Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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

Final Agenda
City of Fayetteville Arkansas
City Council Meeting
November 20, 2007

A meeting of the Fayetteville City Council will be held on November 20, 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:

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

A. Consent:

1. Approval of the October 30, 2007 Special City Council meeting minutes. **APPROVED.**

2. **Bid # 07-63 Southern Uniform Equipment:** A resolution awarding Bid # 07-63 to Southern Uniform Equipment for the purchase of police uniforms in the amount of $59,178.00 plus applicable taxes; approving additional uniform purchases from the bid on an as-needed basis through December 31, 2008; and approving a budget adjustment in the amount of $41,422.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 191-07.

3. **Bid # 07-75 Tomlinson Asphalt Company, Inc:** A resolution awarding Bid # 07-75 and approving a contract with Tomlinson Asphalt Company, Inc. in the amount of $594,390.00 for construction of improvements to Gregg Avenue; and approving a 10% project contingency.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 192-07.

4. **Arkansas Western Gas Company Agreement:** A resolution approving an agreement with Arkansas Western Gas Company for relocation of gas utility facilities on Zion Road.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 193-07.

5. **CEI Engineering Associates, Inc:** A resolution approving contract Amendment No. 1 to the contract with CEI Engineering Associates, Inc in an amount not to exceed $62,656.46 for construction phase services associated with the Gregg Avenue Improvements Project.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 194-07.

6. **McClelland Consulting Engineers, Inc:** A resolution approving contract Amendment No. 1 to the contract with McClelland Consulting Engineers, Inc. in an amount not to exceed $74,690.50 for permitting support, easement document preparation, electrical design and related services associated with the College Avenue Improvements Project.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 195-07.

7. **Time Striping, Inc. Change Order #1:** A resolution to approve Change Order #1 of the contract with Time Striping, Inc. in the amount of $7,500.00 and to approve a budget adjustment of $7,500.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 196-07.

8. **Arkansas Alcoholic Beverage Control Enforcement Division Grant:** A resolution authorizing the Fayetteville Police Department to accept a grant from the Arkansas Alcoholic Beverage Control Enforcement Division in the amount of $31,516.00 to host a State Underage Drinking Prevention Conference; and approving a budget adjustment recognizing the grant revenue.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 197-07.

9. **Target Law Enforcement Grant:** A resolution authorizing the Fayetteville Police Department to accept a grant from Target in the amount of $500.00 for the purchase of Community Oriented Policing supplies; and approving a budget adjustment to recognize the grant revenue.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 198-07.

B. Unfinished Business: NONE.

C. **New Business:**

1. **Redistrict Ward Boundaries:** A resolution to redistrict Ward Two and Ward Four to equalize population within the wards pursuant to the 2006 census.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 199-07.

2. **ADM 07-2805 (Amend Title XV: HHOD Regulations):** An ordinance to amend the Unified Development Code Chapter 161: Zoning Regulations and Chapter 172: Parking and Loading to comply with the Hillside/Hilltop Overlay District Ordinance.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO 5079.

3. **ADM 07-2806 Vantage Center PZD Amendment:** An ordinance amending a Residential Planned Zoning District entitled R-PZD 05-1543, Vantage Center, located at the end of Shepard Lane adjacent to Frontage Road, containing approximately 4.68 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO 5080.

4. **ADM 07-2807 Waive Section 166.20 (Vantage Center):** An ordinance to waive section 166.20 of the Unified Development Code and to extend the expiration date for R-PZD 05-1543 (Vantage Center) to October 4, 2008.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO 5081.

5. **ADM 07-2808 Zion Gardens (Lakewood) PZD Amendment:** An ordinance amending a Residential Planned Zoning District entitled R-PZD 05-1599, Zion Gardens, located immediately northwest of the intersection of Randal Place and Zion Road, containing approximately 13.55 acres, to reflect revised conditions of approval to eliminate the requirements for pier and above-grade foundation system on lots 66-76, as described herein.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO 5082.

6. **False Alarm Reduction:** An ordinance adopting a false alarm reduction ordinance to improve public safety by reducing emergency responses to false alarms; and to encourage alarm users to properly use and maintain the operational effectiveness of alarm systems in order to reduce or eliminate false alarms.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO 5083.

7. **Temporary Solid Waste Hauling Contract:** A resolution awarding a contract to Roll Off Services, Inc. in the amount of $6.00 per ton for the temporary hauling of municipal, residential and commercial solid waste.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 200-07.

8. **Amend Chapter 33: Departments, Boards, Commissions & Authorities:** An ordinance to amend Chapter 33, Departments, Boards, Commissions and Authorities by enacting the same code of conduct for all appointed committees as followed by the City Council.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO 5084.

9. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended.

   THIS ITEM WAS TABLED TO DECEMBER 4, 2007 CITY COUNCIL MEETING.

Agenda Additions: Added New Business, Item 8.

Announcements:

1. **City Council Tour: None**

Adjournment: Meeting adjourned at 7:05 p.m.

City Council Meeting November 20, 2007 Adjourn 7:05 PM

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

Subject:		Amend Chapter 33 – Departments, Boards & Commissions			
Motion To:		Add to agenda			
Motion By:		Jordan			
Seconded:		Thiel			
Added to New Business	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
Passed to add to the agenda	Cook	✓			
	Allen	✓			
	Rhoads	absent during the vote.			
	Ferrell	✓			
	Mayor Coody				

7-0

City Council Meeting November 20, 2007

Subject:	Consent				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Lucas			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
passed	Thiel	✓			
	Cook	✓			
Res. 191-07	Allen	✓			
to	Rhoads	✓			
198-07	Ferrell	absent during the vote			
	Mayor Coody				
		7-0			

Subject:	Redistrict Ward Boundaries				
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Allen			
C, 1,	Lucas	✓			
New	Jordan	✓			
Business	Gray	✓			
	Thiel	✓			
passed	Cook	✓			
	Allen	✓			
	Rhoads	✓			
199-07	Ferrell	✓			
	Mayor Coody				
		8-0			

City Council Meeting November 20, 2007

Subject:		ADM 07-2805 (Amend Title XV: HHOD Regulations			
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Cook	Cook		
C.2. New Business	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Passed	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
5079	Ferrell	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:		ADM 07-2806 Vantage Center PZD Amendment			
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Jordan	Lucas		
C.3. New Business	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
Passed	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
5080	Ferrell	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

City Council Meeting November 20, 2007

Subject:		ADM 07-2807 Waive Section 166.20 Vantage			
Motion To:		2nd Read	3rd Read	Pass	Center
Motion By:		Ferrell	Ferrell		
Seconded:		Lucas	Lucas		
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

8-0 8-0 8-0

C.4. New Business

Passed

5081

Subject:		ADM 07-2808 Zion Garden (Lakewood) PZD			
Motion To:		2nd Read	3rd Read	Pass	Amendment
Motion By:		Ferrell	Ferrell		
Seconded:		Cook	Cook		
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

8-0 8-0 8-0

C.5. New Business

passed

5082

City Council Meeting November 20, 2007

Subject:	False Alarm Reduction				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Thiel		
C. 6. New Business	**Lucas**	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Passed	**Allen**	✓	✓	✓	
	Rhoads	✓	✓	✓	
5083	**Ferrell**	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	Temporary Solid - Roll Off Services, Inc.				
Motion To:		Pass			
Motion By:		Ferrell			
Seconded:		Jordan			
C. 7. New Business	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
Passed	**Cook**	✓			
	Allen	✓			
	Rhoads	Absent during the vote			
200-07	**Ferrell**	✓			
	Mayor Coody				
		7-0			

City Council Meeting November 20, 2007

Subject:		Amend Chapter 33 - Departments, Boards, Commissions and Authorities			
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Cook	Cook		
Seconded:		Jordan	Lucas		
This item was added to the Agenda.	**Lucas**	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
Passed	**Rhoads**	✓	✓	✓	
5084	**Ferrell**	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:		Proposed 2008 Annual Budget & Work Program			
Motion To:		Table to the next meeting			
Motion By:		Jordan			
Seconded:		Lucas			
C.8	**Lucas**	✓			
New	**Jordan**	✓			
Business	**Gray**	✓			
	Thiel	✓			
Tabled	**Cook**	✓			
to	**Allen**	✓			
12/4/07	**Rhoads**	✓			
	Ferrell	✓			
	Mayor Coody				
		8-0			

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

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B. Unfinished Business:

C. New Business:

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7. **Temporary Solid Waste Hauling Contract:** A resolution awarding a contract to ____________ in the amount of $____________per ton for the temporary hauling of municipal, residential and commercial solid waste.

8. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended.

Agenda Additions:

Announcements:

1. **City Council Tour: None**

Adjournment:

ORDINANCE NO. ______

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT CODE CHAPTER 161: ZONING REGULATIONS AND CHAPTER 172: PARKING AND LOADING TO COMPLY WITH THE HILLSIDE/HILLTOP OVERLAY DISTRICT ORDINANCE

WHEREAS, Ordinance No. 4855 was passed in April of 2006 and established special building height limitations within the Hillside/Hilltop Overlay District; and

WHEREAS, Ordinance No. 4930 was passed in October of 2006 to implement the Downtown Master Plan Zoning Code; and

WHEREAS, Exhibit D attached and adopted by Ordinance No. 4930 did not include the previous amendments to §161.14 (F) and §161.16 (F) *Height regulations* and therefore unintentionally repealed them; and

WHEREAS, the Hillside/Hilltop regulations contained in Chapter 172: Parking and Loading need to be clarified.

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

Section 1: The City Council of the City of Fayetteville, Arkansas, hereby repeals §161.14 (F) and §161.16 (F) *Height regulations* of the Unified Development Code and enacts a new subsection (F) in both sections as shown below.

"(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 except for the HHOD. Within the HHOD, the maximum building height is 60 feet as measured from the lowest point of the structure at the historic grade prior to development to the highest point of the structure, allowing three stories on the uphill side and four stories on the downhill side of the building. If the building is placed on a graded pad, then the height of the building is reduced, allowing a maximum of three stories as measured from the historic grade, pre-development."

Section 2: The City Council of the City of Fayetteville hereby repeals 172.04 (E) of the Unified Development Code and enacts a replacement subsection 172.04 (E) as shown on Exhibit "A" attached hereto and made a part hereof.

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

APPROVED:

By: ____________________________
DAN COODY, Mayor

ATTEST:

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

EXHIBIT "A"

172.04 Parking Lot Design Standards

(E). *Hillside Hilltop Overlay District.*

(1) *Separation of Parking Pads in Multi-Famil, and Non-Residential Development.* Parking pads shall be separated by a minimum undisturbed area of 15 feet between parking pads. Streets and access drives are permitted to cross this undisturbed area.

(2) *Cut and Fill Slopes.* Parking pads should be encouraged to utilize cut slopes with retaining walls to minimize disturbance.

(3) *Maximum number of spaces per parking lot for multi-family and non-residential uses.* Parking pads shall have a maximum of 30 spaces per pad.

(4) *Parking lot location.* Parking lots shall be set back with a minimum of 35' of undisturbed area required adjacent to the street right-of-way.

(5) *Multifamily and non-residential uses.* Developers of multi-family and non-residential uses in the Hillside Overlay District are encouraged to refer to the Hillside Best Management Practices Manual for guidance and direction in the design of their project.

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

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

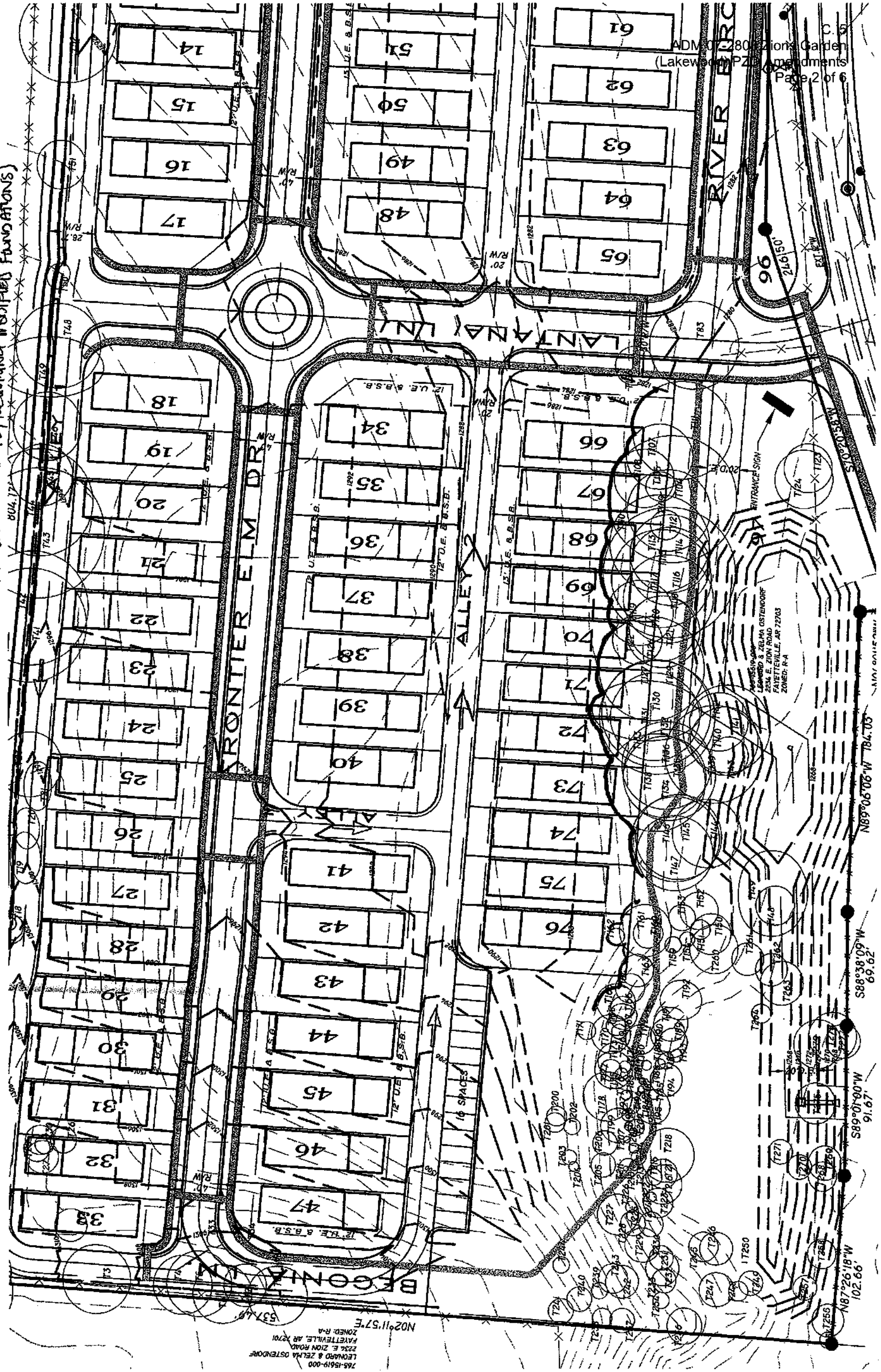
PLANNING DIVISION CORRESPONDENCE

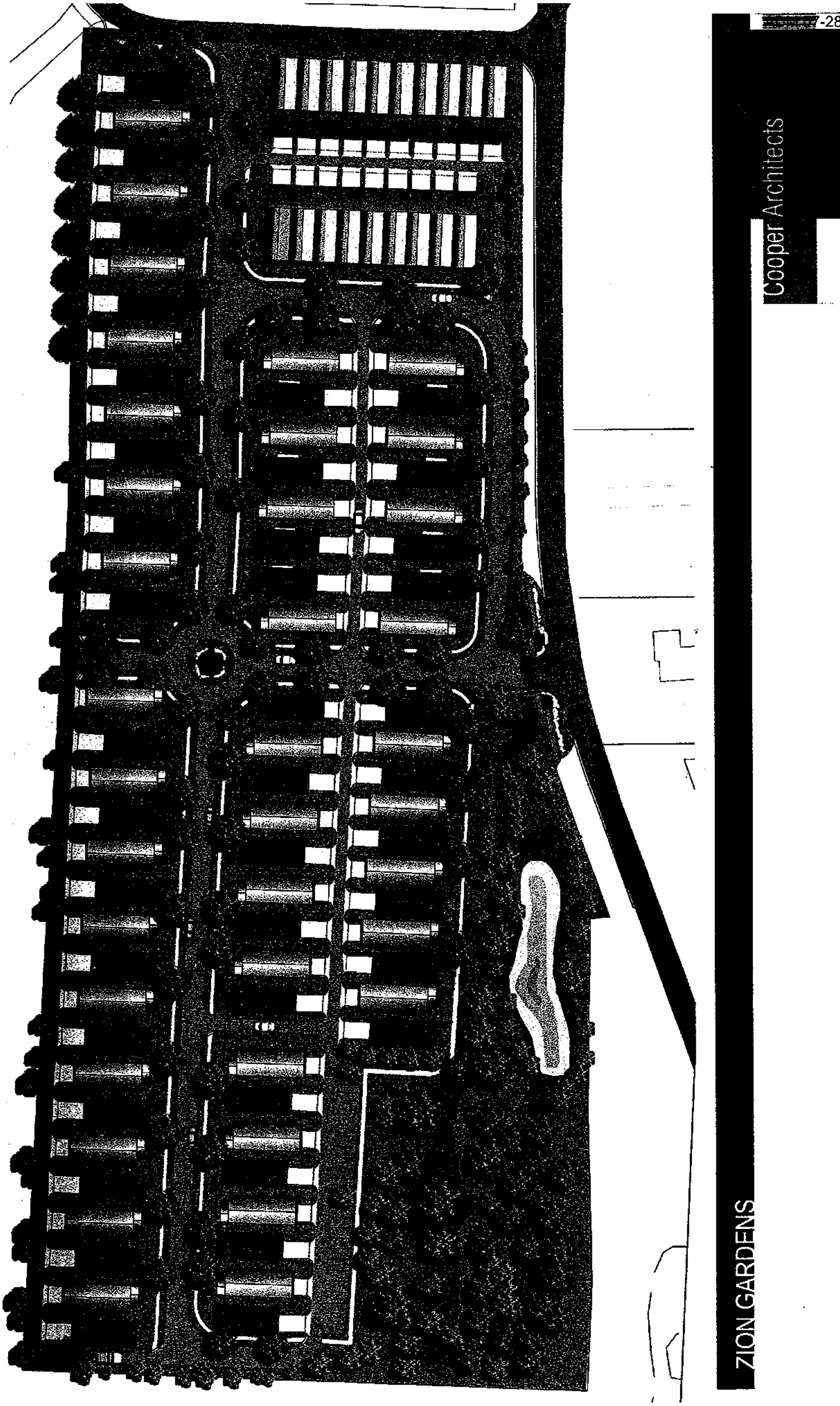
To: Mayor Dan Coody, City Council
From: Jeremy Pate, Director of Current Planning JP
Date: 14 November, 2007
Subject: Zion Place/Lakewood PZD Amendment

