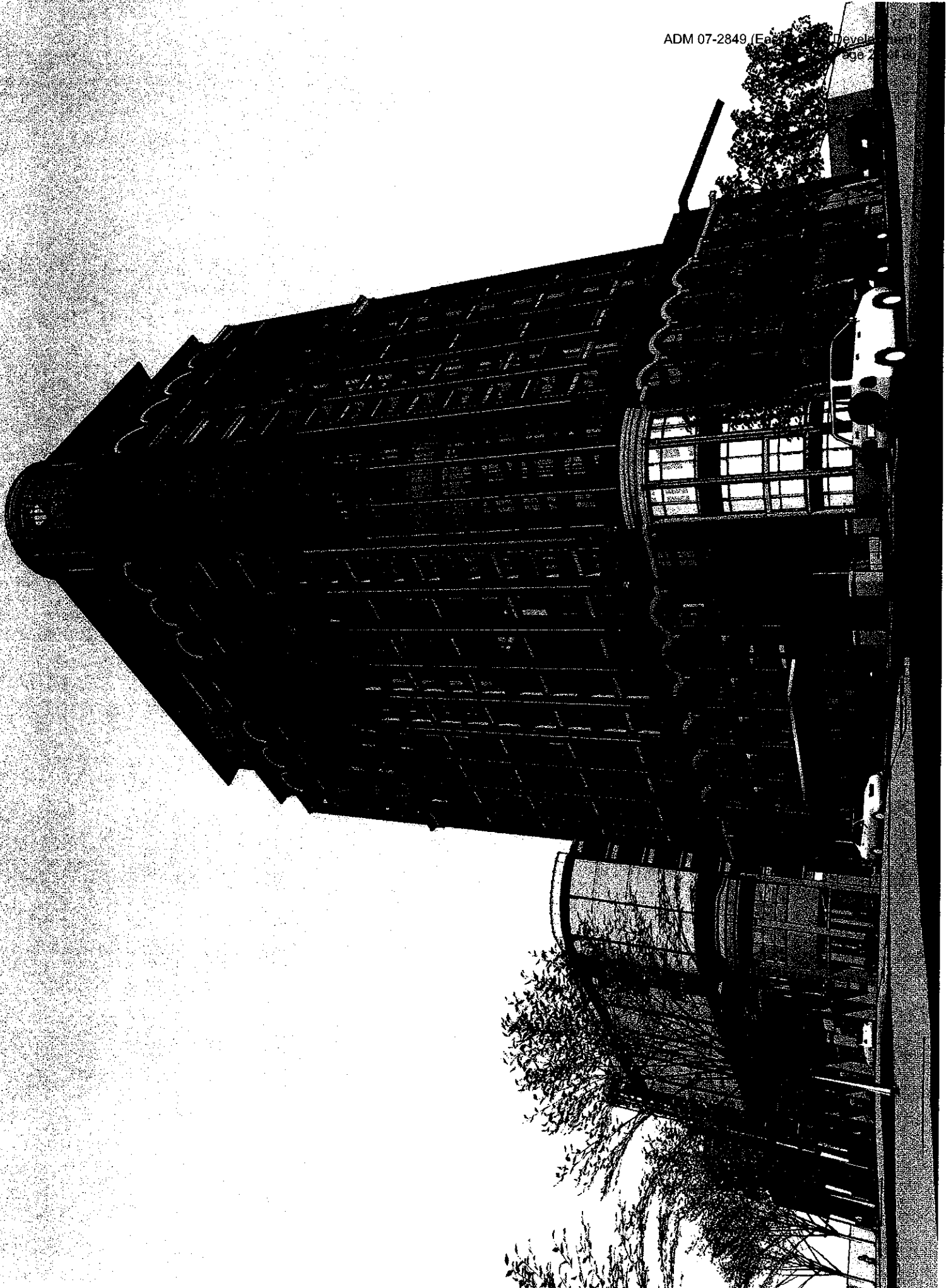
Restroom
Floor 3

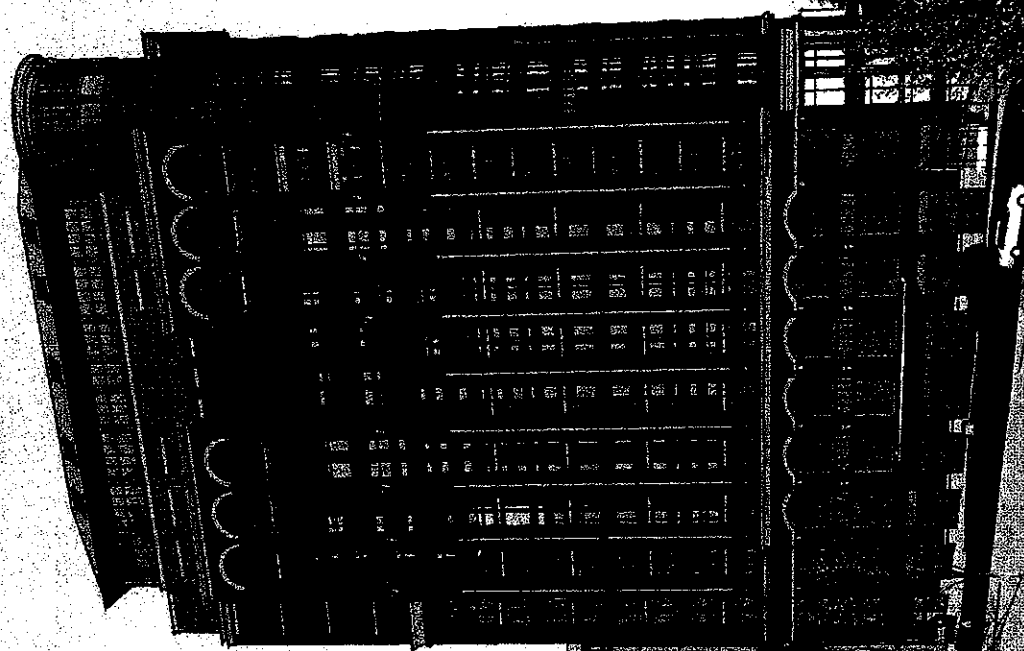
Meeting Rooms
Floor 2

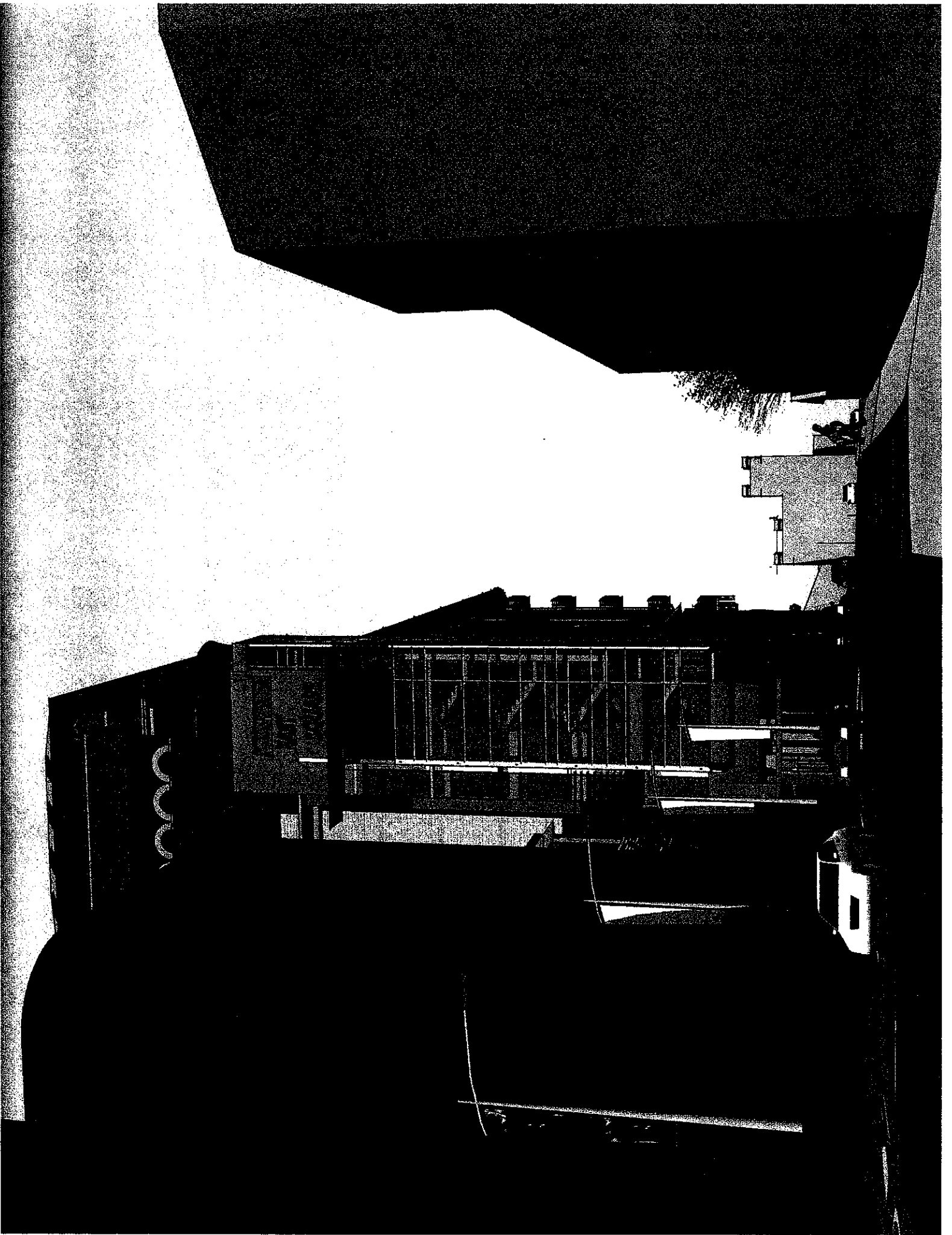
Figure 4: West Elevation

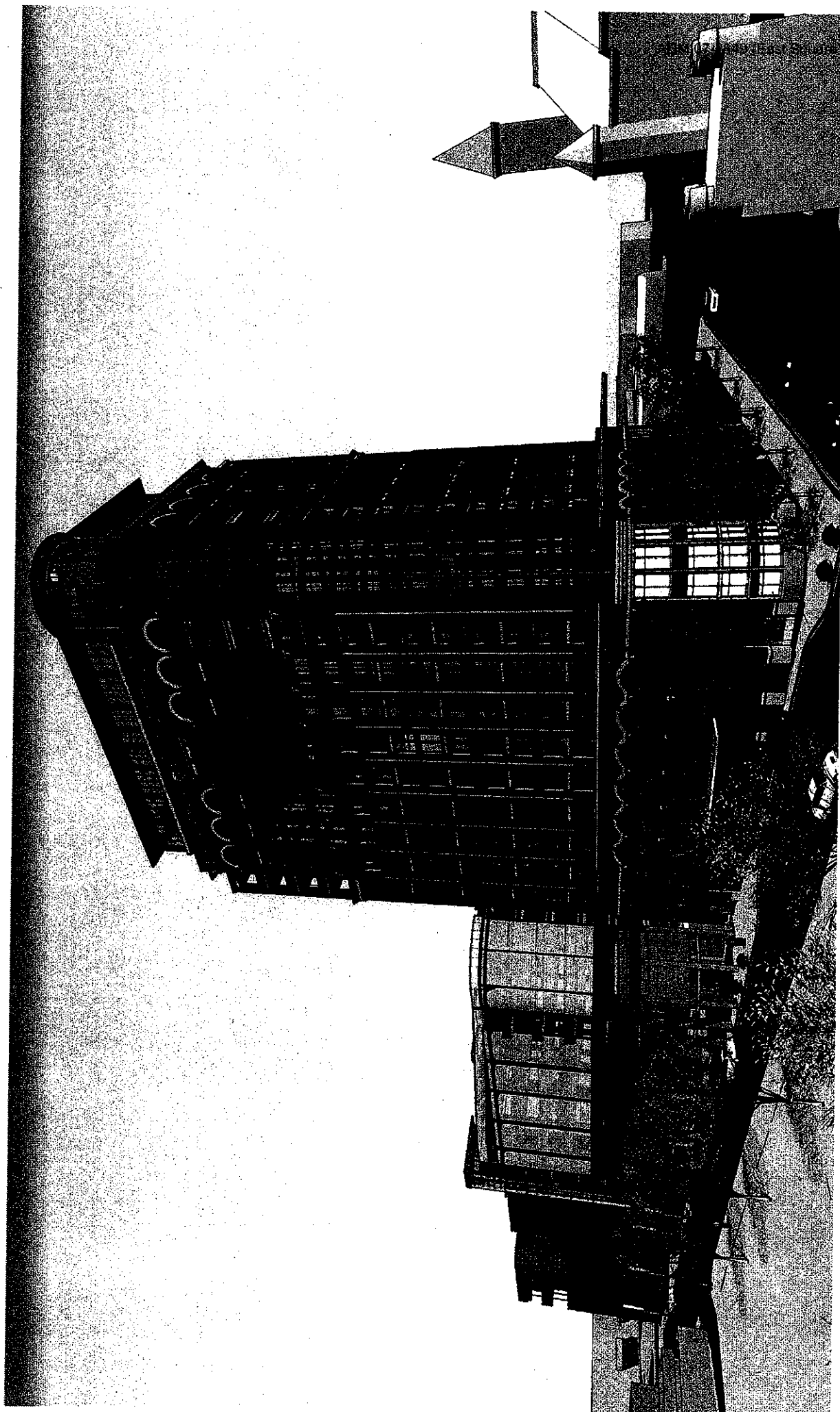


East Square Development Project









C. 6
2008 CPI Residential Solid
Waste Rate Adjustment
Page 1 of 4

12/18/2007

Brian Pugh
Submitted By

Solid Waste & Recycling Division

Operations Department
Department

Staff requests approval to waive the annual adjustment of residential trash service rates, regulated by City of Fayetteville Code of Ordinances Garbage and Trash Section 50.40 (A) Residential Service, for the 2008 fiscal year.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

5500.0950.4430.21

\$

Funds Used to Date

Solid Waste Fund Revenue

Account Number

\$

Remaining Balance

Solid Waste

Fund Name

Budgeted Item

Budget Adjustment Attached


Department Director

11.30.07
Date

Previous Ordinance or Resolution #

Original Contract Date:


City Attorney

11/30/07
Date

Original Contract Number:

Paul A. Berlin
Finance and Internal Service Director

11-30-67
Date

Received in City
Clerk's Office

ENTERED
11/29/97aw


Mayor

11/30/21
Date

Received in
Mayor's Office

ENTERED
11/30/07 BRK

Comments:

City Council Agenda Item

To: Mayor and City Council
From: Gary Dumas
Date: November 29, 2007
Subject: Deferral of the Scheduled 2008 CPI Residential Solid Waste Rate Adjustment

Recommendation: Approve Ordinance deferring the Scheduled 2008 annual CPI rate adjustment for residential trash service.

Background: Ordinance 4765 amended Chapter 50: Garbage and Trash of the Code of Fayetteville to allow annually an automatic adjustment to the monthly residential trash fee equal to the consumer price index (CPI) as published by the U.S. Department of Labor.

Discussion:

Effective cost control measures have allowed the staff to recommend that the annual rate adjustment for 2008 to be skipped. The Solid Waste Fund has sufficient reserves and no program expansions or facility improvements are planned for 2008 which would deplete the reserve fund. Sufficient reserves are in place for programmed additional equipment necessary to accommodate new development.

The CPI-U US City Average, All Items since October 2006 has been +3.5%. For a resident with the 64 gallon cart the increase scheduled would have been \$0.47 per month. No adjustment will be necessary for 2008. In 2009, the automatic adjustment will again be evaluated. If an adjustment is unnecessary, a seconded deferral will be recommended to the City Council.

Budget Impact: None

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE AUTOMATIC ANNUAL PRICE INCREASE FOR RESIDENTIAL TRASH SERVICE FOR FISCAL YEAR 2008.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby waives § 50.40 (A) (4) of the Fayetteville Code of Ordinances, and cancels the Annual Price Increase for Residential Trash Service for Fiscal Year 2008.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

COLLECTION CHARGES; BILLING

50.40 Rates For Services

- (A) *Residential service.* Garbage and trash shall be collect from residential customers one time each week for the following rates:

Garbage/Trash User Fee Schedule

Container Volume	Fixed Fee	Graduated Volume Fee	Cart capitali- zation included in base rate	Monthly Rate
32	\$5.76	\$ 2.06	\$ 0.37	\$8.19
64	\$5.76	\$ 6.24	\$ 0.49	\$12.49
96	\$5.76	\$11.43	\$ 0.55	\$17.74

- (1) There shall be no charge for the collection of residential yard waste.
- (2) Residential service customers shall receive bulk brush collection at no charge one time per year.
- (3) If a residential customer wishes to exchange to a larger residential garbage cart size, the customer shall be assessed a twenty dollar (\$20.00) cart exchange fee. No fee shall be assessed for customers wishing to exchange to a smaller cart.
- (4) The Garbage/Trash User Fee shall be adjusted annually based upon the Consumer Price Index (CPI) as published by the U.S. Department of Labor .

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

C. 7
Gantert Family Trust Condemnation
Page 1 of 6

12/18/2007
City Council Meeting Date

<u>Ron Petrie</u>	<u>Engineering</u>	<u>Operations</u>
Submitted By	Division	Department

Action Required:

Approval of a Resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Gantert Family Trust that are necessary for the Zion Road Improvement Project.

<u>\$ 37,210.00</u> Cost of this request	<u>\$ 24,496,473.00</u> Category / Project Budget	<u>Zion Road (College to Vantage)</u> Program Category / Project Name
<u>4520.9520.5809.00</u> Account Number	<u>\$ 2,193,732.16</u> Funds Used to Date	<u>Street Improvements</u> Program / Project Category Name
<u>06035.1830</u> Project Number	<u>\$ 22,302,740.84</u> Remaining Balance	<u>2006A Sales Tax Construction</u> Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

[Signature] 11-30-07
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

[Signature] 12/3/07
City Attorney Date

Original Contract Number: _____

Paul A. Bush 12-3-07
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
11/30/07

Mayor Date

Received in Mayor's Office
ENTERED
12/3/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Street Committee

From: Ron Petrie, City Engineer *RP*

Date: November 30, 2007

Subject: Approval of a Resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Gantert Family Trust that are necessary for the Zion Road Improvement Project.

RECOMMENDATION:

Staff recommends approval of a resolution authorizing the City Attorney to seek possession by condemnation of a portion of the property owned by the Gantert Family Trust adjacent to Zion Road.

BACKGROUND:

The Zion Road Project is one of the projects to be constructed under the Transportation Bond Program. The project consists of widening approximately 2400 feet of Zion Road to 3 lanes from College Avenue to just east of Vantage Drive, installation of an underground storm drainage system, and construction of 6 foot sidewalks on both sides of the roadway, as approved by the City Council and Street Committee.

Right of way and/or easements are required from 15 property owners on the Zion Road Project. City staff has acquired the necessary easements and rights of way from 9 of the 15 owners, and it appears that 4 other property owners will accept the City's offer as well.

DISCUSSION:

The owners of this property are represented by their son, Michael Gantert. Mr. Gantert has expressed concern regarding the drainage across the property and is not willing to sign the easement documents due to this concern. He is concerned about drainage effects on a possible development. In the opinion of staff, the location of the drainage outfall is the most feasible location, and, without any site plan or other development proposals, the location of the drainage outfall should remain as is. Mr. Gantert indicated that he would provide a development plan, but no plans have been received from Mr. Gantert to date.

BUDGET IMPACT:

This payment will be funded with a portion of the 2006 Transportation Bond Issue proceeds. \$2,540,000 has been budgeted for the Zion Road Improvements Project.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY THE GANTERT FAMILY TRUST.**

WHEREAS, the City of Fayetteville and the Gantert Family Trust have been unable to agree on a fair price for the property owned by the Gantert Family Trust that is needed for permanent utility and drainage easements, and temporary construction easements across Parcel No.765-15566-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on improvements to Zion Road.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel No. 765-15566-000 and owned by the Gantert Family Trust that is needed for permanent utility and drainage easements, and temporary construction easements for improvements to Zion Road, and to pay into the Registry of the Circuit Court just compensation therefor.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

CASE HISTORY

Zion Road Improvements
Gantert Family Trust
Parcel No. 765-15666-000
Tract N-03

7/17/2007 Packet mailed to Gene & Mignon Gantert, Bella Vista, AR. Offered \$27,140.00 for ROW (5,713 sq. ft.), \$5,840.00 for permanent utility easement (4,918 sq. ft.), \$3,040.00 for TCE (6,398 sq. ft.), and \$1,190.00 for drainage easement (1,000 sq. ft.); for total offer of \$37,210.00. (Offer was based on fee simple value of \$4.75/s.f. as determined in appraisal of Parcel No. 765-15655-000 to the east. ROW at full fee simple, PE at 25% of fee simple, TCE at 10% of fee simple.)

8/1/2007 Michael Gantert (son) called and left message.

8/2/2007 Called Michael Gantert back (California). He requested copy of the appraisal (Moler property used as value guide) and an aerial image. Questioned length of project. Told it was 12-15 months, start to finish, with utility relocation first.

8/3/2007 Info packet mailed (Bella Vista address) including appraisal, aerial, and letter.

8/27/2007 Chris Brown received call from Michael Gantert, set up time to meet.

9/4/2007 Meeting with Michael Gantert, Jeff Bates (his engineer), Chris Brown, Paul Libertini and JSG. Mr. Gantert had concerns regarding drainage and their future development of the property. City agreed to change drainage easement to TCE. Gantert and engineer will "step up" development plans to determine route of drainage, to be dedicated later.

9/4/2007 Revised easement mailed. Left offer amount the same as originally presented.

10/4/2007 Notification letter sent discussing bid opening and potential condemnations.

10/31/2007 Chris Brown called Michael Gantert. Mr. Gantert indicated he is still concerned about the effects of the drainage across the property. He has consultants working on site plans for the property.

ZION RD IMPROVEMENTS GANTERT PROPERTY

785-15306-000
GENE F. GANTERT
MISSION GANTERT
Int. No. 2005-0008904

2
G8 LLC

U.E.

U.E.

Lake Fayetteville
Park Access Road

DRAINAGE
EASEMENT

PROP. 20' T.O.E.

PROP. 10' U.E.

PROP. 10' T.O.E.

PROP. 10' U.E.

PROP. 10' T.O.E.

M

ZION

VENETIAN LA

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

C. 8
Bellafont Gardens POA Condemnation
Page 1 of 6

12/18/2007
City Council Meeting Date

<u>Ron Petrie</u> Submitted By	<u>Engineering</u> Division	<u>Operations</u> Department
-----------------------------------	--------------------------------	---------------------------------

Action Required:

Approval of a Resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Bellafont Gardens POA, Inc. that are necessary for the Zion Road Improvement Project.

<u>\$ 6,660.00</u> Cost of this request	<u>\$ 24,496,473.00</u> Category / Project Budget	<u>Zion Road (College to Vantage)</u> Program Category / Project Name
<u>4520.9520.5809.00</u> Account Number	<u>\$ 2,193,732.16</u> Funds Used to Date	<u>Street Improvements</u> Program / Project Category Name
<u>06035.1830</u> Project Number	<u>\$ 22,302,740.84</u> Remaining Balance	<u>2006A Sales Tax Construction</u> Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

[Signature] 11/30/07
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

[Signature] 12/3/2007
City Attorney Date

Original Contract Number: _____

[Signature] 12-3-07
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
11/30/07

Mayor Date

Received in Mayor's Office
ENTERED
12/3/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Street Committee

From: Ron Petrie, City Engineer *RSP*

Date: November 30, 2007

Subject: Approval of a Resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Bellafont Gardens POA, Inc. that are necessary for the Zion Road Improvement Project.

RECOMMENDATION:

Staff recommends approval of a resolution authorizing the City Attorney to seek possession by condemnation of a portion of the property owned by Bellafont Gardens POA adjacent to Zion Road.

BACKGROUND:

The Zion Road Project is one of the projects to be constructed under the Transportation Bond Program. The project consists of widening approximately 2400 feet of Zion Road to 3 lanes from College Avenue to just east of Vantage Drive, installation of an underground storm drainage system, and construction of 6 foot sidewalks on both sides of the roadway, as approved by the City Council and Street Committee.