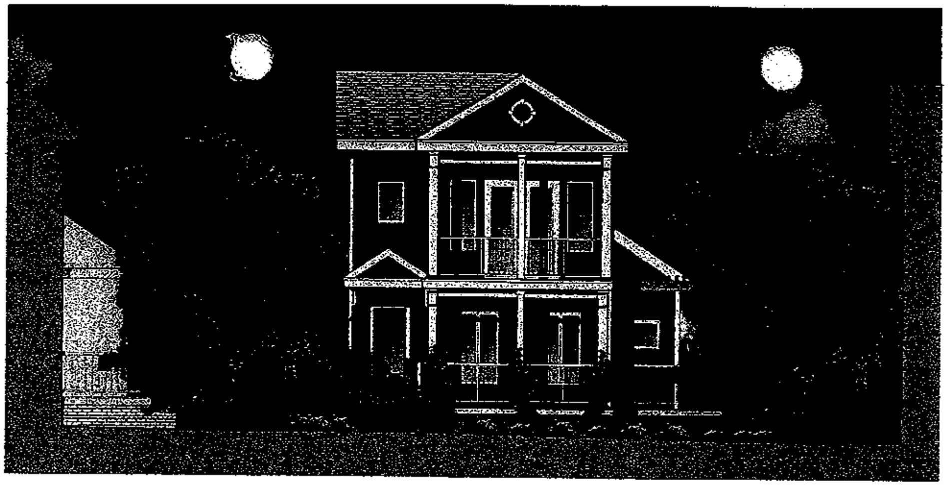
As requested, the attached drawings represent those that were submitted and approved for the original Planned Zoning District for Zion Place (now known as Lakewood). Lots 66-76 include single family dwelling units that were planned to match the size of the rest of the single family homes in the neighborhood. However, in an effort to reduce cost, the applicants have revised their home footprint to utilize a shorter house that will not infringe upon the tree canopy. A review of this proposal by the Urban Forester suggests the modified above-ground foundation is not necessary with the modified house footprint, and with the conditions contained within the report.

Please feel free to contact me with any questions.

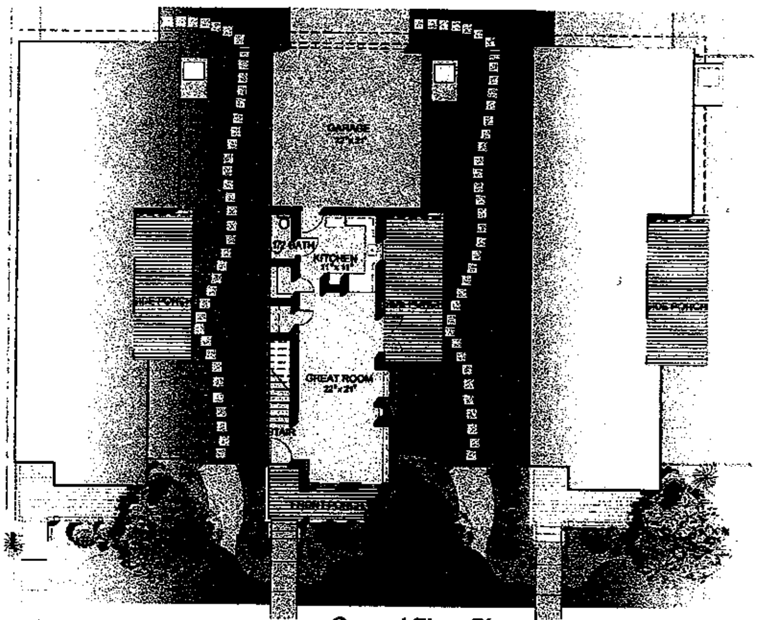
PREVIOUSLY APPROVED PZD DRAWINGS. (NOTE LARGER UNITS INDICATED ON LOTS 66-76, REQUIRING MODIFIED FOUNDATIONS)



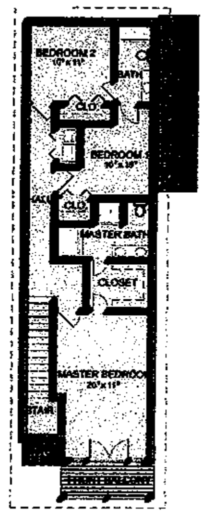

Cooper Architects
ZION GARDENS



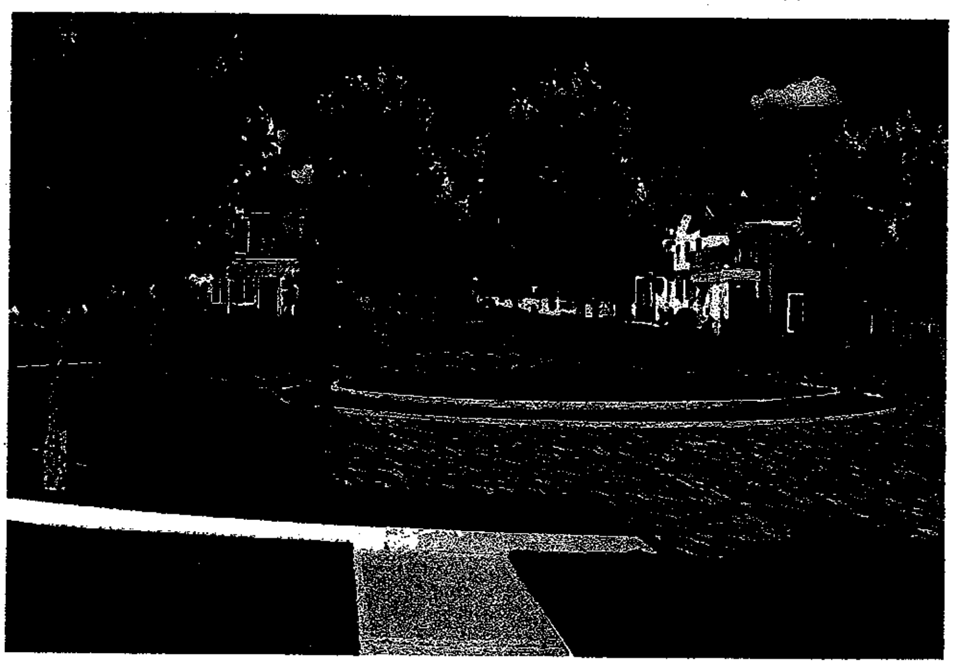
Front Elevation



Ground Floor Plan



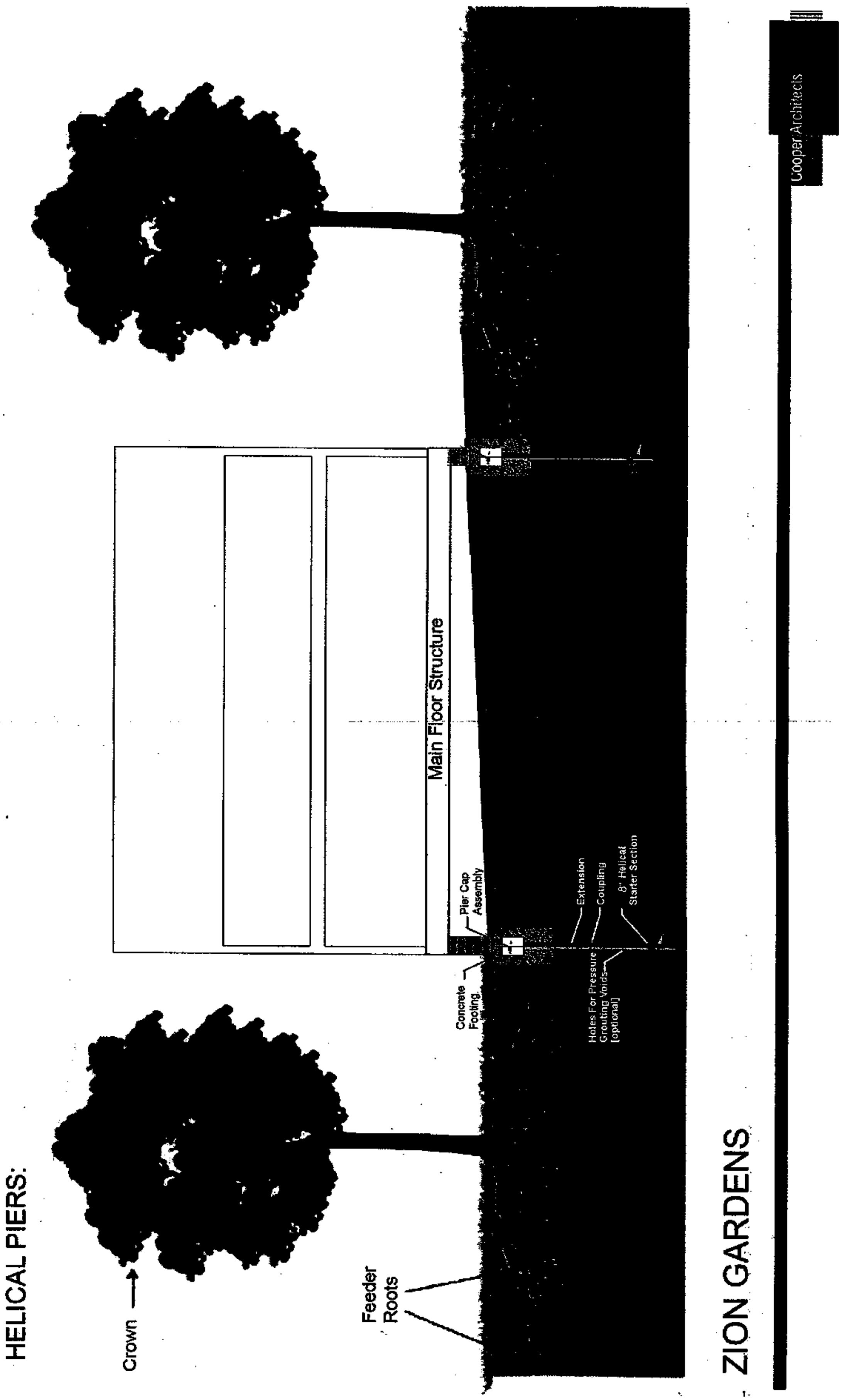
Upper Floor Plan



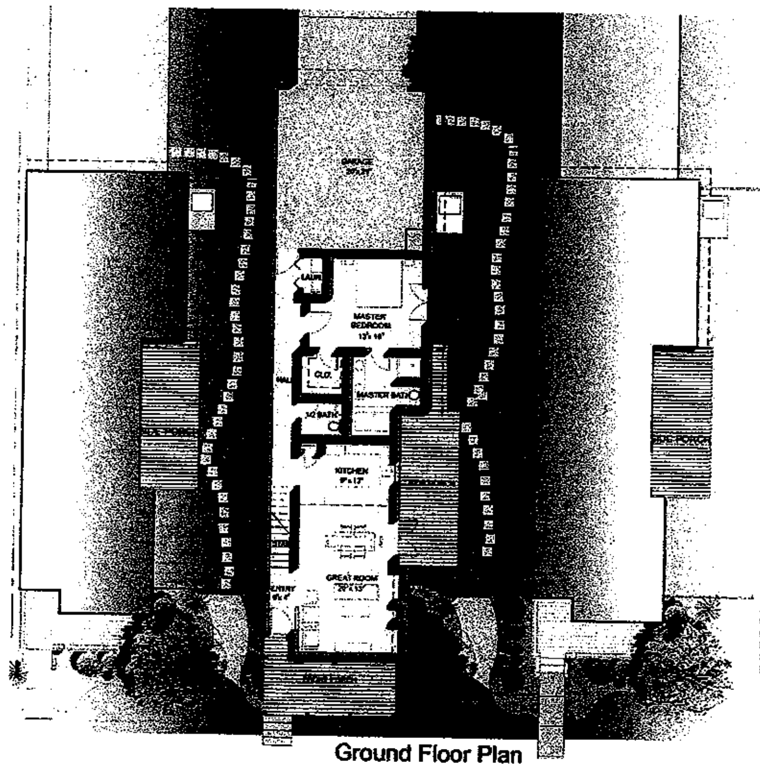
Streetscape at Roundabout

ZION GARDENS

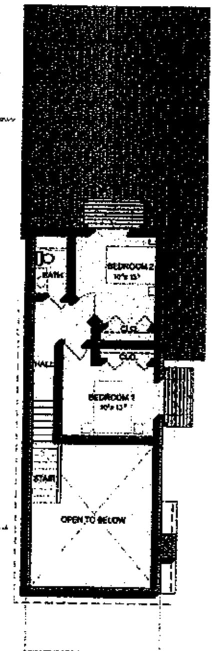
Cooper Architects


HELICAL PIERS:
Crown
Feeder Roots
Concrete Footing
Pier Cap Assembly
Main Floor Structure
Extension
Coupling
8" Helical Starter Section
Holes For Pressure Grouting Voids [optional]
ZION GARDENS
Cooper Architects

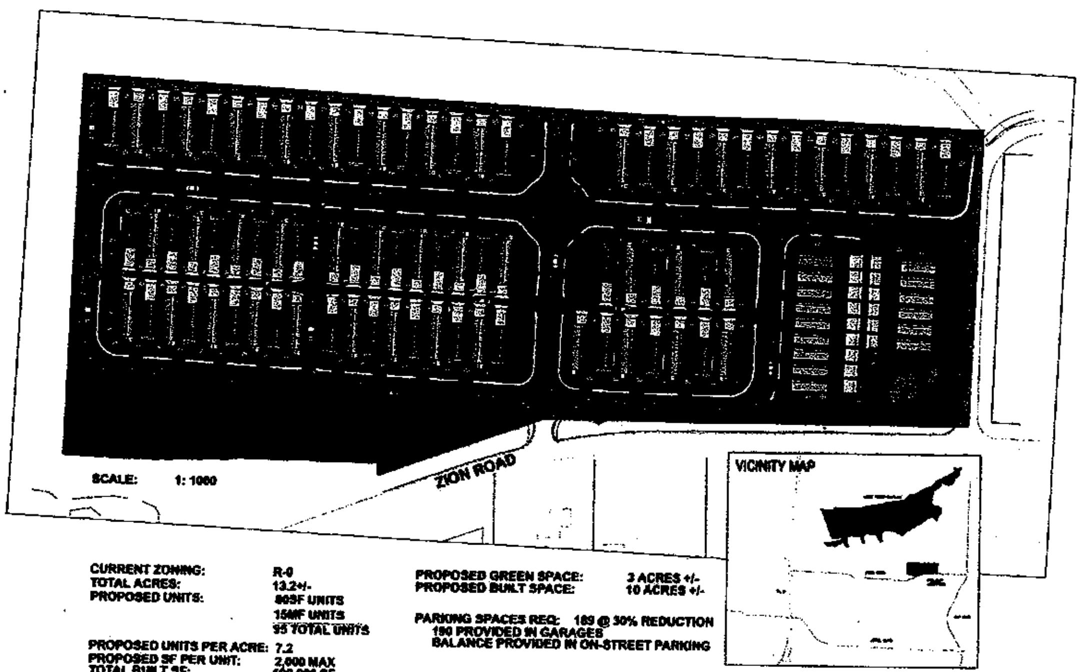
Streetscape



Ground Floor Plan



Upper Floor Plan



CURRENT ZONING:	R-0
TOTAL ACRES:	13.2+/-
PROPOSED UNITS:	80SF UNITS 15MF UNITS 95 TOTAL UNITS
PROPOSED UNITS PER ACRE:	7.2
PROPOSED SF PER UNIT:	2,000 MAX
TOTAL BUILT SF:	190,000 SF

PROPOSED GREEN SPACE:	3 ACRES +/-
PROPOSED BUILT SPACE:	10 ACRES +/-
PARKING SPACES REQ:	189 @ 30% REDUCTION 190 PROVIDED IN GARAGES BALANCE PROVIDED IN ON-STREET PARKING
TREE CANOPY:	2.2 ARCRES +/- (17%)

Site Plan

ZION GARDENS

Cooper Architects

ORDINANCE NO. ______

AN ORDINANCE ADOPTING A FALSE ALARM REDUCTION ORDINANCE TO IMPROVE PUBLIC SAFETY BY REDUCING EMERGENCY RESPONSES TO FALSE ALARMS; AND TO ENCOURAGE ALARM USERS TO PROPERLY USE AND MAINTAIN THE OPERATIONAL EFFECTIVENESS OF ALARM SYSTEMS IN ORDER TO REDUCE OR ELIMINATE FALSE ALARMS.

WHEREAS, the Fayetteville Police Department received over 42,360 calls in 2006, of which 3,851 were from alarms; and,

WHEREAS, of these 3,851 calls from alarm systems, 3,823 (or 99.2%) were false alarms; and,

WHEREAS, sending an emergency response to a false alarm decreases the availability of police officers to respond to true emergencies, thereby decreasing public safety; and,

WHEREAS, it has been determined that often these false alarms are the result of the property owner's failure to properly maintain the alarm systems; and,

WHEREAS, this Ordinance contains provisions which strive to reduce false alarms, sets forth a permitting system with controls to facilitate the reduction of false alarms, and requires the disciplined use of alarm systems by Alarm Users.

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 adopts a False Alarm Reduction Ordinance, the full text of which, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Clerk shall place an item on the agenda of the City Council's regular meeting held on February 3 2009, to review the False Alarm Reduction Ordinance.

Section 3. Effective Date. In order to allow sufficient time to establish the alarm permit system and issue the necessary permits, this ordinance shall take effect 120 days from the date of passage.

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

APPROVED:	ATTEST:
By: ______________________	By: ______________________
DAN COODY, Mayor	**SONDRA E. SMITH,** City Clerk/Treasurer

Added at Agenda Session 11-13-07

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

November 20th, 2007
City Council Meeting Date

Brian Pugh	Solid Waste and Recycling	Operations
Submitted By	Division	Department

Action Required:

Staff requests awarding a contract to ___________for the temporary service of hauling municipal, residential and commercial waste from the City of Fayetteville's Transfer Station to the Waste Management landfill in Tontitown

$0.00		n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	$ -	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	$ -	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item: XXXX

Budget Adjustment Attached:

Gary Dumas — 11/9/2007
Department Director — Date

[signature] — 11/13/2007
City Attorney

Paul A. Becker — 11-13-07
Finance and Internal Service Director — Date

Mayor — Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

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

Received in Mayor's Office
ENTERED 11/13/07

Comments:

City Council Agenda Item

To: Mayor and City Council

From: Gary Dumas

Date: November 13, 2007

Subject: Temporary Solid Waste Hauling Contract

Recommendation: Staff requests awarding a contract to _______________ for temporary hauling municipal, residential and commercial waste from the City of Fayetteville's Transfer Station to the Waste Management Landfill in Tontitown. The per ton rate is $__________.

Background: The Cherokee Nation is the current provider for the operation of the transfer station, hauling services, and disposal of municipal waste for the City of Fayetteville. Due to issues between the Cherokee Nation and their subcontractor the Cherokee Nation Landfill at Stilwell has closed temporarily. The nation is honoring their contract with the City and is covering any expenses that we incur due to the loss of their subcontractor who operated the transfer station, provided the hauling services, operated the Nation's Landfill.

Since October 8, the City has been self-hauling to the Waste Management Landfill, bypassing the Transfer Station. The Nation will repay the City for those expenses, including labor, fuel, vehicle costs, maintenance, etc.

The Nation's timeframe for providing a permanent hauling solution is unknown as they resolve their subcontractor issues and define their best options for expanding and reopening the Landfill.

With this timeframe unknown, the City needs to implement a temporary hauling solution which will keep our collection equipment out of the landfill. Our collection equipment is best utilized in conjunction with a transfer station rather than having to negotiate landfill roads, especially during wet weather, with the winter season nearing the approval of this contract is critical.

Discussion:

The temporary hauling contract with the costs reimbursed by the Cherokee Nation will allow the City's service to return to near normal as the Nation resolves its subcontractor and landfill issues. The contract will be subject to a 7 day cancellation notice to be utilized when Cherokee Nation has a permanent hauling solution in place. Waste will be taken from our Transfer Station to the Waste Management landfill in Tontitown.

Budget Impact: None. This is included in our current contract with the Cherokee nation.

RESOLUTION NO. ______

A RESOLUTION AWARDING A CONTRACT TO ____________________ IN THE AMOUNT OF $____________ PER TON FOR THE TEMPORARY HAULING OF MUNICIPAL, RESIDENTIAL AND COMMERCIAL SOLID WASTE.

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 a contract to ______________________________ in the amount of $__________ per ton for the temporary hauling of municipal, residential and commercial solid waste. A copy of the contract, 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

Aldermen

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

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

City of Fayetteville Arkansas
Special City Council Meeting Minutes
October 30, 2007

A special meeting of the Fayetteville City Council was held on October 30, 2007 at 5:30 PM in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

CONSENT: There was no Consent Items

UNFINISHED BUSINESS:

2007 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2007 fixing the rate thereof at 2.2 Mills for General Fund Operations, 0.4 Mills for the Firemen's Pension and Relief Fund, 0.4 Mills for the Policemen's Pension and Relief Fund and 1.0 Mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas. ***This ordinance was left on the First Reading at the October 2, 2007 City Council meeting. This ordinance was left on the Second Reading at the October 16, 2007 City Council meeting.***

Mayor Coody: We have one item on the agenda this evening which is the Millage discussion. We need to decide this before tomorrow evening.

Paul Becker, Finance and Internal Services Director: It is the recommendation of Administration to increase the Millage by .9 Mills which would generate $995,000. The second part would be to modify the capital program by changing the City of Fayetteville's one cent sales tax that goes between operations and capital to somewhere in the neighborhood of a 60/40 split. The combination of those two would fund the budget that has been presented which is $35.5 million.

First let's talk about the impact of the .9 Millage increase. In relation to other cities of our size or in the surrounding area this would bring us up to a 4.0 total Millage which is still under Rogers, Bentonville, Springdale, Fort Smith and Little Rock. This would still put us under the area. There was an article in the newspaper Saturday that said this would bring our operating Millage to the largest in Norwest Arkansas and that is not true, I take variance with that statement. When we use as a guide a $150,000 appraised value home that would equate to $27.00 per year to the tax payer.

Mayor Coody: The appraised value is the County appraised value that does not mean fair market value. Very often the appraised value at the County is lower than fair market value. The County is trying to get to where that would be an accurate statement. They are going on sales of homes, so that if I were to sell my home they would tax at the sale rate but until I sell it they appraise it below market. We have to consider that in the numbers.

Alderman Thiel: Do the people that are over 65 and disabled get a discount?

Paul Becker: Over 65 is frozen.

Alderman Lucas: The assessed value is frozen.

Paul Becker: The assessed value, yes.

Alderman Thiel: I believe there is a homestead exemption for both disabled and over 65.

Paul Becker: If I understand correctly that is $350.

Mayor Coody: That is for everyone.

Alderman Ferrell: The group that the County contracted with to do the reappraisal, there are a lot of people that are saying that in the current conditions their house is worth less than what they were appraised at, this group is staying here for a while to listen to these requests because the properties are actually worth less than what the County is saying they are appraised at.

Paul Becker gave the Council an update on the ten year sales tax trend and how it relates between actual and budget. He stated from 1997 up to 2006 the actual sales tax collected was above the proposal. In 2006 we saw a decline or a failure to keep up with the estimated amount. The sales tax has continued to decline. Next year based on an estimated growth of 2% we still would not get back to where we were in 2006. We would be running the government on the sales tax collection that we experienced in 2006.

Alderman Jordan: You are basically saying the sales tax is not coming back?

Paul Becker: I am saying it will come back higher than it is this year.

Alderman Jordan: But in line with what we received in 2006.

Paul Becker: Yes that is correct. I think future times will increase but for next year I do not believe it will be higher than it was in 2006.

Mayor Coody: We aren't even sure that future trends are going to increase because the retail development in Rogers is not through yet. I don't think the problem is over yet by any means. Paul is projecting a 2% increase for 2008 and we are having a 2.4% drop that means starting January 1 we are going to have to see a 4.4% increase consistently throughout 2008.

Paul Becker: 2% based on what collections were projected to be this year at this point in time. We are losing the County turn back. The projection would show that will be less than 2006.

Alderman Jordan: Regarding the County turn back, if they figure their budget on zero percent growth, does that affect our turn back?

Paul Becker: No. It depends on what the actual is. They are projecting they are not going to get any growth.

Alderman Jordan: If they do get growth that would not affect it?

Paul Becker: That is correct. We get the percentage either way. A 2% I thought was a reasonable amount for inflation because it is based on this year. We have some other things that are going to help us next year, streamline sales tax, which is a guess on how that is going to affect us, there is a chance that may affect us positively.

We talked about other options to Millage which where the split of the one penny that comes to the City that is divided between our capital and our operations. One thing we talked about at length is the impact of a hiring freeze. I want everybody to understand that when we talk about a hiring freeze we are not talking about freezing new positions, this is no replacement for an existing position for a period of time. The hiring freeze could be used to achieve expense savings but it does have some pitfalls in regards to financing a budget. I think it is a mechanism that could result in some expense savings but for a budget it is very dangerous for a couple of reasons.

I estimated $1.5 million, this is an estimate based on 2007 numbers. There is no guarantee that the turnover in 2008 is going to be the same as it was in 2007 or that it will play out the same way. The number is based on the full yearly value of the position. In other words what would be a one year savings if they were not replaced for an entire year irrespective of when the individual left.

Alderman Rhoads: So this $1.5 is if you replace no one that turned over?

Paul Becker: If we replace no one in turnover and essentially they all turned over at the first of the year.

Alderman Rhoads: First of the year?

Paul Becker: Yes. The other issue I would like to point out is that the budget is currently predicated on a 2% turnover allowance. That was something that was reflected in the budget before I got here. I think it is reasonable that we can count on a 2% turnover. If the 2007 trends stay the same a position has to be open for almost 90 days before any savings at all are achieved because I have to make up that amount first. Based on the information, the potential savings would be the following, if we equate this to quarters. Positions unfilled for three months might save $56,000, positions unfilled for six months might save $433,000, positions unfilled for nine months might save $809,000 and if we went for an entire year the maximum would be $1.1 million.

Mayor Coody: That still predicates on everybody leaving at the first of the year, is that right?

Paul Becker: If they leave at the first of the year and it will have to continue until 2009.

Alderman Ferrell: Position unfilled for 12 months might save $1.1 million right?

Paul Becker: Right.

Alderman Ferrell: If positions are filled the cost will be greater is that correct?

Paul Becker: The cost will be greater to the City is that what you mean?

Alderman Ferrell: Yes.

Paul Becker: That is correct.

The next slide shows how much public safety is in that number. Public safety is fire and police and it is 63% of the turnover or the open positions that were in fact in that category. If we consider doing this and exclude public safety the savings potential would be seriously reduced. I don't think for any meaningful savings you can exclude public safety.

Alderman Thiel: The maximum if we excluded public safety and that is if the position was vacated for 12 months would be $438,000. We have already stated that it would be very unlikely that this occur for the full 12 month period.

Paul Becker: That would be the absolute maximum. I also wanted to point out that this approach is very difficult for supervisors to manage because they have no control over who leaves or what positions in fact will turnover. This causes scheduling problems, training problems and a host of problems. Philosophy is it reasonable to expect that the departments can go for over six months without filling a position. Six months would be difficult, nine and twelve months I think would be extremely difficult to do this.

Alderman Rhoads: As long as we are talking philosophical Paul, I am not sure I necessarily agree with that because private business has to do that all the time. It is amazing what you can figure out that you can do without if you have to do without.

Alderman Jordan: I agree with you Alderman Rhoads. I was under a hiring freeze for at least four years at the University of Arkansas. We managed because we had to.

Paul Becker: It has been used in industry affectively but in industry you have the options of cutting production lines or areas where sales are down which would equate to some type of reduction to us in what we deliver to the citizens.

Alderman Lucas: I question that too because I have worked at the hospital and we have had hiring freezes and we have not cut services. We worked a little harder.

Paul Becker: Would it be fair to say you would have to cut something that was done before and it would not be done?

Alderman Lucas: Not necessarily.

Paul Becker: What I am trying to say is it depends on what turnover is and it depends on how long it is. This is a very rough estimate.

Alderman Ferrell: Hypothetical, this is the same dilemma that any city might have to face if they have a budget short fall.

Paul Becker: That's correct. Some of the other concerns are the method for replacement of small positions or positions with a critical need would have to be in place. We discussed that the City Council could approve the filling of those positions when those positions come up. Any approval prior to whatever the target date is for replacement would result in fewer saving. Some system would have to be in place to determine how long the freeze is if someone is judged a critical need or needs to be replaced immediately. Unless the freeze is permanent which is a reduction in the work force it is still a temporary solution. The freeze would end at some point. Operational difficulties associated with the budget are not factored in the budget, if a hiring freeze is in fact administrated the easiest way to factor it in the budget is to show it as a short fall, show it coming out of reserves and then as it plays about you will see exactly how that affects the total. I think these are some of the ramifications and considerations that we should really look at if this path is pursued.

Alderman Lucas: You said this is a temporary solution but you have predicted an increase next year in revenue. We hope this is a temporary solution if we choose to do this because of your projections.

Paul Becker: Next year I did project an increase, that's correct.

Alderman Jordan: We can do a budget review in March and we will know relatively early in the year.

Paul Becker: We could revisit this in March. Streamline sales tax will be coming into affect next year. It is going to begin January 1. We are going to have to be prepared to look at exactly what happens to sales tax and look for a pattern. We might see a spike early and we might see reductions later because there is a provision for refunding for business purposes. We do not know the impact of internet sales and how much we might receive from that. We can look at the impact. Projects are going to be difficult, more than they have been in the past.

Alderman Gray: Paul can you explain what streamline means?

Paul Becker: Streamline is the cap is going to be removed except on certain items. That should be beneficial. Internet sales are projected to be recouped. The other side of that is it is going to change the remittance of the sales tax from the point of sale to a point of delivery. We don't know exactly how that is going to play out. I think we will do okay and it will be pretty neutral in Fayetteville.

We talked about a balanced budget and budget reductions. The major department heads have outlined what the results of departmental cuts would be. To be successful in the long run these cuts would have to be permanent. It would affect some programs. Some programs would have to be reduced or cut.

Another option is we could use cash reserves. At the end of the year I project the reserve to be $7.8 million this is after this years decline. The City policy requires a minimum of $5.3 million which leaves $2.5 million of available reserves if in fact we wanted to use those funds. That is a short term solution.

Alderman Jordan: How much was in reserves at the first of the year?

Paul Becker: $9.4 million.

We talked about compensation and the recommended compensation that was in the original proposal and that was $436,584. There was discussion in last year's compensation plan about evaluating a COLA. The recommended COLA was 3.8% and that would equate to about $960,000 to the General Fund. We did not include that in our current recommendation.

We could have a wait and see attitude but I would like to point out that $1 million in sales tax revenue requires gross sales of $100,000,000. During the period of time of the short fall we would have to use fund balance to accommodate.

Some of the measures we have already tried to take is we have tried to hold increases to an absolute minimum. The 2008 budget has a total increase of $41,896 for non-personnel expenses. The larger increase is in personnel items which includes workers compensation increases, medical insurance increase, etc. This includes the supply and contractual services associated with opening up the new fire station. We tried to keep those expenses under control as much as possible.

Mayor Coody: We heard from the insurance folks and they said we can plan on about a $250,000 increase in premiums in the next cycle. Is that factored into this budget at all?

Paul Becker: It is not factored in. What is factored in is this year's rate which is roughly a 10% increase.

Alderman Ferrell: You included new sources of revenue to get to the $41,896?

Paul Becker: Yes I did. The recommendation is to increase the Millage by .9 Mills and modify the capital program split.

Alderman Allen: Could you tell me when you were aware that there was a short fall.

Paul Becker: When the budget papers came in and we put them together.

Mayor Coody: We have known that our income has been dropping for the past ten months.

Paul Becker: That is correct.

Alderman Allen: I presume the Mayor knew it as soon as you did.

Mayor Coody: Sure.

Alderman Allen: How frequently is that monitored?

Paul Becker: The expenditure and revenue situation is monitored all through the year, on a monthly basis.

Mayor Coody: Every month we get a report on the revenue. For the last ten months we have told the City Council exactly what has been going on.

Paul Becker: I have come forward with reports on what the revenue situation was.

Alderman Allen: Maybe the Council could work on this quarterly and then we would not find ourselves behind.

Paul Becker: There still has to come a point in time where you start coming to hard numbers and the farther away you forecast the more difficult it is. Sooner or later you have to have hard numbers.

Alderman Allen: It certainly makes it hard to make a decision about where to cut in a budget that you have never seen.

Paul Becker: I distributed information about what the budgets were comparatively within departments and categories of expenses within them.

Mayor Coody: One of the differences between we as individuals and a city organization is that we that draw a pay check or have retirement pretty much have a steady regular income and we know what our income is and can calculate what the next several months of income is. The City has to rely on all kinds of variations that affect our income that we can't control. For every city that relies on sales tax it is not predictable. You have to look month by month to see how well you are doing and every month is different. We don't know what to expect until the trends show up. When the first numbers started coming in that showed we were dropping we thought if this lasts more than three months it will look like a trend, we did not know if it was going to go back up. Obviously it has continued to decline. We do not have that long term knowledge of what our income stream is going to be. That is one of the draw backs and problems with government.

Paul Becker: This is a very different pattern.

Alderman Rhoads: Nine tenths of a Mill on a $150,000 property is how much per year?

Paul Becker: Around $20.

Alderman Ferrell: I think $150,000 for a home is the exception for the cost in Fayetteville as opposed to the rule.

Mayor Coody: I think the confusion is that is the County's appraisal. There may be some houses that are over appraised for what they are worth but I would bet by in large that most of the houses appraised by the County are under market value.