Right of way and/or easements are required from 15 property owners on the Zion Road Project. City staff has acquired the necessary easements and rights of way from 9 of the 15 owners, and it appears that 4 other property owners will accept the City's offer as well.

DISCUSSION:

Bellafont Gardens POA, Inc. is the owner of record for the property in Bellafont Gardens Subdivision located between Vantage Drive and the Bellafont Gardens entrance. City staff has attempted to locate a representative of Bellafont Gardens POA, Inc., but has not been successful to date.

BUDGET IMPACT:

This payment will be funded with a portion of the 2006 Transportation Bond Issue proceeds. \$2,540,000 has been budgeted for the Zion Road Improvements Project.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY THE BELLAFONT GARDENS POA.**

WHEREAS, the City of Fayetteville and the Bellafont Gardens POA have been unable to agree on a fair price for the property owned by the Bellafont Gardens POA that is needed for right-of-way, and a temporary construction easement over a portion of Parcel No.765-21808-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on improvements to Zion Road.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel No. 765-21808-000 and owned by the Bellafont Gardens POA that is needed for right-of-way, and a temporary construction easement for improvements to Zion Road, and to pay into the Registry of the Circuit Court just compensation therefor.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

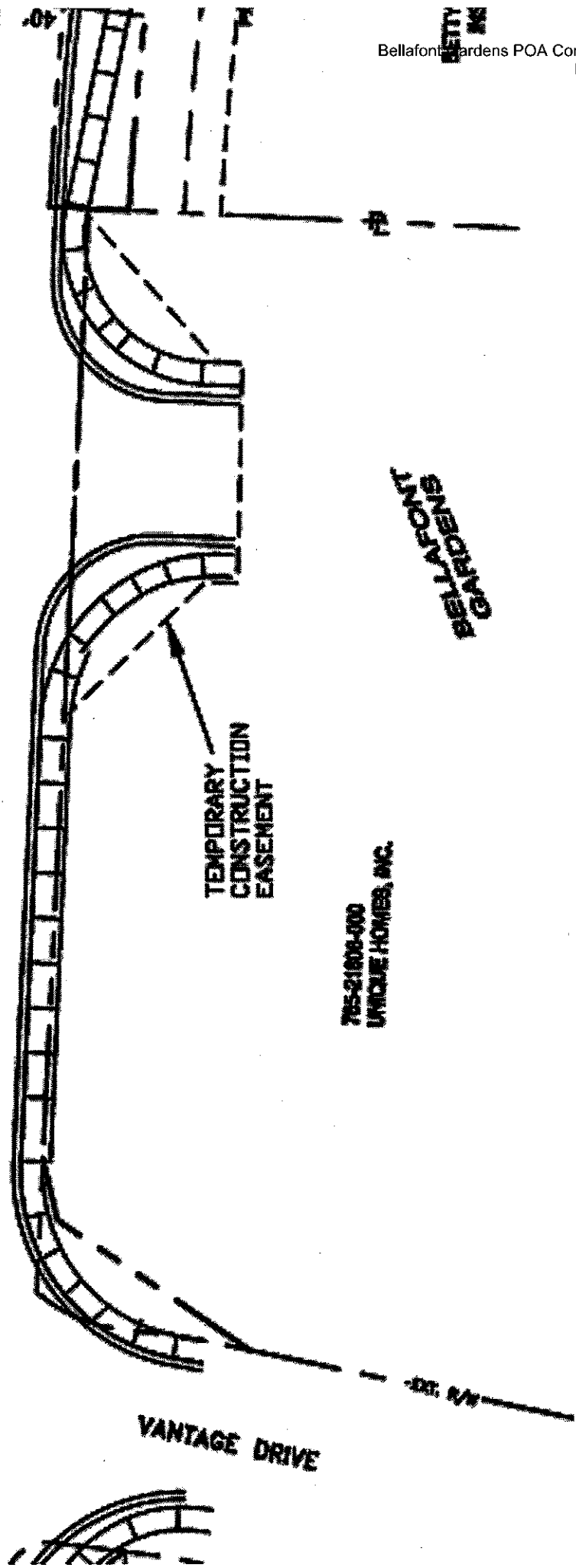
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

CASE HISTORY

Zion Road Improvements
Bellafont Gardens POA, Inc.
Parcel No. 765-21808-000
Tract S-11

- 7/17/2007 Packet mailed to Dale Lenk, Unique Homes (name in Wash. County records. Asking for corner of ROW at Zion and Vantage and a TCE at the subdivision entrance (private)—all of which is within common area. Offered \$4,470.00 for 812 sq. ft. ROW and \$2,190.00 for 3,985 sq. ft. TCE; total offer of \$6,660.00. (Offer was based on fee simple value of \$5.50/s.f. as determined in appraisal of Parcel No. 765-15661-000 to the west. ROW at full fee simple, PE at 25% of fee simple, TCE at 10% of fee simple.)
- 8/31/2007 Reminder letter mailed to Dale Lenk, Unique Homes.
- 9/10/2007 Dale Lenk called. He no longer owns the property. Unique Homes has been dissolved.
- 9/17/2007 Packet mailed to Bellafont Gardens POA, Inc., c/o David Bercaw (attorney who registered the POA with the state). Offer remained the same.
- 9/26/2007 David Bercaw called. He set up POA for Dale Lenk, but has not been involved in the past 6 years. He was not sure of a contact for POA. Sent back packet.
- 9/28/2007 Packet sent to Archie Schaffer IV (fairly recent owner of two lots within development), along with letter asking for assistance. Offer remained the same.
- Oct. 2007 Washington County assessor's office informed that they do not levy taxes on common areas as they do not know who to send tax bill to and do not want these areas to fall delinquent. As a consequence, Wash. Co. does keep track of owner of common area.
- 11/1/2007 No response from anyone involved with Bellafont Gardens POA, Inc.

ZION RD IMPROVEMENTS BELLAFONT POA PROPERTY



765-21808-000
UNIQUE HOMES, INC.

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

C. 9
Deloris Mae Tuck Condemnation
Page 1 of 6

Dec 18, 2007
City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Imprv Project
Division

Water/Wastewater
Department

Action Required:

Approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Deloris Mae Tuck and located at Parcel Nos. 001-10661-000 and 001-10647-000, located within NW-SW 18-16-29.
Location 4 on attached list and map.

\$ 2,488

Cost of this request

\$ 99,153,095.00

Category/Project Budget

Wastewater System Imp Project

Program Category / Project Name

4520-9520-5810.00

Account Number

\$ 89,391,891.66

Funds Used to Date

Water and Wastewater

Program / Project Category Name

02133.0305

Project Number

\$ 9,761,203.34

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item ☒ XX

Budget Adjustment Attached ☐

[Signature]
Department Director

11/07/07
Date

Previous Ordinance or Resolution #

Original Contract Date:

[Signature]
City Attorney

10/15/2007

Original Contract Number:

Paul A. Buh
Finance and Internal Service Director

10-15-2007
Date

Received in City Clerk's Office

ENTERED
10/12/07

[Signature]
Mayor

10/15/07
Date

Received in Mayor's Office

ENTERED
10/15/07

Comments:

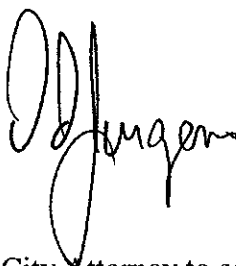
City Council Meeting of November 6, 2007

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Water and Sewer Committee

From: David Jurgens, Water & Wastewater Director



Date: October 5, 2007

Subject: Approval of four resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of four related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the new sewer lines EL-1 and 2 that will carry wastewater flows to the Noland Wastewater Treatment Plant. Fifty-three tracts were required for pipelines EL-1 and 2; 44 have been acquired. Of the nine remaining, we have verbal agreement on one, and believe two more will be completed within the next two weeks. These are not on the proposed condemnation list. The owners of the remaining six tracts (four owners) have all been contacted via mail, telephone, and/or in person, and are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on November 6, 2007. They are identified in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate, or simply refuse to communicate with the City. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the twelve months prior to the original offer being made. Given that we are only obtaining an easement, in all of these cases adjacent to the existing easement for the existing 36" sewer main, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, other utilities, and significantly exceeds that which the City has paid in the past for water/sewer easements. The City generally offered 25% of full fee simple. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Counter offers have included negotiated agreements pertaining to land restoration, sequencing and timing of work, etc. At this point, there can be no deviations on the selected route.