Alderman Thiel: Your point about there only being a few $150,000 houses that is for sale. There are plenty of houses out there that are valued at $150,000 or less. They are not for sale necessarily. There is a low market of houses available for that price.

Alderman Gray: This does not affect anyone over the age of 65 or disabled if they are a property owner and claimed the freezing benefit they will not be affected. I think that is a very important point. A lot of times when we look at raising expenditures and living costs on individuals we are thinking about two groups, the older group that has a fixed income and the low income families. Many of our low income families are not our property owners so they will not be affected by this Millage increase as they have been affected by sales tax. Sales tax affects everyone.

Even if it is $40 for a year that seems to me to be a small amount of increase to continue what we have in Fayetteville, the quality of life and public service that we have. I am totally amazed when I look at other cities that have higher Millage than Fayetteville. I would rather live in Fayetteville than any of them. I feel strongly we need to move our stream of income to where it is more predictable and this is the first step in that direction. I would much rather before we cut services and ask people to do without services they have been accustomed to in Fayetteville that we make this amount of increase and make it a gradual thing that is connected to inflationary prices. I feel strongly this is the way Fayetteville needs to move at this point in time.

Mayor Coody: With the Millage we would still be lower than Bentonville and Springdale even with the increase we would still be less than half of theirs.

Alderman Jordan: We are recommending that the 4% COLA not be on the table?

Paul Becker: That's correct.

Alderman Jordan: When did you know you were going to have to cut that out of the pay?

Paul Becker: When I saw the size of it. I did not see that until lately.

Aubrey Shepherd: I think when I was over at the Board of Equalization they pointed out that we old folks would pay more when a Millage went up.

Alderman Lucas: That is the way I understand it.

Aubrey Shepherd: They won't raise your appraisal.

Alderman Lucas: If the Millage is raised you will have the Millage on your appraisal.

Aubrey Shepherd: So it does affect us.

Alderman Thiel: We have known for several years that the commercial development in Rogers would have a major impact in our budget and we have discussed Millage increases for the past four or five budget cycles. We passed a Millage increase last year knowing then that it was not enough. This Council has passed ordinances that the citizens wanted to protect their property values and their quality of life in Fayetteville. Without adequate trained employees necessary to enforce these laws it will have been a waste of our time and the citizen's time.

When I was first elected the police morale and retention was at its lowest point, after the City paid to train these men they would leave to work for the State Police where the pay was much better. It has taken the last seven years to get the employees wages on track to achieve market salary, even with this Millage increase they are not going to receive a cost of living increase. We have excellent, well qualified, hard working city employees. We have had to make tough decisions to get to this point and I don't want to see us go backwards. I don't believe our citizens want that either.

Since I have been on this Council I have not seen deeper cuts proposed than this budget. Those cuts have included $1 million for the trails construction, major cuts in travel and training and the no cost of living increase. If this Millage increase does not pass these cuts are going to be much deeper and it is going to really affect the services that we provide to this community. I may be in a minority on this Council but I can not in good conscience leave this decision for future

Councils. With that said I am committed in looking at ways to where we will not have to increase the Millage next year.

I think it is better to look at a little bit at a time; we probably should have passed more the last time. We were considering 2.0 Mills and we backed that off to 1.3 Mills, if we had done that we probably would not be discussing this today. I think we are going to have to look at reducing a lot of things in our budget. I don't want to see us back track on the salaries.

Dirk Vanveen: I have friends on both sides of this issue. It has been tough coming to this deliberation. We are a developer of relatively compact neighborhoods towards the center of town which actually provides a net increase in revenue versus the higher cost of conventional sprawl. We asked when we first started Ruskin Heights that we look more at the economic impact of the types of development that are done. I can be in support of these nine tenths of a Mill. I would like the Council to at least consider, that as in other communities where I have had to produce an economic impact analysis of what a project would provide, or in otherwise take from tax revenues at a cost of $7,500. I think they are a valuable piece of information that should be evaluated when new development comes forward. I would like this Council to start examining what the economic impact does specifically in this case residential or mixed use development. At least give an open ear to what we are doing development wise to the economic development of this community and how we are going to expand our tax base and therefore our services without putting a higher burden on the existing people that live here.

My partners and I are on board for the nine tenths of the Mill. I understand that we are far below what adjacent communities are. I don't see that tax increases on the long term are what invigorates additional business to come to Northwest Arkansas.

Mayor Coody: That is a very interesting perspective. Thank you. A lot of times people have a knee jerk reaction against growth because it brings in people and it makes a lot of folks uncomfortable. I really feel like that now when we get mixed use developments with attractive green space and all the amenities that we want that if we embrace those things that we say we want and a developer brings those projects forward I think the economic impact should be considered. I am not saying all growth is good growth or all development is good development. But good development that follows the guidelines needs to be encouraged. I would like to see us do an economic development strategy to where all the City Council could get behind an economic development way of thinking.

If this does not get approved this evening then we have three options, look for cuts, work out of the reserves or a combination of the two. I don't think any of those are sustainable. Our services are not going to be less in demand. Our demand for products has not dropped it has continued to increase. Either we have the quality of services or we don't. Either we pay for them or we don't. I think Fayetteville is a community that is committed to a quality of life that we have become accustomed to. I think it is certainly worth investing $1 per month in. I think our divisions and departments run extremely efficiently. We have fewer staffers and fewer employees per thousand people than other comparable cities where frankly a lot of us would not want to live. I congratulate our staff for being able to work so efficiently and so well on such a tight income stream. With our sales tax declining I don't see how we can keep going with this quality of service without some kind of makeup in the revenue streams, or cuts, or digging into our reserves. None of those are sustainable. I agree with Brenda, we have come a long way in the last seven years. The turnover in the General Fund is 6.7%. Citywide when I took office I think it was 35%. The turnover has dropped dramatically which means we are keeping more experienced, highly qualified and motivated employees. Turnover cost money so we are saving a lot of money. I think as the economy continues to tighten up we will see that 6.7% turnover rate drop. None of us want to raise taxes this is not fun for any of us. From my perspective the responsible thing to do is bite the bullet and do this and maintain running a tight ship with high level of service and maintain the quality of life we have come to expect in Fayetteville and not have to do this again for a long time.

Alderman Allen: Almost everyone that I have talked to have been opposed to the Millage. It is not the amount of the Millage that they say they are opposed to because it is really a relatively small amount of money. I think there is a feeling, for whatever reason, that we are not being good stewards of their money and that we need to rebuild the public's trust. Hopefully we can do that by meeting periodically throughout the year and talk about what is going on and keep better tabs on the budget as a Council as well as staff. Then if we find that it is necessary to vote this increase in next year, then we do it. We don't worry about whether or not it is an election year, we do what we think is right. I think we have to build the trust back. They do not feel good about the way the City has been using their money.

Alderman Ferrell: In the year 2000 in the General Fund we spent 82% for personnel services and the 2008 proposed budget 83% is attributed to personnel services. I use that to illustrate the fact that in 2000 we had 618 employees and in 2007 we had 752. We have worked to provide benefits and compensation.

I know it is the job of the administration to try to get us to do what you think is the right thing. I wish that time could have been spent earlier and in a different venue of trying to save money. I understand you do not have control over everything. I think there is an opportunity cost there when we are printing paper, we have staff time and we are doing meetings, I wish we could have been focusing that time on saving money.

We talked about us having the lowest Millage, I don't refute that if you are talking about city imposed Millage but if you talk about the total Millage load in Northwest Arkansas we are not near the bottom. One of the things that I have a real problem with is it is not only this Millage, we had 1.3 Mills just before, there is higher water and sewer coming, the County is getting ready to come forward with tax and the schools. There is going to be a bam, bam, bam affect. I ask everybody to please consider that.

Alderman Jordan: When I first got into this thing I had hoped that the hiring freeze would be a real help here but from what I hear tonight I have obviously failed somewhat in that endeavor. I know it has worked at the University and the County but somehow this hiring freeze is not a good idea and obviously may not work. If the hiring freeze did work we would save about $1.2 million and with the 60/40 split we would save about $1.5 million, which gives us $2.7 million for next year.

We talked about the wages of the workers and we have brought them up to a certain level and that we have. To keep them at that level we need about a 4% cost of living increase which is not going to be there. The merit and step money will be as far as I know for those that are not topped out. There is $280,000 to continue on that plane and if we want to advance them more then we need to come up with the MAG plan of $1 million in order to keep them on the same level.

I agree with some of the comments by Nancy. In Ward 4 we have found very few people than are in favor of this tax. It is difficult for me to pass this at this point in time.

The Millage on a $150,000 would be about $25 but when you add our Millage and the County's three Mills and a possible school Millage of seven Mills that is $275 and that is pretty expensive. Those are my concerns.

Alderman Rhoads: When we first started talking about this I was pretty much in the camp of I did not want to vote for an increase in Millage. I have talked to a lot of folks and tried to get my own impression. I have seen emails that say don't raise our taxes but I have also seen some emails that have said we like what we have here in Fayetteville and it could stand to be a little bit better even though it is pretty darn good and we are going to have to pay for that. The thing that stands out in my mind is I should have pushed harder for a little more Millage last year. We talked about the fact that we need to diversify our income and this is one way to do that. I am not sure what the County is going to do and I don't know what the citizens will do as far as the school Millage is concerned.

I don't think this organization is wasting money hand over foot. When I talk about this organization I am talking about the way we administer the City. When I say we I don't mean just staff, I mean the City Council, the Mayor, elected officials and all of us. I wish things would have been different with the sewer but it is not and we have to deal with that and we need to keep moving on. The reason I ran for City Council is because I have children and I want them to have an option to make a great living and have a good life and that option could be Fayetteville. I know it all adds up but I think $27 for what you get is well worth it.

Alderman Lucas: It would be so simple to just vote for the Millage that would solve our problems at least for the moment. That would be the simple way to do it and it would be an easy way out. I was certainly leaning toward that but after I got to looking at things and listening to people and talking to people and really evaluating this I was not so sure that was the best way to go. I certainly appreciate the efforts of Paul and the staff. I like some of the ideas that the Council has come forward with as to how we can manage without the Millage increase or without going into reserve further. When we finally see the complete budget we can work on that. We have come a long way but that was in the good times. We were very generous to the employees and nonprofits and we took over things because we had the money. Now it is a time when things aren't so good and so we may have to cut back a little on our generosity. When good times come we start in again.

We still have the unknown as to the impact of Sam's and the Razorback Theater on our sales tax. I do not want to go backwards but we have less money so we have to be conservative. I'm leaning toward waiting to see what the sales tax is and getting a handle on it earlier and not take the simple way out of voting for the Millage.

Alderman Cook: My bottom line is for the City of Fayetteville the sales tax ship has sailed; we can't depend on sales tax any more. The dynamics have changed in Northwest Arkansas. I don't blame anyone for that that is just the way it is. This is my fifth budget cycle and every time we talk about diversifying. I think we all agree that we need to diversify but once we get past the budget we forget that conversation. I don't think until we actually hit crisis point that we are actually going to sit down and discuss how to diversify. When we run out of our discretionary Millage and we run out of our reserve, hard decisions will have to be made then. We are going to get close to that after this budget cycle. I think at some point, starting now, we have to determine how we are going to diversify and it is not to just keep adding more taxes but maybe we need to change the mix that we have in place. I think the only way we can get our attention is to make it difficult this year and make some hard decisions. I think we have to look at everything including how we collect our revenue. It is going to be a painful process but I am not going to shy away from it. I think we all will dig in our heels and do what we have to do. At some point we have to quit discussing it once a year and discuss it throughout the year on how we can make changes.

Mayor Coody: When you say diversify give me an idea if what you are talking about.

Alderman Cook: I know we are limited on our options as far as revenue for the City. I am not opposed to Millage, I would much rather pay a property tax than a sales tax any day. Can we change that mix somehow. There are all kinds of legal ramifications of how our sales tax is dedicated. I know there are people out there that would much rather give up sales tax and have a property tax. At least from the City that is what we want because it is a predictable revenue stream. It is going to increase every year, it is something we can count on and budget for. I am all for that and as a property owner in Fayetteville I would be more than happy to support that through a property tax but we have never really had that discussion. I think we have reached that moment where we have to have that discussion.

Mayor Coody: It sounds good but when you look at the number of dollars a one cent sales tax brings in, a one penny sales tax will bring in $17 million that would basically be 17 Mills of property tax to make up one penny. We only have discretion over five Mills of discretionary and five Mills of dedicated. We have 1.3 Mills right know of discretionary that we are using for operations. There is no way we could even make up half of a penny of sales tax with maxing out our property tax. I wish we could but the numbers don't work on that. Property tax does not bring in nearly what paying a sales tax does.

Alderman Cook: So how do we diversify then?

Mayor Coody: That is why we are having this discussion tonight because we don't have that many options. We need to diversify, we have talked about the need to diversify for years now. Raising property taxes is very hard. When we started out the conversation Paul said we need 1.4 to 2.0 Mills to make this work. My compromise was I don't think we can get that much passed and I am going to hang my hat on the growth of the limited retail sector that we still have here in town. I thought if we could bring up just $1 million we can make these other adjustments and maybe make this work. This is a very conservative nine tenths of a Mill. I did not think nine tenths of a Mill would have trouble passing because it is so small and the ramifications are so incredibly important. We have been working for years to build up our staff to get it to be an efficient organization, to get the pay where it needs to be, to lower our turnover, to get the best and the brightest, and to be able to keep them. To build our quality of life to where not only the people of Fayetteville love it here but that we bring in the best and brightest to Fayetteville, Arkansas. If we start pulling back we will lose the very qualities that we are trying to build our future on. We are building a national reputation in Fayetteville, Arkansas on the sustainability movement, yet the budget we are about to pass is not sustainable.

As far as the trust issue goes, I know a lot of people are upset that the sewer system cost 50% more than any of us anticipated. I hate that as much as anybody else. Every major infrastructure job in the last five years has come in way over budget because of the sky rocketing prices, in fuel, cement, copper, etc. We had two choices walk away from half a project and still have a maxed out sewer plant or go ahead and bite the bullet and complete the program. 94% of the people of Fayetteville, Arkansas that were surveyed rated Fayetteville as either very good or an excellent place to live and approximately 60% think that the City of Fayetteville is run well. The majority of people are happy with the way things are going. I think the qualities that we want to maintain in Fayetteville are worth my $2.00 per month investment to maintain where we are.

Alderman Thiel: What really concerns me is Shirley pointed out that we will have to work harder, that is not an issue, to me I did not think voting for this was easier. It would probably be easier to vote against it. I think what is going to be very sad about this is the things that we are going to have to look at cutting, I think we could have dealt with not having a Millage next year easier than we are going to find trying to live with this cut, when I review some of the things that we are going to have to cut. We have passed ordinances that increased the work load of the Planning and Code Enforcement Divisions. We are not going to be able to enforce some of those ordinances. I am fine with cutting Lights of the Ozarks but when I look at what we would save it is just a drop of what we are looking at cutting. We are going to have to find $1 million in this budget and it has already been cut to bare bones. This really concerns me.

Alderman Gray: I am troubled about this piece of misinformation that I have been given about anyone 65 and over. Are you saying the appraisal will not be lifted?

Paul Becker: The assessed value.

Alderman Jordan: The assessed value is frozen.

Alderman Gray: I see if the Millage goes up that it is the value. That is misinformation that myself as well as a lot of other folks has been given, that the property tax will not go up. I apologize for that. I have been given misinformation but not by anyone on our staff.

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

Assistant City Attorney David Whitaker read the ordinance.

Alderman Lucas: You were right Brenda it was not an easy decision to make what I meant was it would be simple for us to just pass it and then we would not have to work to do all those cuts.

Alderman Ferrell moved to amend the ordinance to approve the existing Millage for the General Fund Operations, 1.3 Mills for General Fund Operations. Alderman Jordan seconded the motion. Upon roll call the motion passed 5-3. Alderman Ferrell, Lucas, Jordan, Cook and Allen voting yes. Alderman Rhoads, Gray and Thiel voting no.

Assistant City Attorney David Whitaker read the amended ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Rhoads, Ferrell, Lucas, Jordan, Cook and Allen voting yes. Alderman Gray and Thiel voting no.

Ordinance 5071 as Recorded in the Office of the City Clerk.

NEW BUSINESS: There was no New Business

INFORMATIONAL: None

Meeting adjourned at 6:45 PM

Dan Coody

Dan Coody, Mayor

Sondra E. Smith

Sondra E. Smith, City Clerk/Treasurer

Added to the November 20, 2007 City Council Agenda At the City Council Meeting.

AGENDA REQUEST

FOR: COUNCIL MEETING OF November 20, 2007

FROM:
DAN COODY, MAYOR

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend Chapter 33. **Departments, Boards, Commissions And Authorities** By Enacting The Same Code Of Conduct For All Appointed Committees As Followed By The City Council

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APPROVED FOR AGENDA:

Dan Coody
Mayor

11/15/07
Date

Approved as to form:

Kit Williams
City Attorney

11-16-07
Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE **LEGAL DEPARTMENT**

TO: **City Council**

FROM: **Kit Williams**, City Attorney

DATE: **November 16, 2007**

RE: **Code of Conduct for all City committees**

Mayor Coody asked that I draft a code section to require that members of all city committees, boards, etc. refrain from rude, derogatory or abusive comments just as your **Rules of Order and Procedure of the Mayor and City Council** already mandate for your meetings. Attached is this proposal ordinance adding §33.330 to the Fayetteville Code.

Mayor Coody will ask that this be added to the agenda for Tuesday's meeting.

ORDINANCE NO. ______

AN ORDINANCE TO AMEND CHAPTER 33. **DEPARTMENTS, BOARDS, COMMISSIONS AND AUTHORITIES** BY ENACTING THE SAME CODE OF CONDUCT FOR ALL APPOINTED COMMITTEES AS FOLLOWED BY THE CITY COUNCIL

WHEREAS, the **Rules of Order and Procedure for the Fayetteville Mayor and City Council** adopted by the City Council require courtesy both by the City Council and citizens during City Council meetings and prohibit "rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities"; and

WHEREAS, free and open debate about issues is best conducted without rude, derogatory or abusive statements not only during City Council meetings, but during all City of Fayetteville boards, commissions and committee meetings.

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

Section 1: The City Council of the City of Fayetteville, Arkansas hereby amends Chapter 33. **Departments, Boards, Commissions and Authorities** by enacting Article XX as shown below:

"Article XX. Rules of Conduct For All Fayetteville Boards, Commissions And Committees.

"33.330 Rules of Conduct For Citizens And Members For All Boards Commissions and Committees.

"(A) During all meetings for all City boards, commissions and committees, all members of such board, commission and committee and all citizens addressing such body shall accord the utmost courtesy to each other, to city staff and to members of the public appearing before such body. All members of such body and the public speaking at the meeting shall refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities.

"(B) Any members of a board, commission or committee appointed by the Mayor and/or City Council who violates the rule of conduct stated above may be removed from such board, commission or committee by City Council Resolution."

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

APPROVED:

By: ____________________________

DAN COODY, Mayor

ATTEST:

By:________________________________

SONDRA E. SMITH, City Clerk/Treasurer

interest in matters to be considered, and agenda copies available at City Council meetings.

Members of the audience will be offered an opportunity to speak on all questions before the City Council. Any public member shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be asked an Alderman or city employee except through the Mayor.

All members of the public are requested to accord the utmost courtesy to members of the City Council, to other members of the public appearing before the City Council and to city staff, and are asked to refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities.

7. **Smoking Prohibited**

There will be no smoking allowed in the City Council Chambers during City Council meetings.

8. **Cell Phones and Pagers**

Cell phones must be turned off or put in silent mode and not used within the City Council Chambers during City Council meetings. Pagers must be turned off or put in silent mode within the City Council Chambers during City Council meetings. These restrictions also apply during Agenda Sessions in Room 326.

B. DUTIES AND PRIVILEGES OF ALDERMEN AT CITY COUNCIL MEETINGS

1. **Seating**

Members shall occupy the respective seats in the City Council Chambers assigned by position number. The Mayor (or Assistant Mayor in the Mayor's absence) shall be seated near the center of the Aldermen's table.

2. **Conduct**

During City Council meetings, City Aldermen shall preserve order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings. Neither shall they refuse to obey the orders of the Mayor or the rules of the City Council.

Every member of the City Council desiring to speak shall address the chair and, upon recognition by the Mayor, shall confine herself or himself to the question under debate and shall avoid all personalities and indecorous language. A City Council member once recognized shall not be interrupted while speaking unless called to order by the Mayor, unless a point of order is raised by another member or unless the member chooses to yield to questions from another member.

If a member is called to order while he or she is speaking, the member shall cease speaking immediately until the question of order is determined. If ruled to be not in order, the member shall remain silent or shall alter his or her remark so as to comply with the rules of the City Council.

All members of the City Council shall accord the utmost courtesy to each other, to city employees, and to members of the public appearing before the City Council, and shall refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities. City Council members shall confine their questions as to the particular matters before the City Council and in debate shall confine their remarks to the issues before the City Council.

3. **Financial Interest**

No member of the City Council with a direct or indirect financial interest in any items before the City Council shall participate in the discussion of or voting on such matter.

4. **Voting**

Every member present when a question is put to a vote shall vote either "yes" or "no", except that a member may abstain from voting if he or she has not participated in the preceding discussion of the question and if that member has previously stated the reason for the abstention. Except for a question necessary to clarify the meaning of the motion, resolution or ordinance being voted upon, no questions or comments by members of the City Council including the Mayor shall be made during the voting on the pending motion, resolution or ordinance. The Aldermen will vote at City Council meetings in the order of their position number, but with a progressively different position voting first at each meeting.

5. **Roll Call**

Upon every vote the affirmative and negative votes shall be called and shall be recorded on every motion, resolution and ordinance; however, items which may be approved by motion, or contracts and leases which can be approved by resolution, may be grouped together and approved simultaneously with one roll call, under a "Consent Agenda.."

C. **MAYOR & VICE MAYOR**

1. **Mayor**

a. **General Power to Preside and Vote**

The Mayor is the presiding officer and ex officio president of the City Council. The Mayor may vote to establish a quorum or to pass an ordinance, resolution or motion if the Mayor's vote is needed for passage. The Mayor does not have the right to vote for an

C.7. New Business
Temporary Solid Waste Hauling Contract

11-20-07 City Council Agenda. Handed out after the Final Agenda went out.

RESOLUTION NO. ______

A RESOLUTION AWARDING A CONTRACT TO ROLL-OFF SERVICES, INC. IN THE AMOUNT OF $6.00 PER TON FOR THE TEMPORARY HAULING OF MUNICIPAL, RESIDENTIAL AND COMMERCIAL SOLID WASTE.

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 a contract to Roll-Off Services, Inc. in the amount of $6.00 per ton for the temporary hauling of municipal, residential and commercial solid waste. A copy of the contract, 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

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

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

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
November 20, 2007

A meeting of the Fayetteville City Council will be held on November 20, 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:

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

A. Consent:

1. Approval of the October 30, 2007 Special City Council meeting minutes and November 6, 2007 City Council meeting minutes.

2. **Bid # 07-63 Southern Uniform Equipment:** A resolution awarding Bid # 07-63 to Southern Uniform Equipment for the purchase of police uniforms in the amount of $59,178.00 plus applicable taxes; approving additional uniform purchases from the bid on an as-needed basis through December 31, 2008; and approving a budget adjustment in the amount of $41,422.00.

3. **Bid # 07-75 Tomlinson Asphalt Company, Inc:** A resolution awarding Bid # 07-75 and approving a contract with Tomlinson Asphalt Company, Inc. in the amount of $594,390.00 for construction of improvements to Gregg Avenue; and approving a 10% project contingency.

4. **Arkansas Western Gas Company Agreement:** A resolution approving an agreement with Arkansas Western Gas Company for relocation of gas utility facilities on Zion Road.

5. **CEI Engineering Associates, Inc:** A resolution approving contract Amendment No. 1 to the contract with CEI Engineering Associates, Inc in an amount not to exceed $62,656.46 for construction phase services associated with the Gregg Avenue Improvements Project.

6. **McClelland Consulting Engineers, Inc:** A resolution approving contract Amendment No. 1 to the contract with McClelland Consulting Engineers, Inc. in an amount not to exceed $74,690.50 for permitting support, easement document preparation, electrical design and related services associated with the College Avenue Improvements Project.

7. **Time Striping, Inc. Change Order #1:** A resolution to approve Change Order #1 of the contract with Time Striping, Inc. in the amount of $7,500.00 and to approve a budget adjustment of $7,500.00.

8. **Arkansas Alcoholic Beverage Control Enforcement Division Grant:** A resolution authorizing the Fayetteville Police Department to accept a grant from the Arkansas Alcoholic Beverage Control Enforcement Division in the amount of $31,516.00 to host a State Underage Drinking Prevention Conference; and approving a budget adjustment recognizing the grant revenue.

9. **Target Law Enforcement Grant:** A resolution authorizing the Fayetteville Police Department to accept a grant from Target in the amount of $500.00 for the purchase of Community Oriented Policing supplies; and approving a budget adjustment to recognize the grant revenue.

B. Unfinished Business:

C. New Business:

1. **Redistrict Ward Boundaries:** A resolution to redistrict Ward Two and Ward Four to equalize population within the wards pursuant to the 2006 census.

2. **ADM 07-2805 (Amend Title XV: HHOD Regulations):** An ordinance to amend the Unified Development Code Chapter 161: Zoning Regulations, Chapter 170: Stormwater Management, Drainage and Erosion Control, and Chapter 172: Parking and Loading to comply with the intent of the Hillside/Hilltop Overlay District Ordinance No. 4855 adopted in April 2006.

3. **ADM 07-2806 Vantage Center PZD Amendment:** An ordinance amending a Residential Planned Zoning District entitled R-PZD 05-1543, Vantage Center, located at the end of Shepard Lane adjacent to Frontage Road, containing approximately 4.68 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.

4. **ADM 07-2807 Waive Section 166.20 (Vantage Center):** An ordinance to waive section 166.20 of the Unified Development Code and to extend the expiration date for R-PZD 05-1543 (Vantage Center) to October 4, 2008.

5. **ADM 07-2808 Zion Gardens (Lakewood) PZD Amendment:** An ordinance amending a Residential Planned Zoning District entitled R-PZD 05-1599, Zion Gardens, located immediately northwest of the intersection of Randal Place and Zion Road, containing approximately 13.55 acres, to reflect revised conditions of approval to eliminate the requirements for pier and above-grade foundation system on lots 66-76, as described herein.

6. **False Alarm Reduction:** An ordinance adopting a false alarm reduction ordinance to improve public safety by reducing emergency responses to false alarms; and to encourage alarm users to properly use and maintain the operational effectiveness of alarm systems in order to reduce or eliminate false alarms.

7. **Deloris Mae Tuck Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Deloris Mae Tuck.

8. **Gary Combs, LLC Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Gary Combs, LLC.

9. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended.

Agenda Additions:

Announcements:

1. **City Council Tour: November 19, 2007**

Adjournment:

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

11/20/2007
City Council Meeting Date

Greg Tabor	Police	Police
Submitted By	Division	Department

Action Required:

A resolution awarding Bid 07-63, Police Department Uniforms to Southern Uniform Equipment for an initial purchase amount of ~~$62,809.93 including~~ sales taxes and approving additional purchases on an as-needed basis through December 31, 2008. $59,178.00 plus any additional

$ 62,809.93	$ 703,195.00	Services/Charges
Cost of this request	Category / Project Budget	Program Category / Project Name
101029405302.00	$ 499,740.00	Police Patrol
Account Number	Funds Used to Date	Program / Project Category Name
	$ 203,455.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] Budget Adjustment Attached [XXX]

Department Director — Date 11-2-07

City Attorney — Date 11/2/07

Finance and Internal Service Director — Date 11-5-07

Mayor — Date 11/6/07

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office
ENTERED 11/2/07

Received in Mayor's Office
ENTERED 11/5/07

Comments:

Fayetteville
ARKANSAS

City Council Meeting Date: November 20, 2007

The City of Fayetteville, Arkansas

City Council Agenda Memo

To: Mayor Coody and Members of the City Council

From: Greg Tabor, Chief of Police

Date: October 25, 2007

Subject: Award Contract to Southern Uniform and Equipment for Police Uniforms

Recommendation:

City Council approves resolution authorizing Mayor Coody to sign a contract with Southern Uniform and Equipment for the replacement of uniforms for the Police Department. The bid is $59,178.00 plus tax of $3631.93 for a total project cost of $62809.93.

Background:

During budget planning discussions for fiscal year 2007 and 2008, police administration identified a need to supply and replace uniforms for their personnel due to changes in technology, style, appearance, comfort and durability. Approximately twenty years ago the Fayetteville Police Department overhauled their Class A uniforms, and approximately ten years ago incorporated a Battle Dress Uniform (BDU) for our officers to wear during inclement weather. Over the past few years, the vendor for our Class A uniform has been unable to provide our agency with a manufacturer who could match the navy blue color of our shirts and pants due to different fabric schemes. Also, the polyester design of these uniforms is expensive, uncomfortable and impractical, and the BDU was not designed for daily wear due to appearance and durability. A complete change to a less expensive fabric for our police uniforms would result in an overall savings of approximately $17,000 (21%), and provide our officers with a professional appearance and advanced technology to keep them more comfortable on the job.

Discussion:

Research by staff into color and fabric options lead to the writing of specifications that several vendors indicated they could meet in both stock manufacture models and prompt delivery. A wear test evaluating the appearance, wear, durability and comfort of this uniform was conducted over the past several months by officers at the Fayetteville Police Department. Response from these officers and the majority of their co-workers has been positive. The evaluating officers specifically noted this uniform gave a more formal and professional appearance while providing more comfort, durability and practicality for their day-to-day assignments. A 75/25 worsted wool blend was selected in both the uniform pants and shirts to ensure they were manufactured from the same dye lot for uniformity. Southern Uniform and Equipment was able to meet our specifications and they submitted the low bid to our purchasing department.

Budget Impact:

The $62809.93 to fund this project is included in our 2007 Budget. We will utilize $20,000 from our remaining 2007 budget that was allocated for uniform purchase/replacement and $42809.93 from our 2007 Federal Drug Asset Forfeiture Fund. The funding of this project will enable the police department to help meet the established target reduction in our 2008 budget.

113 WEST MOUNTAIN 72701
479-575-8330
479-575-8257 (Fax)

RESOLUTION NO. ______

A RESOLUTION AWARDING BID #07-63 TO SOUTHERN UNIFORM EQUIPMENT FOR THE PURCHASE OF POLICE UNIFORMS IN THE AMOUNT OF $59,178.00 PLUS APPLICABLE TAXES; APPROVING ADDITIONAL UNIFORM PURCHASES FROM THE BID ON AN AS-NEEDED BASIS THROUGH DECEMBER 31, 2008; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $41,422.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-63 to Southern Uniform Equipment for the purchase of police uniforms in the amount of $59,178.00 plus applicable taxes.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves additional uniform purchases from the bid on an as-needed basis through December 31, 2008.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $41,422.00.

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

APPROVED: ATTEST:

By: ______________________________ By: ______________________________

DAN COODY, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

BID: 07-63
DATE: 9/28/07
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Fayetteville ARKANSAS

Bid 07-63, Police Department Uniforms

Bidders	Short Sleeve Shirt Color: (Dark Navy) Est. Qty: 280		Long Sleeve Shirt Color: (Dark Navy) Est. Qty: 280		Side Pocket Trouser Color: (Dark Navy) Est. Qty: 280		Four Pocket Trouser Color: (Dark Navy) Est. Qty: 280		Total Base Bid
	Per Each	Total	Per Each	Total	Per Each	Total	Per Each	Total	(Sum of Items 1 through 4)
1 CFM Uniforms Inc.									Did Not Meet Specifications
2 Cintas Corporation									Did Not Meet Specifications
3 Cruse Uniforms and Equipment	$54.85	$15,358.00	$60.11	$16,830.80	$61.88	$17,326.40	$56.72	$15,881.60	$65,396.80
4 Oklahoma Police Supply									Did Not Meet Specifications
5 Red The Uniform Tailor									Did Not Meet Specifications
6 Southern Uniform and Equipment	$48.64	$13,619.20	$53.73	$15,044.40	$56.99	$15,957.20	$51.99	$14,557.20	$59,178.00

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

CERTIFIED: P Vice
P. VICE - PURCHASING MANAGER

A. Fouw
WITNESS

10/3/07
DATE

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year		Date Requested	Adjustment Number
2007	Department: Police Division: Police Program: Patrol	11/2/2007	

Project or Item Added/Increased:
To request $41,422 in the Uniform/Personal Equipment expense account.

Project or Item Deleted/Reduced:
To recognize Federal Law Enforcement Forfeitures revenue in the amount of $41,422

Justification of this Increase:
Federal law enforcement forfeitures to cover the costs associated with the purchase of uniforms/personal equipment for our sworn personnel.

Justification of this Decrease:
Federal forfeitures were received to cover miscellanous law enforcement expenses.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Uniforms/personal equip	1010	2940	5302	00	41,422	03046	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Federal Forfeitures	1010	0001	4504	00	41,422	03046	1

Approval Signatures

Willie Newman — 11/2/07
Requested By — Date

[signature] — 11-2-07
Budget Manager — Date

[signature] — 11/2/07
Department Director — Date

Finance & Internal Services Director — Date

Mayor — Date

Budget Office Use Only

Type: A B C D E

Posted to General Ledger — Initial — Date

Posted to Project Accounting — Initial — Date

Entered in Category Log — Initial — Date

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

11/20/2007
City Council Meeting Date

Ron Petrie	Engineering	Operations
Submitted By	Division	Department

Action Required:

A resolution to award a contract to Tomlinson Asphalt Company, Inc., in the amount of $540,353.54 for construction of improvements to Gregg Avenue and approve a project contingency of 10% of the Construction bid.

$ 594,390.00	$ 24,496,473.00	Wilson Park/Washington Willow Area Trans. Impts.
Cost of this request	Category / Project Budget	Program Category / Project Name
4520.9520.5809.00	$ 2,082,457.43	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
06035.1120	$ 22,414,015.57	2006A Sales Tax Construction
Project Number	Remaining Balance	Fund Name

Budgeted Item [X]   Budget Adjustment Attached [ ]

Department Director — Date: 11.02.07

City Attorney — Date: 11/06/07

Paul A. Becker
Finance and Internal Service Director — Date: 11-06-07

Mayor — Date: 11/6/07

Previous Ordinance or Resolution # ____

Original Contract Date: ____

Original Contract Number: ____

Received in City Clerk's Office
ENTERED 11/21/07

Received in Mayor's Office
ENTERED 11/6/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Date: November 2, 2007

Subject: A resolution to award a contract to Tomlinson Asphalt Company, Inc., in the amount of $540,353.54 for construction of improvements to Gregg Avenue and approve a project contingency of 10% of the Construction bid.