BUDGET IMPACT

Costs for the easements and fees are included within the WSIP budget.

Attachments: List of Potential Condemnations
Location Map

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY DELORIS MAE TUCK.**

WHEREAS, the City of Fayetteville and Deloris Mae Tuck have been unable to agree on a fair price for the property owned by Deloris Mae Tuck that is needed for permanent utility and temporary construction easements across Parcel Nos.001-10661-000 and 001-10647-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on the sewer lines that will carry wastewater flows to the Noland Wastewater Treatment Plant.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel Nos.001-10661-000 and 001-10647-000 and owned by Deloris Mae Tuck, that is needed for permanent utility and temporary construction easements, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 6th day of November, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

WSIP East Lines 1 and 2 Easement Condemnation List

C. 9
Deloris Mae Tuck Condemnation
Page 4 of 6

Map
Reference

Description

1. Easement Acquired.

2. **EL2 – Tract 5**

Owner: James A. Cole and Linda L. Cole

Permanent and Temporary Construction Easements across:

Parcel No. 126-10003-000, Located within Lot C of Jim Blackston Subd.

Offer Amount: \$2,520 (PUE: \$1,800 for 2,546 sq. ft.; TCE: \$720 for 10,605 sq. ft.)

3. **EL2 – Tract 10**

Owner: Kathy Denise Ferguson

Permanent and Temporary Construction Easements across:

Parcel No. 001-10602-000, Located within NW-SW 17-16-29.

Offer Amount: No compensation offered. House located on our existing easement.
(Proposed PUE: 20,719 sq. ft.; Proposed TCE: 38,303 sq. ft.)

4. **EL2 – Tracts 18 & 19**

Owner: Deloris Mae Tuck, Survivor of Franklin L. Tuck, Deceased

Permanent and Temporary Construction Easements across:

Parcel Nos. 001-10661-000 and 001-10647-000, Located within NW-SW 18-16-29

Offer Amount: Tract 18 -- \$728 (PUE: \$364 for 990 sq. ft.; TCE: \$364 for 9,898 sq. ft)
Tract 19 -- \$1,760 (PUE: \$962 for 2,620 sq. ft.; TCE: \$798 for 21,700 sq. ft.)

5. **EL2 – Tract 40 & 43**

Owner: Gary Combs, Tract 40. Gary Combs, LLC, Tract 43.

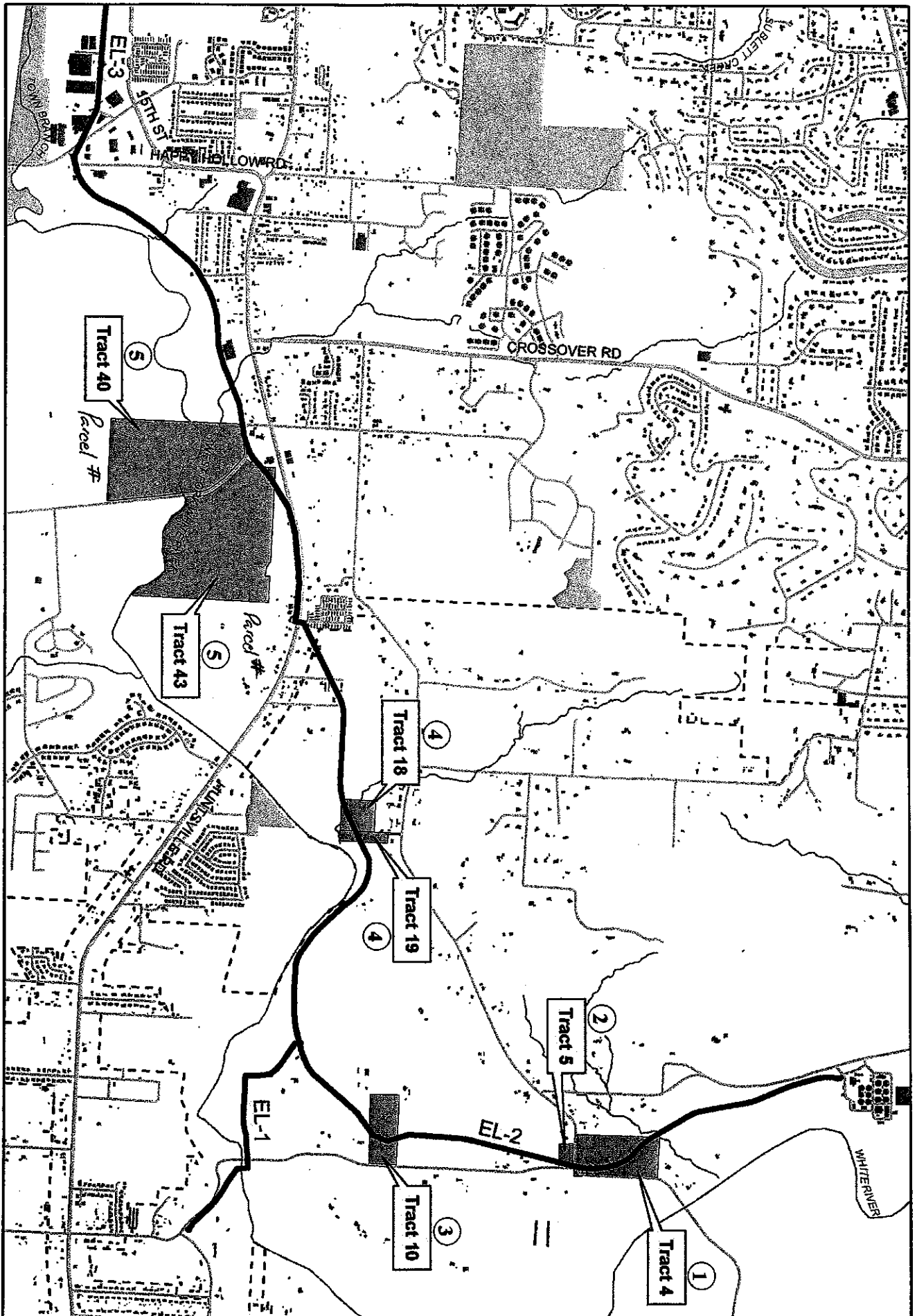
Permanent and Temporary Construction Easements across:

Parcel Nos. 765-15268-101 and 765-24107-000, located within the N½ 24-16-30, also
Known as Anderson Farm Plat AND Pt Section 23-16-30

Offer Amount: Tract 40 -- \$625 (PUE: \$300 for 2,577 sq. ft.; TCE: \$325 for 28,180 sq. ft)
Tract 43 -- \$700 (TCE ONLY 61,486 sq. ft)



EL-2 Condemnation Reference Map



Delores Mae Tuck, Surviving Spouse of Franklin Lee Tuck
EL7 – Tracts 18 and 19
CASE HISTORY

January 18, 2005	Offer packet mailed by Ed Connell, containing letter, easement document, and drawings. For Tract 18 the total offer amount was \$728 for 0.02 acre of perm ease (\$364) and 0.23 acre of tce (\$364). For Tract 19 the total offer amount was \$1,760 for 0.06 acre of perm ease (\$962) and 0.50 acre of tce (\$798). Fee simple was offered for the perm easement and 10% rental for the tce, based on "comparable area land sales, valued at \$16,000/acre" per Ed Connell.
January, 2005	Ed spoke with Mr. Tuck's brother, Isaac (Tract 17) and he indicated the family was not happy with the value given these tracts.
February 15, 2005	Received appraisal of Isaac Tuck's tract by Mark Risk, the Real Estate Consultants. Land Value of \$12,000/acre.
October 16, 2006	New offer packet mailed (HJ), containing letter, ease doc, and drawings. Same offer amount due to the fact that the appraisal for the adjoining tract came in lower than the original offer made by Mr. Connell. Explained this in letter to Tuck
April 9, 2007	Reminder letter mailed
April 16, 2007	Received letter from Tuck's atty (Keyes) stating that no additional easement is desired on this property by Tuck. Spoke with Ron P. and Jill and determined that it is possible to work on these 2 tracts in only a tce. Called Keyes and informed him of this revelation.
May 25, 2007	Received letter from Keyes with counter offer of \$7000 for p.e. and tce but wants easement revised to not allow full access to both tracts...since there is an existing 50 easement across these tracts, full access already exists.
May 29, 2007	Revised our offer to meet Cole's appraised value of \$30,000/ac. New packet mailed and total offer for both tracts: Tract 18 -- \$1290 (\$600 for p.e. and \$690 for tce). Tract 19 -- \$3300 (1800 for p.e. and \$1500 for tce). Total offer \$4590.00
July 20, 2007	Letter accepting our offer of \$4590 for the easement on condition that we limit ingress and egress onto her property to a specific area...like an access easement to our w/s easement. Discussed with DJ and Lynn Hyke via email and as of July 25, no determination had been made as to location of access easement and no further response has been received
September 28, 2007	Letter mailed notifying of impending condemnation and encouraging negotiations prior to Council