RECOMMENDATION

Staff recommends award of a construction contract in the amount of $540,353.54 to Tomlinson Asphalt Company of Fayetteville, and approval of a project contingency of $54,036.46 (10% of construction bid) for construction of improvements to Gregg Avenue as part of the Wilson Park and Washington Willow Area Transportation Improvement Project.

BACKGROUND

This project includes installation of a median and three speed tables along Gregg Avenue from North Street to Prospect, and installation of a right turn lane on Gregg Avenue for southbound traffic approaching North Street.

This work is part of a larger project entitled Wilson Park Area/Washington-Willow Area Transportation Improvements, which is included in the Transportation Bond Program.

DISCUSSION

Eight contractors submitted bids on the project. Bids ranged from a high of $882,470 to the low bid by Tomlinson Asphalt Company of $540,353.54. The summary bid tabulation listing all of the bid results is attached.

The low bid is approximately 30% below the Engineer's Estimate for the project.

BUDGET IMPACT

The Wilson Park/Washington Willow Transportation Improvements Project is a subproject of the Transportation Bond Project. The total budget for this subproject is $4,277,000. The cost of the improvements to Gregg Avenue will be paid for from these funds.

RESOLUTION NO. ______

A RESOLUTION AWARDING BID #07-75 AND APPROVING A CONTRACT WITH TOMLINSON ASPHALT COMPANY, INC. IN THE AMOUNT OF $594,390.00 FOR CONSTRUCTION OF IMPROVEMENTS TO GREGG AVENUE; AND APPROVING A 10% PROJECT CONTINGENCY.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby awards Bid #07-75 and approves a contract with Tomlinson Asphalt Company, Inc. in the amount of $594,390.00 for construction of improvements to Gregg Avenue. 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 10% Project Contingency.

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

APPROVED: ATTEST:

By: ______________________________
DAN COODY, Mayor

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

BID: 07-75
11/1/2007
2:00 PM
CITY OF FAYETTEVILLE

Fayetteville ARKANSAS

Bid 07-75, Gregg Avenue Improvements

	BIDDER	Total Amount Bid
1	Ames Construction Solutions, LLC	$625,973.30
2	APAC - Arkansas, Inc.	$638,696.29
3	Decco Contractors-Paving, Inc.	$882,470.40
4	Mobley Contractors, Inc.	$665,360.70
5	Sweetser Construction, Inc.	$690,729.90
6	Tomlinson Asphalt Co., Inc.	$540,353.54
7	Township Builders, Inc.	$691,325.00
8	Wilson Brothers Construction Co.	$610,273.19

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

CERTIFIED: P Vice — P. VICE PURCH MGR

A. Foun — WITNESS

11/1/07 — DATE

Engineering Associates, Inc.

ENGINEERS ■ SURVEYORS ■ PLANNERS
LANDSCAPE ARCHITECTS ■ ENVIRONMENTAL SCIENTISTS

3317 S.W. "I" Street
Bentonville, AR 72712
479.273.9472 Fax 479.273.0844

November 2, 2007

Chris Brown, P.E.
Project Manager
City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72704

Re: **Bid Award**
Gregg Avenue Improvements
Bid Number 07-75
CEI Project No. 22999.0

Chris:

Based on the bid received at the bid opening, those bids were checked and verified. At this time, CEI submits the apparent low bid from the contractor **Tomlinson Asphalt Company, Inc.** for a construction amount of **$540,353.54** to the City of Fayetteville for award.

Respectfully submitted,

Gregory W. Perry, P.E.

Gregory W. Perry, P.E.
Transportation Department Manager

DOCUMENT 00500 – AGREEMENT

BETWEEN OWNER AND CONTRACTOR

Contract Name/Title: Gregg Avenue Improvements
Contract No.: __________

THIS AGREEMENT is dated as of the ______ day of ______________ in the year 20__ by and between The City of Fayetteville, Arkansas and Tomlinson Asphalt Company (hereinafter called Contractor).

ARTICLE 1 - WORK

1.01 Contractor shall compete all Work as specified or indicated in the Contract Documents. The work under this Contract includes, but is not limited to: 4,121 sy of asphalt cold milling, 556 tons of asphalt surface, minor pavement repair and overlay with construction of 309 sy of traffic calming medians and 8 speed tables, approximately 300 lf of cast in place retaining wall ranging in height from 3' to 6'. Additionally there will be construction of approximately 339 sy concrete right turn lane with traffic signal modifications and all other related items.

ARTICLE 2 - ENGINEER

2.01 The Project has been designed by CEI, who is hereinafter called Engineer. The Engineer assumes all duties and responsibilities, and has 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

3.01 TIME OF THE ESSENCE:

A. All time limits for milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

DOCUMENT 00500 – AGREEMENT (continued)

3.02 DATES FOR SUBSTANTIAL COMPLETION AND FINAL PAYMENT:

A. The Work will be Substantially Completed within 200 calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS, and completed and ready for final payment in accordance with the GENERAL CONDITIONS within 225 calendar days after the date when the Contract Times commence to run.

3.03 LIQUIDATED DAMAGES:

A. Owner and Contractor recognize that time is of the essence of this Agreement and that The City of Fayetteville will suffer financial loss if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the GENERAL CONDITIONS. The parties also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by The City of Fayetteville if the Work is not Substantially Completed on time. Accordingly, instead of requiring any such proof, The City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay The City of Fayetteville One Thousand Dollars ($1,000.00) for each calendar day that expires after the time specified above in Paragraph 3.02 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 3.02 for completion and readiness for final payment or any proper extension thereof granted by The City of Fayetteville, Contractor shall pay The City of Fayetteville Five Hundred Dollars ($500.00) for each calendar day that expires after the time specified for completion and readiness for final payment.

ARTICLE 4 - CONTRACT PRICE

4.01 The CITY OF FAYETTEVILLE agrees to pay, and the CONTRACTOR agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the prices bid in the Proposal (BID FORM) which is hereto

DOCUMENT 00500 – AGREEMENT (continued)

attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.

4.02 As provided in the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in the General Conditions. Unit prices have been computed as provided in the General Conditions.

ARTICLE 5 - PAYMENT PROCEDURES

5.01 SUBMITTAL AND PROCESSING OF PAYMENTS:

A. Contractor shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by Engineer as provided in the GENERAL CONDITIONS.

5.02 PROGRESS PAYMENTS, RETAINAGE:

A. The 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 Engineer, on or about the 15th day of each month during construction. All such payments will be measured by the schedule of values established in the GENERAL CONDITIONS (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.

DOCUMENT 00500 – AGREEMENT (continued)

a. 90% of Work Completed (with the balance being retainage). If Work has been 50% completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to The City of Fayetteville and Engineer, The City of Fayetteville on recommendation of Engineer, may determine that as long as the character and progress of the Work subsequently remain satisfactory to them, there will be no additional retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be an amount equal to 100% of the Work Completed less the aggregate of payments previously made; and

b. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to The City of Fayetteville as provided in the GENERAL CONDITIONS.

2. Upon Substantial Completion, The City of Fayetteville shall pay an amount sufficient to increase total payments to Contractor to 95% of the Contract Price (with the balance being retainage), less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.

5.03 FINAL PAYMENT:

A. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, The City of Fayetteville shall pay the remainder of the Contract Price as recommended by Engineer and as provided in the GENERAL CONDITIONS.

DOCUMENT 00500 – AGREEMENT (continued)

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

6.01 In order to induce The City of Fayetteville to enter into this Agreement, Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents including the Addenda and other related data identified in the Bid Documents.

B. 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.

C. 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.

D. Contractor has carefully studied all:

(1) 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; and

(2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Contractor acknowledges that The City of Fayetteville and Engineer 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.

E. Contractor has obtained and carefully studied (or assumes responsibility of 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, and furnishing of

DOCUMENT 00500 – AGREEMENT (continued)

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.

F. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing 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.

G. Contractor is aware of the general nature of work to be performed by The City of Fayetteville and others at the Site that relates to the Work as indicated in the Contract Documents.

H. 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, explorations, tests, studies, and data with the Contract Documents.

I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Contractor.

J. 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

7.01 CONTENTS:

A. The Contract Documents which comprise the entire Agreement between The City of Fayetteville and Contractor concerning the Work consist of the

DOCUMENT 00500 – AGREEMENT (continued)

following and may only be amended, modified, or supplemented as provided in the GENERAL CONDITIONS:

1. This Agreement.

2. Exhibits to this Agreement (enumerated as follows):

   a. Notice to Proceed.

   b. Contractor's Bid.

   c. Documentation submitted by Contractor prior to Notice of Award.

3. Performance, Payment, and other Bonds.

4. General Conditions.

5. Supplementary Conditions.

6. Specifications consisting of divisions and sections as listed in table of contents of Project Manual.

7. Drawings consisting of a cover sheet and sheets as listed in the table of contents thereof, with each sheet bearing the following general title:

   Gregg Avenue Improvements

8. Addendum number one (1).

9. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.

DOCUMENT 00500 – AGREEMENT (continued)

ARTICLE 8 - MISCELLANEOUS

8.01 TERMS:

A. Terms used in this Agreement which are defined in the GENERAL CONDITIONS shall have the meanings stated in the GENERAL CONDITIONS.

8.02 ASSIGNMENT OF CONTRACT:

A. 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.

8.03 SUCCESSORS AND ASSIGNS:

A. The City of Fayetteville and Contractor each binds himself, his 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.

8.04 SEVERABILITY:

A. 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 The City of Fayetteville and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

DOCUMENT 00500 – AGREEMENT (continued)

OTHER PROVISIONS: Not Applicable.

IN WITNESS WHEREOF, The City of Fayetteville and Contractor have signed this Agreement in quadruplicate. One counterpart each has been delivered to Contractor and Engineer. Two counterparts each has been delivered to The City of Fayetteville. All portions of the Contract Documents have been signed, initialed, or identified by The City of Fayetteville and Contractor or identified by Engineer on their behalf.

This Agreement will be effective on ____________________, 20__, which is the Effective Date of the Agreement.

TOMLINSON ASPHALT COMPANY, INC. __	CITY OF FAYETTEVILLE ___________
____________________	____________________
By: ____________________	By: ____________________
Title: ____________________	Title: ____________________
(SEAL)	(SEAL)
Attest ____________________	Attest ____________________

DOCUMENT 00500 – AGREEMENT (continued)

Address for giving notices

____

____

License No. ______________________

Agent for Service of process

____

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

Address for giving notices

____

____

(attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement)

Approved As to Form:

By: ______________________________

Attorney For: ______________________

END OF DOCUMENT 00500

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

11/20/2007
City Council Meeting Date

Ron Petrie	Engineering	Operations
Submitted By	Division	Department

Action Required:

A resolution to approve an agreement with Arkansas Western Gas Company for relocation of gas utility facilities on Zion Road.

$ 47,500.00	$ 24,496,473.00	Zion Road (College to Vantage)
Cost of this request	Category / Project Budget	Program Category / Project Name
4520.9520.5809.00	$ 2,082,457.43	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
06035.1820	$ 22,414,015.57	2006A Sales Tax Construction
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Department Director — 11·02·07 Date

City Attorney — 11/06/07 Date

Paul A. Becker
Finance and Internal Service Director — 1-6-07 Date

Mayor — 11/6/07 Date

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office
ENTERED 11/2/07

Received in Mayor's Office
ENTERED 11/6/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer RP

Date: November 2, 2007

Subject: **A resolution to approve an agreement with Arkansas Western Gas Company for relocation of gas utility facilities on Zion Road.**

RECOMMENDATION:

Staff recommends approval of an agreement with Arkansas Western Gas Company for relocation of the existing gas line on Zion Road, between College Avenue and Vantage Drive.

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. Relocation of utility lines, to include gas, telephone, cable, and electric lines, will also be required as part of this project.

DISCUSSION:

Arkansas Western Gas has presented a proposed agreement for relocation of their facilities on Zion Road, from College Avenue to Vantage Drive. This relocation is to allow the construction of widening and improvements to Zion Road that will be completed as part of the Transportation Bond Program.

Under the proposed agreement, the City will reimburse Arkansas Western Gas for 48.5% of the actual cost of their relocations on the project. This percentage was determined based on the date of installation of the gas lines: any lines that were installed prior to annexation of Zion Road into the City are considered reimbursable by Arkansas Western Gas.
The estimated cost to the City for this work is $47,500.

BUDGET IMPACT:

The cost of the gas line relocation 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 APPROVING AN AGREEMENT WITH ARKANSAS WESTERN GAS COMPANY FOR RELOCATION OF GAS UTILITY FACILITIES ON ZION ROAD.

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 agreement with Arkansas Western Gas Company for relocation of gas utility facilities on Zion Road, a copy of which, marked Exhibit "A," is attached hereto and made a part hereof.

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

APPROVED:	ATTEST:
By: ____________________	By: ____________________
DAN COODY, Mayor	**SONDRA E. SMITH,** City Clerk/Treasurer

AWG #26159

ARKANSAS WESTERN GAS COMPANY
UTILITY CONSTRUCTION/RELOCATION AGREEMENT

Property Developer: City of Fayetteville
Address: 113 West Mountain Street
Fayetteville, AR 72701

Job Location: Zion Road

THIS AGREEMENT, made and entered into this ______ day of ____________, 2007, by and between ______City of Fayetteville________, acting by and through its duly authorized representative, hereinafter referred to as the "Developer," and ARKANSAS WESTERN GAS COMPANY, acting by and through its duly authorized representative, hereinafter referred to as the "Owner."

WITNESSETH:

WHEREAS, THE "Developer" proposes to make certain improvements at the location designation as shown above; and as part of the necessary work of such improvements, "Owner" must adjust or relocate certain of its existing facilities, and in connection with such adjustment, or relocation, "Developer" shall participate in the costs of such work to the extent herein agreed upon; and

WHEREAS, the proposed improvement necessitates the adjustment and/or relocation of certain facilities of "Owner" as described in the following description of work.

Install pipe with all necessary appurtenances to relocate for the proposed Zion Road improvements as planned and presented in the design plans provided by the City of Fayetteville. City of Fayetteville will reimburse 48.5% of the actual cost of all materials, contract labor, company labor, equipment hours including Engineering and Inspection costs to Arkansas Western Gas Company.

And, such adjustment, relocation or construction being shown in detail in "Owner's" plans, sketches, estimate of cost, and specifications (when applicable) which are attached hereto and made a part hereof; and

WHEREAS, the "Developer" desires to implement the herein described utility adjustments or relocations and approve the proposed utility construction of "Owner" by entering into an agreement with said "Owner."

NOW, THEREFORE, IT IS HEREBY AGREED:

1. Where applicable hereunder by reason of new utility occupancy or crossing of "Developer's" property, "Developer" hereby grants to "Owner" a right-of-way license and permission to install and operate utility facilities on or across "Developer's" properties as shown on the approved plans or sketch maps attached hereto and made a part hereof, and to execute such easements or right-of-way grants as may be necessary to evidence and record such right of "Owner."

2. Where applicable hereunder by reason of new construction on existing utility rights of way, "Owner" hereby grants to "Developer" the right to use for his purposes the lands within the project limits on or across which "Owner" holds a valid property interest antedating "Developer's" rights which were subsequently acquired in the same lands, and which property rights "Owner" shall retain so long as "Owner" (or "Owner's" successors or assigns) continues such use and occupancy and does not abandon, and thereby release, such property interest to "Developer" through facility removal in making said adjustments or by subsequent facility removal for "Owner's" convenience; and the "Developer" hereby agrees that "Owner," by granting said right and by said continued joint use and occupancy, does not waive any future claim for reimbursement for adjustment cost as may be eligible for reimbursement by reason of such prior property interest, nor does "Owner" waive any other legal or property right held under the Law or Constitution of the State or the United States.

3. In the event that future construction, reconstruction, expansion, relocation, rehabilitation, betterment, maintenance, or other work on the facilities owned and operated by either the "Developer" or the "Owner" in the area jointly occupied or used under either or both the above provisions of this Agreement will disturb, detrimentally affect, interfere, or be inconvenient to the facilities or responsibilities of either party, the parties hereto shall reach agreement in writing as to locations, extent, and methods of such work before the work is undertaken. In a case of emergency, and where immediate action is necessary for the protection of the public and to minimize damage to or loss of investment in the property of the "Developer" or the "Owner" either party hereto may, at its own responsibility and risk, make any necessary emergency repairs, and shall notify the other party hereto of such action as soon as practicable.

4. "Owner" shall inform "Developer," in writing, three days or more in advance of the date work is to be started, and shall keep the "Developer " informed of progress and activity related to the work being performed, and shall furnish written notice when the work is completed.

5. "Developer" agrees that the cost of the utility adjustment and/or construction provided for hereunder shall be paid to "Owner" as follows. "Owner" agrees that "Developer" will only pay actual cost of adjustment should actual cost be less than $ 47,500.00 . If actual cost exceeds $ 47,500.00 , the "Developer" will pay the actual cost. Exhibit "A" is cost estimate as submitted to City of Fayetteville.

6. "Owner" shall accept as full payment for work hereunder the amount developed or accumulated as eligible actual and related indirect costs in accordance with "Owner's" accounting procedure, which is the Uniform System of Accounts prescribed by the Arkansas Public Service Commission. "Owner" further agrees to retain said cost records and accounts for inspection and audit for a period of not less that one (1) year from the date of final payment.

7. "Owner" shall be responsible for any and all hazards to persons, property, and traffic, and shall save the "Developer" harmless in all respects from any and all losses, damages, or injuries caused by any negligent act or omission by "Owner's" employees or agent performing work under this Agreement or future maintenance or servicing work on facilities constructed under this Agreement; and "Owner" shall, in completing said work, perform clean up and restoration of appearances of the work area including disposal of surplus materials and debris, so as not to leave the work area in an unsafe or unsightly condition.

8. If requested by "Owner" in writing, "Developer" shall make intermediate progress payments in amounts not exceeding ninety percent (90%) of eligible billed costs, and no more often than monthly intervals, for work hereunder upon receipt of statements in two (2) copies for periodic and unpaid costs, provided the herein estimated reimbursable amount is $2,000.00 or more, and that no such intermediate payment shall be construed as final settlement for any item included in any intermediate billing.

9. "Owner" shall, within six (6) months after completion of the adjustment and acceptance thereof by the "Developer," prepare and submit to "Developer" a detailed complete (including intermediate billings, if any) and final bill in two (2) copies and covering the total cost for the adjustment of "Owner's" facilities.

10. The "Developer," upon receiving from "Owner" the final billing documents complete as listed next above, shall pay "Owner" for the eligible actual cost, less all prior payments, if any, for making the adjustments in "Owner's" facilities as agreed herein. "Developer" shall pay "Owner" within thirty (30) days after such billing documents are received. If "Developer" fails to pay within said time, the amount due shall bear interest at the rate of 10 percent per annum until paid. "Developer" shall have the right to inspect and audit the books of account of "Owner" during normal business hours of "Owner" at any time within the time limit set forth in Paragraph 6 to determine the correctness of "Owner's" billing. "Owner" agrees to refund any and all amounts paid in payments found in the audit to exceed the total amount eligible for work hereunder.

11. It is mutually agreed by the parties hereto that the provisions of this Agreement pertaining to relative property rights, right-of-way occupancy permission, access for servicing when applicable and joint use of rights of way shall continue in full force and effect from the date of execution, and shall be perpetually binding upon each party's legal representatives, successors or assigns.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate by their duly authorized representatives the date first herein above written.

"OWNER"	"DEVELOPER"
ARKANSAS WESTERN GAS COMPANY	City of Fayetteville
Its: Senior Vice-President	Its: Mayor
Attest:	Attest:
Its: Secretary	Its: City Clerk

ARKANSAS WESTERN GAS COMPANY
OPINION OF PROBABLE COST
AWG JOB #26159
Zion Road
Fayetteville, AR

	Item	Quantity	Unit	Unit Price	Total
MATERIALS					
1	2" Plastic Pipe - Proposed	1,510	L.F.	$0.50	$751.98
2	2" x 3/4" Plastic Service Tee	8	Each	$5.36	$42.88
3	2" Tee Plastic	8	Each	$4.00	$32.00
4	2" Cap Plastic	2	Each	$1.62	$3.24
5	2" 90-degree Plastic	10	Each	$4.00	$40.00
6	2" Transition Fitting	2	Each	$10.51	$21.02
7	2" x 11/4" Plastic Reducer	4	Each	$7.02	$28.08
8	2" Anodeless Riser	2	Each	$47.20	$94.40
9	2" High Volume Tee	3	Each	$52.67	$158.01
10	3/4" Plastic Pipe	500	L.F.	$0.37	$185.00
11	11/4" Transition Fitting	1	Each	$8.05	$8.05
12	3/4" Anodeless Riser	12	Each	$11.11	$133.32
13	3/4" Coupling	12	Each	$0.70	$8.40
14	3/4" Continental Service Tee	12	Each	$16.83	$201.96
15	Miscellaneous Fittings	5	Lot	$15.00	$75.00
			Sub-Total		$1,783.34
		Stores Expenses		15.00%	$267.50
		Total Materials Cost			$2,050.84
CONTRACT LABOR					
16	Install 2" Plastic Pipe	1,510	L.F.	$18.00	$27,180.00
17	Directional Drill 2" Plastic Pipe	400	L.F.	$25.00	$10,000.00
			Sub-Total		$37,180.00
COMPANY LABOR					
18	Director of Construction	40	Hours	$35.50	$1,420.00
19	Superintendent	180	Hours	$29.75	$5,355.00
20	Inspector	180	Hours	$24.25	$4,365.00
21	Crew Leader	180	Hours	$21.10	$3,798.00
22	Lineman	180	Hours	$20.00	$3,600.00
23	Serviceman	30	Hours	$20.00	$600.00
24	Mileage	2,000	Miles	$0.565	$1,130.00
			Sub-Total		$20,268.00
	General Overhead + Payroll Overhead			48.9%	$9,911.05
			Total		$30,179.05
EQUIPMENT					
25	Tractor Backhoe	80	Hours	$17.00	$1,360.00
26	2-Ton Truck & Trailer	80	Hours	$17.00	$1,360.00
27	1/2-Ton Pickup	180	Hours	$17.00	$3,060.00
			Sub-Total		$5,780.00
	Preliminary Engineering	1		$5,000.00	$5,000.00
	TOTAL (Materials, Contract Labor, Company Labor, Equipment, R/W, ADEQ / NPDES, Preliminary Engineering)				$80,189.89
	OVERHEAD CHARGE			15.0%	$12,028.48
	TOTAL ESTIMATED OPINION OF PROBABLE COST				$92,218.38
	TOTAL ESTIMATED REIMBURSEMENT by CITY OF FAYETTEVILLE			48.51%	$44,732.79
	TOTAL ESTIMATED COST TO ARKANSAS WESTERN GAS			51.49%	$47,485.58

AHTD Reimbursement Calculation = $\frac{650 \text{ L.F.}}{1{,}340 \text{ L.F.}} \times 100 = 48.51\%$

ARKANSAS WESTERN GAS COMPANY
REIMBURSEMENT FACTOR
Zion Road Improvements
Fayetteville, AR
AWG JOB #26159

Zion Road Right of Way Annexed in to the City of Fayetteville in September, 1961

PRIVATE RIGHT OF WAY / REIMBURSEABLE

SIZE - YEAR - TYPE OF PIPE							
SHEET #	2" 58W	2" 64W	2" 70W	2"76P	2"79W	2"98P	TOTALS
055-057	650						650
055-058							0
TOTALS	650	0	0	0	0	0	650

CITY RIGHT OF WAY / NON REIMBURSEABLE

SIZE - YEAR - TYPE OF PIPE							
SHEET #	2" 58W	2" 64W	2" 70W	2"76P	2"79W	2" 98P	TOTALS
055-057							0
055-058		0	360	60	170	100	690
TOTALS	0	0	360	60	170	100	690

REIMBURSEMENT PERCENTAGE				
FOOTAGE RETIRED ON PRIVATE R/W	650	LF	=	48.51%
FOOTAGE RETIRED ON HIGHWAY R/W	690	LF		
TOTAL FOOTAGE RETIRED	1340			

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

11/20/2007
City Council Meeting Date

Ron Petrie	Engineering	Operations
Submitted By	Division	Department

Action Required:

A resolution approving Contract Amendment No. 1 with CEI Engineering Associates, Inc. in an amount not to exceed $62,656.46 for construction phase services associated with the Gregg Avenue Improvements Project.

$ 62,656.46	$ 24,496,473.00	Wilson Park/Washington Willow Area Trans. Impts.
Cost of this request	Category / Project Budget	Program Category / Project Name
4470.9470.5809.00	$ 2,082,457.43	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
06035.1110	$ 22,414,015.57	Sales Tax Capital Improvements
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Department Director — Date 11.02.07

City Attorney — Date 11/06/07

Paul A. Becker
Finance and Internal Service Director — Date 11-06-07

Mayor — Date 11/6/07

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office
ENTERED 11/21/07

Received in Mayor's Office
ENTERED 11/6/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer RSP

Date: November 2, 2007

Subject: **A resolution approving Contract Amendment No. 1 with CEI Engineering Associates, Inc. in an amount not to exceed $62,656.46 for construction phase services associated with the Gregg Avenue Improvements Project.**

RECOMMENDATION:

Staff recommends approval of Contract Amendment No. 1 to the Contract with CEI Engineering Associates, Inc. for professional engineering services for Gregg Avenue Improvements, from North Street to Prospect Street. This Contract Amendment is for construction phase services.

BACKGROUND:

This work is included in the Transportation Improvement Bond Program as a part of the Wilson Park/Washington-Willow Area Transportation Improvements Project. CEI has completed the design phase of the project, and the project is ready to proceed to construction.

DISCUSSION:

Under this contract amendment, CEI will provide construction phase services, including construction observation and engineering support, during the construction of the project.

The contract amount will not exceed $62,656.46. Payment will be made to CEI based on their hourly rates for the hours spent on the project.

BUDGET IMPACT:

This contract will be paid from the funds available from the Wilson Park/Washington-Willow Area Transportation Improvement Project. The total project budget in the Bond Program is $4,277,000.

RESOLUTION NO. ______

A RESOLUTION APPROVING CONTRACT AMENDMENT NO. 1 TO THE CONTRACT WITH CEI ENGINEERING ASSOCIATES, INC. IN AN AMOUNT NOT TO EXCEED $62,656.46 FOR CONSTRUCTION PHASE SERVICES ASSOCIATED WITH THE GREGG AVENUE IMPROVEMENTS PROJECT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 1 to the Contract with CEI Engineering Associates, Inc. in an amount not to exceed $62,656.46 for construction phase services associated with the Gregg Avenue Improvements Project. A copy of Amendment No. 1, marked Exhibit "A" is attached hereto and made a part hereof.

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

APPROVED: ATTEST:

By: ______________________________ By: ______________________________

DAN COODY, Mayor **SONDRA E. SMITH,** City Clerk/Treasurer

AMENDMENT TO AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES CITY OF FAYETTEVILLE FAYETTEVILLE, ARKANSAS

CONTRACT AMENDMENT NO. 1

Gregg Avenue Improvements

This Contract Amendment No. 1, dated ______________________________, 2007 shall amend the original contract between the CITY OF FAYETTEVLLE, ARKANSAS and CEI ENGINEERING ASSOCIATES INC, (CEI) dated November 21, 2006 for professional engineering services in connection with the Gregg Avenue Improvement Project, (the "Project"). This Contract Amendment No. 1 adds professional services for the Construction Phase Services, as described herein.

The contract is hereby modified as follows:

SECTION 2 - BASIC SERVICES OF CEI

The following Sections supersede corresponding Sections in the original contract.

2.4 Construction Phase Services

2.4.1 CEI will provide construction phase services, to include construction observation and construction engineering including, but not limited to: preparing for and conducting preconstruction meeting(s), submittal review, pay estimate review, preparation of change orders, field directives, and other plan and specification clarifications and revisions required, final inspection, and contract closeout services.

SECTION 6 – PAYMENTS TO CEI

6.1 Compensation

CITY OF FAYETTEVILLE shall pay CEI an amount **not to exceed $ 151,036.46** in accordance with the provisions described in the following paragraphs. This amount includes $88,380 included in the original Contract, and $62,656.46 in Amendment No. 1.

6.1.4 Construction phase Services

For the Construction Phase Services described herein, CITY OF FAYETTEVILLE shall pay CEI for time spent on the project at the rates shown in attached Appendix C for each classification of CEI personnel, and for reimbursable expenses. Payment shall not exceed **$62,656.46** Construction phase Services.

IN TESTIMONY OF WHICH, this instrument has been executed on behalf of CEI ENGINEERS, and has been executed on behalf of the CITY OF FAYETTEVILLE, in three (3) counterparts, each of equal force, on the day and year first above written.

CITY OF FAYETTEVILLE	**CEI ENGINEERING ASSOCIATES, INC.**
By: ______________________	By: Gary W. Long, P.E.
Title: ______________________	Title: ~~Depart~~ Transportation Dept Manager
ATTEST: ______________________	ATTEST: Brent T Massey

Appendix C

Assume 4 Months (25 days) at 4 hrs per day

Notice To Proceed

Title	Pay Rate	Hours	Total
Construction Observer	$65.00	400	$26,000.00
Project Engineer	$100.00	128	$12,800.00
		NTP 1	$38,800.00

Wall

Title	Pay Rate	Hours	Total
Construction Observer	$65.00	270	$17,550.00
Project Engineer	$100.00	27	$2,700.00
		NTP 1	$20,250.00

Reimbursables

Title	Pay Rate	Miles	Total
Mileage	$0.485	7436	$3,606.46
Reproduction (Misc.)	$300.00	1	$300.00
	Reimbursables		$3,606.46

Total Observation Cost w/Reimbursables	**$62,656.46**

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

11/20/2007
City Council Meeting Date

Ron Petrie	Engineering	Operations
Submitted By	Division	Department

Action Required:

A resolution approving Contract Amendment No. 1 with McClelland Consulting Engineers, Inc. in an amount not to exceed $74,690.50 for permitting support, easement document preparation, electrical design, and related services associated with the College Avenue Improvement Project.

$ 74,690.50	$ 24,496,473.00	College Avenue (Rock to Maple)
Cost of this request	Category / Project Budget	Program Category / Project Name
4520.9520.5809.00	$ 2,082,457.43	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
06035.1910	$ 22,414,015.57	2006A Sales Tax Construction
Project Number	Remaining Balance	Fund Name

Budgeted Item [X]   Budget Adjustment Attached [ ]

Department Director — Date: 11·02·07

City Attorney — Date: 11/06/07

Paul A. Becker
Finance and Internal Service Director — Date: 11-6-07

Mayor — Date: 11/6/07

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office
ENTERED 11/2/07

Received in Mayor's Office
ENTERED 11/6/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer RP

Date: November 2, 2007

Subject: A resolution approving Contract Amendment No. 1 with McClelland Consulting Engineers, Inc. in an amount not to exceed $74,690.50 for permitting support, easement document preparation, electrical design, and related services associated with the College Avenue Improvement Project.

RECOMMENDATION:

Staff recommends approval of Contract Amendment No. 1 with McClelland Consulting Engineers, Inc. in the amount of $74,690.50 for permitting support, easement document preparation, electrical design, and related services for College Avenue, from Rock Street to Maple Street.

BACKGROUND:

The College Avenue Improvement Project is included in the Transportation Improvement Bond Program. The project includes sidewalk replacement, tree and landscaping installation, decorative lighting, and removal/reconfiguration of existing driveways to provide better access management and increase safety. No changes to the existing street capacity are planned.

DISCUSSION:

Under this Contract Amendment, McClelland will provide permitting support, easement document preparation, electrical design, and related services as detailed in the Contract. The services will provide a completed product that the City will use to construct the improvements to College Avenue. The contract amount for this work is $74,690.50.

BUDGET IMPACT:

The contract amendment amount of $74,690.50 will be paid from the Transportation Improvement Bond Funds. The total amended contract is therefore $182,801.90.

BUDGET IMPACT:

The contract amendment amount of $74,690.50 will be paid from the Transportation Improvement Bond Funds. The total amended contract is therefore $182,801.90.

The total budget for the project is $1,740,000.

RESOLUTION NO. ______

A RESOLUTION APPROVING CONTRACT AMENDMENT NO. 1 TO THE CONTRACT WITH McCLELLAND CONSULTING ENGINEERS, INC. IN AN AMOUNT NOT TO EXCEED $74,690.50 FOR PERMITTING SUPPORT, EASEMENT DOCUMENT PREPARATION, ELECTRICAL DESIGN AND RELATED SERVICES ASSOCIATED WITH THE COLLEGE AVENUE IMPROVEMENTS PROJECT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 1 to the Contract with McClelland Consulting Engineers, Inc. in an amount not to exceed $74,690.50 for permitting support, easement document preparation, electrical design and related services associated with the College Avenue Improvements Project. A copy of Amendment No. 1, 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

AMENDMENT NO. 1

TO

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

COLLEGE AVENUE IMPROVEMENTS – PHASE I

FROM ROCK STREET TO MAPLE STREET

ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PERMITTING, EASEMENT DOCUMENTATION AND ELECTRICAL DESIGN SERVICES

The Agreement for Professional Engineering Services executed on December 5th, 2006 for the Survey and Preliminary Design of the College Avenue Improvements – Phase I in Fayetteville, Arkansas is hereby amended. This Amendment entered into and executed on the date indicated beneath the signature blocks, by and between the City of Fayetteville (hereinafter "City of Fayetteville") and McClelland Consulting Engineers, Inc. (hereinafter "McClelland") changes the authorized Scope of the Project, and the Fees and Payments, due to the requested increase in scope of services on the College Avenue Improvements – Phase I. The scope of amendment one includes the creation of engineering documents to the level necessary to obtain construction approval from the Arkansas Highway and Transportation Department (hereinafter "AHTD") the creation of easement documentation (sidewalk and temporary construction easements anticipated) and the production of electrical engineering documents for the installation of proposed streetlights and associated wiring.

The Agreement lists the Scope of Services for:

1. AHTD Permitting Services
2. Easement Documentation (Sidewalk Easements and Temporary Construction Easements Anticipated)
3. Electrical Engineering Services

The purpose of this Amendment No. 1 is to authorize McClelland to complete the AHTD Permitting the creation of easement documentation (sidewalk and temporary construction easements anticipated) and Electrical Design Services as defined in the Agreement and hereinafter, and to establish compensation for these services.

SECTION 2 – BASIC SERVICES OF MCCLELLAND

McClelland is hereby authorized to complete AHTD Permitting the creation of easement documentation (sidewalk and temporary construction easements anticipated) and Electrical Design Phase Services as defined under Section 2.2 of the Agreement, to include the creation of engineering documents only to the level necessary to obtain construction approval from the Arkansas Highway and Transportation Department (hereinafter "AHTD") the creation of easement documentation (sidewalk and temporary construction) based upon the existing parcel information and the production of electrical engineering documents for the installation of proposed streetlights and associated wiring as defined under Section 2 of the Agreement.