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

C. 10
Gary Combs, LLC Condemnation
Page 1 of 6

Dec 18, 2007
City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Imprv Project
Division

Water/Wastewater
Department

Action Required:

Approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Gary Combs, LLC and located at Parcel Nos. 765-24107-000 and 765-15267-000, located within the N½ 24-16-30, also known as Anderson Farm Plat AND Pt Section 23-16-30
Location 5 on attached list and map.

\$ 1,325

Cost of this request

\$ 99,153,095.00

Category/Project Budget

Wastewater System Imp Project

Program Category / Project Name

4520-9520-5810.00

Account Number

\$ 89,391,891.66

Funds Used to Date

Water and Wastewater

Program / Project Category Name

02133.0305

Project Number

\$ 9,761,203.34

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

[Signature]
Department Director

11/02/07
Date

Previous Ordinance or Resolution #

Original Contract Date:

[Signature]
City Attorney

10/15/2007

Original Contract Number:

Paul A. Bueh
Finance and Internal Service Director

10-15-07
Date

Received in City Clerk's Office

ENTERED
10/15/07

[Signature]
Mayor

10/15/07
Date

Received in Mayor's Office

ENTERED
10/15/07

Comments:

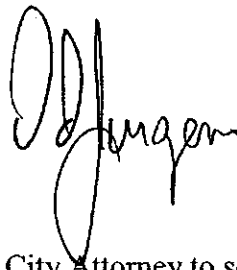
City Council Meeting of November 6, 2007

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Water and Sewer Committee

From: David Jurgens, Water & Wastewater Director



Date: October 5, 2007

Subject: Approval of four resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of four related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the new sewer lines EL-1 and 2 that will carry wastewater flows to the Noland Wastewater Treatment Plant. Fifty-three tracts were required for pipelines EL-1 and 2; 44 have been acquired. Of the nine remaining, we have verbal agreement on one, and believe two more will be completed within the next two weeks. These are not on the proposed condemnation list. The owners of the remaining six tracts (four owners) have all been contacted via mail, telephone, and/or in person, and are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on November 6, 2007. They are identified in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate, or simply refuse to communicate with the City. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the twelve months prior to the original offer being made. Given that we are only obtaining an easement, in all of these cases adjacent to the existing easement for the existing 36" sewer main, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, other utilities, and significantly exceeds that which the City has paid in the past for water/sewer easements. The City generally offered 25% of full fee simple. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Counter offers have included negotiated agreements pertaining to land restoration, sequencing and timing of work, etc. At this point, there can be no deviations on the selected route.

BUDGET IMPACT

Costs for the easements and fees are included within the WSIP budget.

Attachments: List of Potential Condemnations
Location Map

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY GARY COMBS, LLC.**

WHEREAS, the City of Fayetteville and Gary Combs, LLC have been unable to agree on a fair price for the property owned by Gary Combs, LLC that is needed for permanent utility and temporary construction easements across Parcel Nos. 765-24107-000 and 765-15267-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on the sewer lines that will carry wastewater flows to the Noland Wastewater Treatment Plant.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel Nos. 765-24107-000 and 765-15267-000 and owned by Gary Combs, LLC, that is needed for permanent utility and temporary construction easements, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 6th day of November, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

WSIP East Lines 1 and 2 Easement Condemnation List

C. 10
Gary Combs, LLC Condemnation
Page 4 of 6

Map
Reference

Description

1. Easement Acquired.

2. **EL2 – Tract 5**

Owner: James A. Cole and Linda L. Cole

Permanent and Temporary Construction Easements across:

Parcel No. 126-10003-000, Located within Lot C of Jim Blackston Subd.

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3. **EL2 – Tract 10**

Owner: Kathy Denise Ferguson

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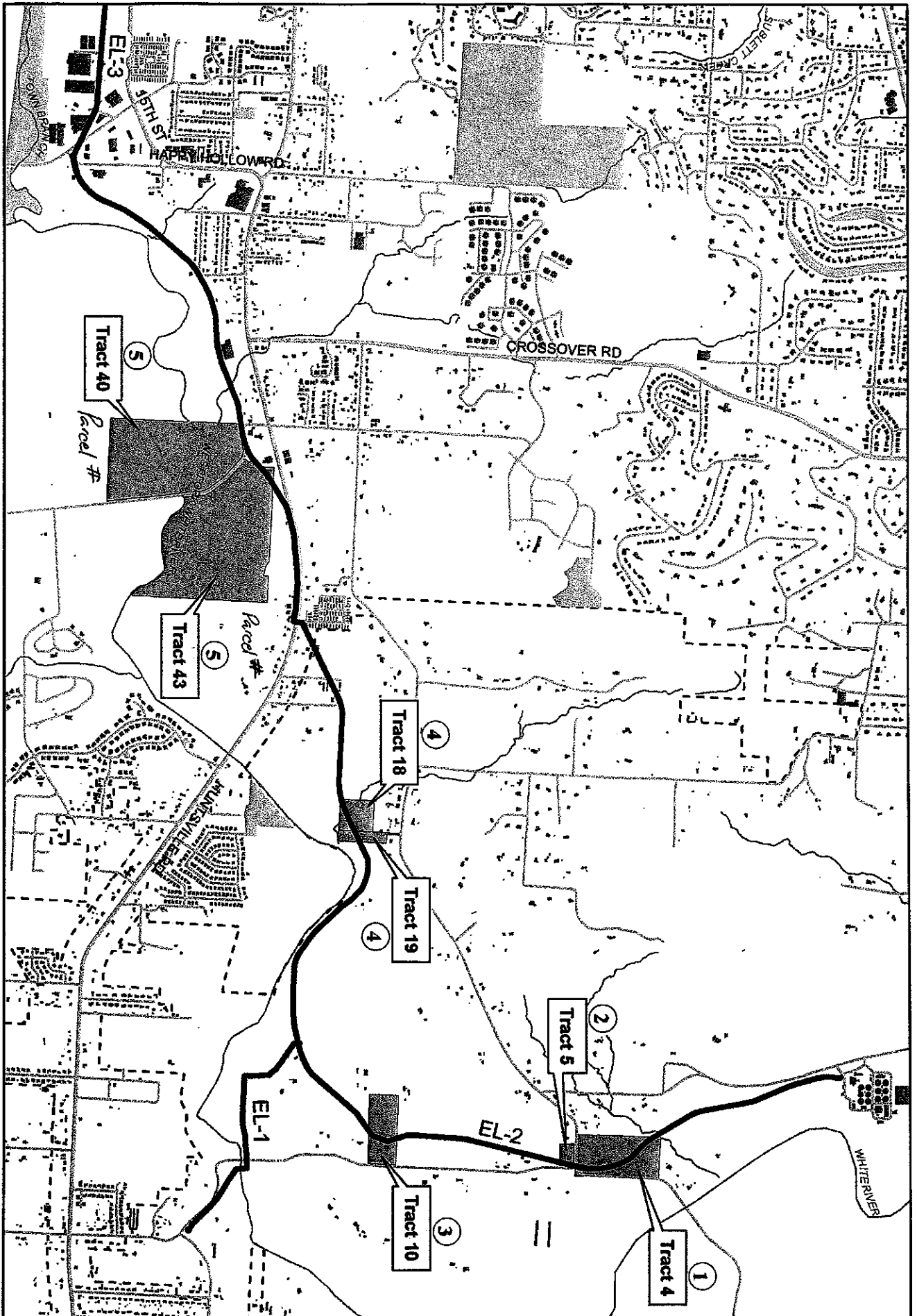
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Offer Amount: Tract 40 -- \$625 (PUE: \$300 for 2,577 sq. ft.; TCE: \$325 for 28,180 sq. ft)
Tract 43 -- \$700 (TCE ONLY 61,486 sq. ft)



EL-2 Condemnation Reference Map



Gary Combs/Gary Combs, LLC
EL7 – Tracts 40 & Tract 43
CASE HISTORY

Feb. 4, 2005 Date of Appraisal by Mark Risk, the Real Estate Consultants. Land Value of \$5,000/acre (tract 40). This value used for both tracts.

Dec. 8, 2006 Offer packet mailed containing letter, easement document, and drawings. Total offer for Tract 40 was \$625.00 for 0.06 acre of perm ease (\$300) and 0.65 acre of temp ease (\$325). Total offer for Tract 43 was \$700 for 1.41 acre of temp ease. only. (Full fee simple offered for perm ease and 10% rental for temp ease. as based on appraisal amount.

March 20, 2007 Jill and I met with Bruce Johnson and Gary Combs regarding another project and I discussed this project with him. He told me he had received the packet and had turned it over to his attorney. He said that we weren't getting anything else from him if Jurgens had anything to do with the project.

April 9, 2007 Follow-up letter mailed

April 26, 2007 Kem faxed a copy of the follow-up letter to Michelle, Gary's Assistant, at Gary's office.

July 12, 2007 Gary and I met onsite; Concerns: Tract 40— Has one place to build on this tract, our proposed line will go through this building site. (there is an existing 36" line there now – not a good argument). Tract 41 – Same argument – obstruction of building site on this tract also. Concerned about elevation of line at road crossing. Wants Pipe fencing repaired and/or replaced. Provided labor for all the asphalt work on Dead Horse Mountain Road overlay. Wants tax credit for this labor. Paved 2.2 miles

July 23, 2007 Discussed Gary's concerns with DJ—have him get proof time, labor costs, etc for tax credit to me and we'll see if we can get something. Called and talked to Gary. He'll get those papers to me.

 Gary was in the process of purchasing the property on the corner of Dead Horse and 16 at the time that we met. He did not mention this in our meeting. Soon after I called him for the above mentioned paperwork I overheard that he was filling in the pond on the property formerly known as the Animal Hospital. This was being done without permits. Our Engineer, Matt Casey, and Code Enforcement officers placed a Stop Work Order on Gary's job on this site. He will no longer return my phone calls.

No response

September 28, 2007 Letter mailed notifying of impending condemnation and encouraging negotiations prior to Council

Agenda Session 12/11/07

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 18, 2007**

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

Call to Order

Roll Call

Pledge of Allegiance

Agenda Session Presentations:

- ✓ 1. Walker Park Neighborhood Master Plan Presentation
- ✓ 2. Exceeding Expectations Award

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

A. Consent:

- ✓ 1. Approval of the November 20, 2007 and December 4, 2007 City Council meeting minutes.

2. **Bid # 07-74 Benchmark Construction of NWA, Inc:** A resolution awarding Bid # 07-74 and approving a contract with Benchmark Construction of NWA, Inc. in the amount of \$142,868.85 for development of David Lashley Park; and approving a project contingency in the amount of \$12,210.15.

3. **RFP # 07-17 RJR Enterprises, Inc:** A resolution awarding RFP # 07-17 and approving a contract with RJR Enterprises Inc. in the amount of \$196,000.00 for construction of improvements to Sweetbriar and Bryce Davis Parks; and approving a project contingency in the amount of \$12,000.00.

4. **Wilson Estes Police Architects:** A resolution approving an addendum to the contract with Wilson Estes Police Architects in the amount of \$35,500.00 for services associated with gaining LEED Certification for the District Court and City Prosecutor Facility.

5. **HDR/EES, Inc:** A resolution approving an addendum to the engineering services contract with HDR/EES, Inc. in the amount of \$9,300.00 for completion of a comprehensive water and sewer rate study.

B. Unfinished Business:

1. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting. This resolution was Tabled at the December 4, 2007 City Council meeting to the December 18, 2007 City Council meeting.*

2. **Bid # 07-69 Downing Sales and Service:** A resolution awarding Bid # 07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division. *This resolution was Tabled at the December 4, 2007 City Council meeting to the December 18, 2007 City Council meeting.*

3. **RZN 07-2781 (Dandy):** An ordinance rezoning that property described in rezoning petition RZN 07-2781, for approximately 0.55 acres, located ¼ mile north of North Street on the east side of Leverett from I-1, Heavy Commercial/Light Industrial, to RMF-24, Residential Multi-Family, 24 units per acre. *This ordinance was left on the Second Reading at the December 4, 2007 City Council meeting.*

C. New Business:

1. **Rausch Coleman Homes, LLC:** A resolution to approve the promotion of affordable housing agreement with Rausch Coleman Homes, LLC.

2. **RZN 07-2603: (Kooshesh):** An ordinance rezoning that property described in rezoning petition RZN 07-2603, for approximately 1.59 acres, located at 956 and 918 North 46th Avenue from R-A, Residential-Agricultural, to R-O, Residential Office.

3. **VAC 07-2804: (The City of Fayetteville):** An ordinance approving VAC 07-2804 submitted by City of Fayetteville for property located east of Leverett Avenue, south of Robinson Apartments and north of Leverett Townhomes to vacate a portion of an unused right-of-way and create a general utility easement on the subject property, a total of 9,802.11 square feet.
4. **VAC 07-2832: (Lots 6-9 Timberlake Office Park):** An ordinance approving VAC 07-2832 submitted by H2 Engineering for property located at Lots 6-9 of the Timberlake Office Park to vacate the erosion control easement on the subject property, a total of 1.83 acres.
5. **ADM 07-2849 (East Square Development):** An ordinance to waive Section 166.20 of the Unified Development Code and to extend the expiration date for C-PZD 05-1610 (East Square Development) to December 20, 2010.
6. **2008 CPI Residential Solid Waste Rate Adjustment:** An ordinance waiving the automatic annual price increase for residential trash service for fiscal year 2008.
7. **Gantert Family Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Gantert Family Trust.
8. **Bellafont Gardens POA Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Bellafont Gardens POA.
9. **Deloris Mae Tuck Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Deloris Mae Tuck.
10. **Gary Combs, LLC Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Gary Combs, LLC.

Remove
Remove
See to dead file
Agenda Additions:

Announcements:

1. **City Council Tour: December 17, 2007**
2. **City Council Budget Working Session: December 17, 2007 at 4:30 PM in Room 326**

Adjournment:

1. The first part of the paper is devoted to a general discussion of the problem of the existence of solutions of the system of equations (1) and (2) under the assumption that the functions $f_i(x)$ and $g_j(x)$ are continuous and satisfy certain conditions.

2. In the second part, we consider the case when the functions $f_i(x)$ and $g_j(x)$ are piecewise continuous and the system of equations (1) and (2) is solved in the class of piecewise continuous functions.

3. The third part of the paper is devoted to the study of the stability of the solutions of the system of equations (1) and (2) with respect to the initial conditions.

4. In the fourth part, we consider the problem of the construction of the solutions of the system of equations (1) and (2) in the case when the functions $f_i(x)$ and $g_j(x)$ are analytic.

5. The fifth part of the paper is devoted to the study of the properties of the solutions of the system of equations (1) and (2) in the case when the functions $f_i(x)$ and $g_j(x)$ are periodic.

6. In the sixth part, we consider the problem of the construction of the solutions of the system of equations (1) and (2) in the case when the functions $f_i(x)$ and $g_j(x)$ are bounded.

7. The seventh part of the paper is devoted to the study of the properties of the solutions of the system of equations (1) and (2) in the case when the functions $f_i(x)$ and $g_j(x)$ are continuous and satisfy certain conditions.

8. In the eighth part, we consider the problem of the construction of the solutions of the system of equations (1) and (2) in the case when the functions $f_i(x)$ and $g_j(x)$ are piecewise continuous and the system of equations (1) and (2) is solved in the class of piecewise continuous functions.

9. The ninth part of the paper is devoted to the study of the stability of the solutions of the system of equations (1) and (2) with respect to the initial conditions.

10. In the tenth part, we consider the problem of the construction of the solutions of the system of equations (1) and (2) in the case when the functions $f_i(x)$ and $g_j(x)$ are analytic.

Pre-Agenda Meeting 12/5/07

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
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#1 NB
Rausch Coleman
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Agenda Additions:

Announcements:

1. **City Council Tour: December 17, 2007**
2. **City Council Budget Working Session: December 17, 2007 at 4:30 PM in Room 326**

Adjournment:

From: Tim Conklin
To: Smith, Sondra; Wood, Amber
CC: Dumas, Gary; Minkel, Karen
Date: 11/14/2007 11:53 AM
Subject: Walker Park Neighborhood Master Plan Presentation (15 Minutes)

Please place this on the December 11, 2007 Agenda Session.

Walker Park Neighborhood Master Plan Presentation (15 Minutes)

Tim Conklin, AICP
Director of Planning and Development Management
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Phone: 479-575-8267
Fax: 479-575-8202

planning@ci.fayetteville.ar.us

From: Missy Leflar
To: Sondra Smith
CC: Gary Dumas; Sherrie Langehennig
Date: 11/16/2007 2:41 PM
Subject: December 11 Agenda Session

Sondra,

May we have a brief, five minute presentation by Sherrie Langehennig of HR at the beginning of the Dec 11 Agenda session?

Sherrie is going to present the employee winner of the "Exceeding Expectations Award" for the year. As you know, the criteria for nomination can be safety, money savings suggestion, and/or going above and beyond the call of duty.

Ok with you?

Missy

Missy Leflar
Human Resources Division Manager
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
PH: 479-575-8298
Fax: 479-718-7698
E-mail: mleflar@ci.fayetteville.ar.us

RECEIVED

DEC 18 2007

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: 479-571-6415

AFFIDAVIT OF PUBLICATION

I, Kate MacNaughton, do solemnly swear that I am the Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of

City of Fayetteville: Final Agenda

Was inserted in the Regular Editions on:
December 17, 2007

Publication Charge: \$168.80

Subscribed and sworn to before me
This 17 day of *Dec*, 2007.

Notary Public *Cathy Wiles*

My Commission Expires: *2/20/2014*

****NOTE** Please do not pay from Affidavit.
Invoice will be sent.**



Monday, December 17, 2007

RECEIVED

DEC 18 2007

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
DECEMBER 18, 2007**



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

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

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

1. Nominating Committee Report

Agenda Additions:

A. Consent:

1. Approval of the November 20, 2007 and December 4, 2007 City Council meeting minutes.
2. **Bid # 07-74 Benchmark Construction of NWA, Inc.:** A resolution awarding Bid # 07-74 and approving a contract with Benchmark Construction of NWA, Inc. in the amount of \$142,868.85 for development of David Lashley Park; and approving a project contingency in the amount of \$12,210.15.
3. **RFP # 07-17 RJR Enterprises, Inc.:** A resolution awarding RFP # 07-17 and approving a contract with RJR Enterprises Inc. in the amount of \$196,000.00 for construction of improvements to Sweetbriar and Bryce Davis Parks; and approving a project contingency in the amount of \$12,000.00.
4. **HDR/EES, Inc.:** A resolution approving an addendum to the engineering services contract with HDR/EES, Inc. in the amount of \$9,300.00 for completion of a comprehensive water and sewer rate study.
5. **Rausch Coleman Homes, LLC:** A resolution to approve the promotion of affordable housing agreement with Rausch Coleman Homes, LLC.

B. Unfinished Business:

1. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting. This resolution was Tabled at the December 4, 2007 City Council meeting to the December 18, 2007 City Council meeting.*
2. **Bid # 07-69 Downing Sales and Service:** A resolution awarding Bid # 07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division. *This resolution was Tabled at the December 4, 2007 City Council meeting to the December 18, 2007 City Council meeting.*
3. **RZN 07-2781 (Dandy):** An ordinance rezoning that property described in rezoning petition RZN 07-2781, for approximately 0.55 acres, located ¼ mile north of North Street on the east side of Leverett from I-1, Heavy Commercial/Light Industrial, to RMF-24, Residential Multi-Family, 24 units per acre. *This ordinance was left on the Second Reading at the December 4, 2007 City Council meeting.*

C. New Business:

1. **Wilson Estes Police Architects:** A resolution approving an addendum to the contract with Wilson Estes Police Architects in the amount of \$35,500.00 for services associated with gaining LEED Certification for the District Court and City Prosecutor Facility.
2. **RZN 07-2603: (Kooshesh):** An ordinance rezoning that property described in rezoning petition RZN 07-2603, for approximately 1.59 acres, located at 956 and 918 North 46th Avenue from R-A, Residential-Agricultural, to R-O, Residential Office.
3. **VAC 07-2804: (The City of Fayetteville):** An ordinance approving VAC 07-2804 submitted by City of Fayetteville for property located east of Leverett Avenue, south of Robinson Apartments and north of Leverett Townhomes to vacate a portion of an unused right-of-way and create a general utility easement on the subject property, a total of 9,802.11 square feet.
4. **VAC 07-2832: (Lots 6-9 Timberlake Office Park):** An ordinance approving VAC 07-2832 submitted by H2 Engineering for property located at Lots 6-9 of the Timberlake Office Park to vacate the erosion control easement on the subject property, a total of 1.83 acres.
5. **ADM 07-2849 (East Square Development):** An ordinance to waive Section 166.20 of the Unified Development Code and to extend the expiration date for C-PZD 05-1610 (East Square Development) to December 20, 2010.
6. **2008 CPI Residential Solid Waste Rate Adjustment:** An ordinance waiving the automatic annual price increase for residential trash service for fiscal year 2008.
7. **Gantert Family Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Gantert Family Trust.
8. **Bellafont Gardens POA Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Bellafont Gardens POA.

Announcements:

1. **City Council Tour:** None
2. **City Council Budget Working Session:** December 17, 2007 at 4:30 PM in Room 326

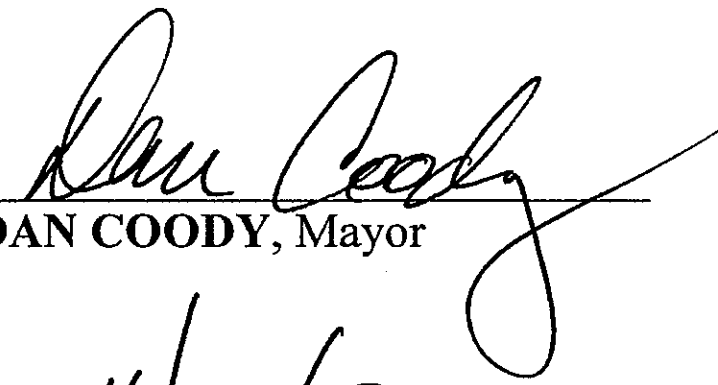
Adjournment:



THE CITY OF FAYETTEVILLE, ARKANSAS

AUTHORIZATION FOR MAYOR'S SIGNATURE

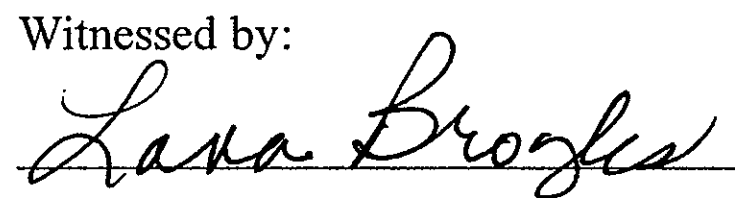
I, Mayor Dan Coody, authorize my signature stamp to be used during my absence from the City of Fayetteville in December 2007. My signature stamp may be used for ordinances and resolutions properly passed by the Fayetteville City Council, contracts properly approved by City Council resolutions, grant applications and approvals and other documents deemed necessary and appropriate by the unanimous agreement of the City Clerk, City Attorney and Director of Operations.



DAN COODY, Mayor

11/20/07

Date

Witnessed by:


11-20-07