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

Task	Completion After NTP
A. AHTD Permitting, Easement Documentation (Sidewalk and Temporary Construction) and Electrical Design	120 calendar days (Receipt of AHTD permit)

SECTION 6 – PAYMENTS TO MCCLELLAND

Compensation for Permitting and Electrical Design Services shall be based upon for Scope of Services indicated above. The estimated manhours and labor rates as applicable for these phases of the project are given on the attached Exhibit "A". The fee shall be based on the Hourly Rates shown on the attached Exhibit "B" and the Total Fee shall be a Not-To-Exceed as follows:

Estimated fee for Each Task

AHTD Permitting / Electrical Design Services:	$ 59,690.50
Easement Documentation Creation:	$ 15,000.00
Total (Not-to-Exceed Fee):	$ 74,690.50

This Amendment No. 1 authorizes an additional Seventy Four Thousand Six Hundred Ninety and 0.50 dollars ($ 74,690.50) to the originally approved One Hundred Eight Thousand One Hundred Eleven dollars ($ 108,111.40). This amended Contract Amount ($ 182,801.90) shall not be exceeded without specific written authorization from the City of Fayetteville.

All other provisions and conditions of the original Agreement remain in full force and effect. AHTD Permitting, Easement Documentation and Electrical Design shall be completed to conform to the City of Fayetteville's schedule.

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

FOR: THE CITY OF FAYETTEVILLE:

By: ______________________ Attest: ______________________

Date: ______________________

FOR: McCLELLAND CONSULTING ENGINEERS, INC.:

By: John C. Quinn Attest: ______________________

Date: 11-2-07

EXHIBIT "A"
BASIS OF FEE PROPOSAL
AMENDMENT ONE TO ORIGINAL CONTRACT
COLLEGE AVENUE PEDESTRIAN IMPROVEMENTS - PHASE I, FAYETTEVILLE, ARKANSAS
McCLELLAND CONSULTING ENGINEERS, INC.

November 1, 2007

LINE NO.	TASK DESCRIPTION	HOURS BUDGETED FOR EACH DISCIPLINE: PRIN. ENG.	PROJ. MGR.	ENGR. I	ENGR. TECH.	REG. SURV.	SURV. CREW	SURV. TECH.	DRFT. SUPV.	DRFTMN. II	CLERICAL	MILEAGE	OTHER DIR. EXP.	EXTENDED COST
	COLLEGE AVENUE PEDESTRIAN IMPROVEMENTS-Rock St. to Maple St.	$147.00	$126.00	$84.00	$79.00	$90.00	$137.00	$74.00	$68.00	$53.00	$48.00	$0.42	$	$
1	FINAL DESIGN PHASE													
2	A. FINAL DESIGN OF DRIVES AND PARKING AREAS TO TO BE MODIFIED (FOR AHTD PERMITTING)		8.0						16.0	16.0				$2,944.00
3	B. LAYOUT OF SIDEWALK / TREE PLANTERS		48.0						16.0	16.0				$7,984.00
4	C. GENERAL DEMOLITION PLAN		8.0						8.0	8.0				$1,976.00
5	D. UTILITY/LIGHTING/TRAFFIC SIGNAL RELOCATION / IMPROVEMENTS PLANS	15.0	4.0		16.0							25.0	$27,000.0	$30,983.50
6	E. TREE REMOVAL / PRESERVATION PLAN		2.0						4.0	4.0				$736.00
7	F. ATTEND MONTHLY PROGRESS MEETINGS WITH CITY (4)	8.0	8.0										$200.0	$2,384.00
8	G. PROVIDE WRITTEN RESPONSE TO CITY'S REVIEW COMMENTS	3.0	12.0								4.0			$2,145.00
9	H. PROJECT MANUAL AND STANDARD DRAFTING DETAILS	1.0	12.0	18.0					24.0	24.0	8.0		$60.0	$6,509.00
10	I. PAVEMENT MARKING PLAN		1.0	8.0					2.0	2.0				$872.00
11	J. INTERSECTION LAYOUT		4.0	4.0	8.0				2.0	2.0				$1,714.00
12	K. COORDINATION WITH UTILITY COMPANIES		4.0	2.0	2.0						4.0	50.0	$400.0	$1,443.00
13	L. CREATION OF SIDEWALK AND TEMP CONST DOCS (60 PARCELS X $250 EA)													$15,000.00
14														
15														
16	***TOTAL - FINAL DESIGN PHASE***	27.0	111.0	30.0	26.0	0.0	0.0	0.0	72.0	72.0	16.0	75.0	27,650.0	74,690.5

QUALIFYING NOTES:

1 ALL STREET CONSTRUCTION SHALL FOLLOW THE GUIDELINES OF CITY AND THE CITY'S DESIGN STANDARDS
2 PLANS SHALL BE REDUCIBLE, AND LEGIBLE, TO SCALABLE HALF SIZE ON 11" X 17" SHEETS
3 CONSTRUCTION SHALL BE COORDINATED AND PERFORMED BY THE CITY OF FAYETTEVILLE
4 COORDINATION WITH AHTD SHALL BE PERFORMED BY THE CITY OF FAYETTEVILLE
5 CONSTRUCTION PLANS SHALL NOT BE PUBLICALLY BID
4 CITY OF FAYETTEVILLE IS RESPONSIBLE FOR ALL PERMITTING AND REVIEW FEES
5 NO TRAFFIC STUDIES ARE INCLUDED IN THE SCOPE OF SERVICES OR ESTIMATED COST

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

11/20/2007
City Council Meeting Date

Ray M. Boudreaux	Aviation & Economic Development	General Government
Submitted By	Division	Department

Action Required:

Action Required: Approve Change Order #1 to the contract with Time Striping Inc. Contact: Kevin Tucker, PO Box 1236, Van Buren AR 72957, 479-806-3411, Fax 501-505-8674, in the amount of $7500. Approve a Budget Adjustment.

$ 7,500.00	$ 73,448	Airfield Re-striping
Cost of this request	Budget	Program Category / Project Name
5550.3960.5315.00	$ 70373	Avi/ED Imp
Account Number	Funds Used to Date	Program / Project Category Name
06021 1	$ 3,075	Airport
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [X]

Department Director — 11/5/07 Date

City Attorney — 11/6/07 Date

Paul A. Becker — 11-6-07
Finance and Internal Service Director — Date

Mayor — 11/6/07 Date

Previous Ordinance or Resolution # 174-07

Original Contract Date: 10/02/07

Original Contract Number: 2012

Received in City Clerk's Office ENTERED 11/6/07

Received in Mayor's Office ENTERED 11/6/07

Comments:

City Council Meeting of: November 20, 2007
Agenda Item Number:

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and Members of the City Council

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: November 5, 2007

SUBJECT: **Approval of Change Order #1 to Airfield Pavement Restriping Project.**

RECOMMENDATION: Approve Change Order #1 to the pavement restriping project at Fayetteville Municipal Airport, Drake Field.

BACKGROUND: The Fayetteville Municipal Airport, Drake Field Board was written up during the annual Certification Inspection for pavement markings being faded and non-reflective. A project was designed and bid under Task Order #2, August 14 2007 with McClelland Consulting Engineers which contains funding for design, bidding services and construction oversight of the project. Task Order #2 was approved by City of Fayetteville Contract Review Committee. The contract was awarded to Time Striping, and approval was granted to the airport to apply and receive State Aeronautics Grant funds to complete the project by the City Council Resolution October 2, 2007. The State Aeronautics Commission approved a 100% grant in the amount of $73,448.00 to complete the project.

DISCUSSION: The project was bid including type 3 reflective beads at the rate of 7 lbs per gallon of paint applied. The contractor brought up a change to the FAA Advisory Circular that requires 10 lbs of beads per gallon of paint applied. Type three beads are $2.60 per pound. The Advisory Circular 150/5340-1J which was published September 29, 2007 required that the taxiway stripes be enhanced leading up to the hold line at all Part 139 airports to further combat runway incursions. The enhanced markings were not in our project. It was briefed at the Airports Conference, October 24 and 25 and a letter from the Regional Manager was received October 23 encouraging all part 139 airports in the Region to install the new stripes (FAA letter attached). We agree that the project needs to be additionally changed to include the enhanced markings. We cut some paint that is still in very good condition, added the cost of the new enhanced taxiway striping, and added the cost of the additional three pounds of beads per gallon which increases the cost of the project by $7,500.

BUDGET IMPACT: A portion of the Change Order is offset by Grant Funds in the amount of the contingency, $3,498.00. The remainder will use existing project budget from the Airport Fund Balance.

Attachments:
- Staff Review Form
- Change Order #1
- Budget Adjustment
- Letter from FAA Airports Regional Manager

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

RESOLUTION NO. _____

A RESOLUTION TO APPROVE CHANGE ORDER #1 OF THE CONTRACT WITH TIME STRIPING, INC. IN THE AMOUNT OF $7,500.00 AND TO APPROVE A BUDGET ADJUSTMENT OF $7,500.00

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 Change Order #1 of the contract with Time Striping, Inc. to increase the contract in the amount of $7,500.00 to pay for an increase of the amount of reflective beads in the paid as required by new FAA regulations.

Section 2: The City Council of the City of Fayetteville, AR hereby approves the attached budget adjustment of $7,500.00.

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

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested	Adjustment Number
2007		11/20/2007	

Project or Item Added/Increased:	Project or Item Deleted/Reduced:
$7500.00 in the Contract Services account	None. To recognize $7500.00 grant funding from the Arkansas Department of Aeronautics.

Justification of this Increase:	Justification of this Decrease:
Will provide for Enhanced Taxiway Markings, and increased reflectivity of markings as specified by FAA Advisory Circular 150/5340-1J.	Department of Aeronautics has commited grant funding up to $73,448 for this project

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Contract services	5550	3960	5315	00	7,500	06021	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
State grants	5550	0955	6805	00	7,500	06021	1

Approval Signatures

	Date
Requested By	11/5/07
Budget Manager	11-6-07
Department Director	11/5/07
Finance & Internal Services Director	11-6-07
Mayor	11/6/07

Budget Office Use Only

Type: A B C D E

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

U.S. Department of Transportation
Federal Aviation Administration

Airports Division
Southwest Region
Arkansas, Louisiana, New Mexico, Oklahoma, Texas

2601 Meacham Blvd
Fort Worth, Texas 76137

RECEIVED
OCT 23
AIRPORT

Jimmy
Paint project file
cy to Wayne Jones
R

October 18, 2007

Mr. Ray Boudreaux
Aviation & Economic Development Director
Drake Field - Fayetteville Airport
4500 South Scholl Avenue, Suite A
Fayetteville, AR 72701

Dear Mr. Boudreaux:

The Federal Aviation Administration (FAA) and the aviation industry have been working together to reduce the risk of runway incursions for many years. We have some successes, but we still have room for improvement and need your help.

On August 15, 2007, the FAA Administrator put out a Call to Action to the aviation industry. She asked the aviation industry to partner with the FAA to reach consensus on a manageable number of short, medium, and long-term initiatives. These initiatives would be to further improve the safety of operations at our airports and reduce runway incursions.

Recall that all airports with 1.5 million or more enplanements are required to install the new enhanced taxiway centerline markings at runway entrances by June 2008. The group of airports that met with FAA agreed to fulfill this commitment within 60 days of the August 15, 2007 meeting.

On August 22, 2007, the FAA Administrator sent a letter to Airports Council International informing them of the initiative's call to action. This letter extended the commitment to all Part 139 Certificated airports. We encourage all Southwest Region Part 139 airports to complete the increased marking standards in accordance with AC 150/5340-1J within the next 60 days. We would also like you to establish mandatory recurrent training for all employees (including employees of tenants and contractors) to ensure all operators in the movement area do not cause vehicle/pedestrian deviations.

We know this is a monumental effort, but we sincerely need your prompt action to assure your airport and the airports in our national system are implementing these critical items uniformly. We have also determined that enhanced markings are eligible under the Airport Improvement Program. We will work with your team to make appropriate adjustments to your capital plans. One of our FAA Airport Certification Inspectors will contact you within the next two weeks to discuss your progress or your ability to meet this goal.

We are willing to work and do whatever we can to help you implement these important initiatives. Should you have any concerns or questions about this requirement, please contact Joseph G. Washington at 817-222-5620.

Sincerely,

FOR Kelvin L. Solco
Manager, Airports Division

APPENDIX 3. ENHANCED MARKINGS FOR RUNWAY HOLDING POSITION.

1. GENERAL. Enhanced taxiway markings are intended to provide additional visual cues to taxiing pilots to help them identify the location of the runway holding position. This appendix provides standards for these enhanced markings and guidance, including examples, on where to use the enhanced markings.

The figures included in this appendix are not drawn to scale.

2. APPLICABILITY. The guidelines and standards contained in this appendix for enhanced taxiway markings may be used as a runway incursion prevention initiative. They may be used in combination or separately with existing taxiway markings. However, all intersections at an airport must use the same combination of markings.

3. ENHANCED TAXIWAY CENTERLINE MARKINGS.

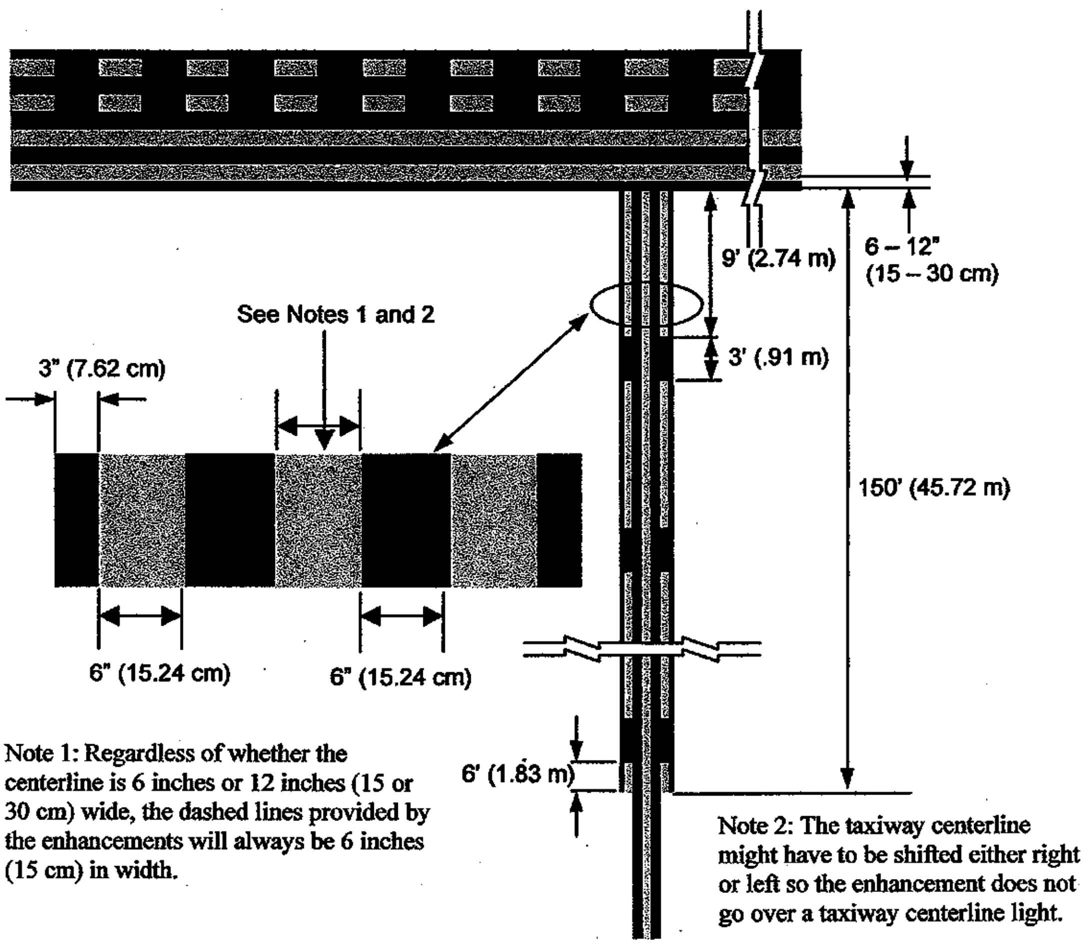


Figure C-1. Enhanced Taxiway Centerline Markings

McCLELLAND CONSULTING ENGINEERS, INC.

DESIGNED TO SERVE

1810 N. College Avenue
P.O. Box 1229
Fayetteville, Arkansas 72703 / 72702-1229
PHONE: 479-443-2377
FAX: 479-443-9241

November 5, 2007

RECEIVED
NOV 05 2007
AIRPORT

Mr. Ray Boudreaux
Airport Department
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Airfield Pavement Restriping
Fayetteville Municipal Airport, Drake Field

Dear Mr. Boudreaux:

Enclosed please find four (4) copies of Change Order No. 1 for this project.

If there are any questions regarding this change order, please contact us.

Sincerely,
McCLELLAND CONSULTING ENGINEERS, INC.

R. Wayne Jones

R. Wayne Jones, P.E.
Vice President

Enclosure: Change Order No. 1 (4 copies)

W:\2007\072150 Drake Field\Corres\bourdreaux-1105.wpd:

CHANGE ORDER

Order No. 1

Date: Nov 2. 2007

Agreement Date: October 2, 2006

NAME OF PROJECT: Airfield Pavement Restriping

OWNER: City of Fayetteville

CONTRACTOR: Time Striping, Inc.

The following changes are hereby made to the CONTRACT DOCUMENTS:

1. Adjust project cost for Bid Item No. 3 to Change the Type III beads from 7lbs/Sf to 10 Lbs/SF. The revised bid price is this item is $ 38,000.00. Add cost of $4,000.00 to contract.
2. Adjust project cost for Bid Item No. 4 to Change the Type III beads from 7lbs/Sf to 10 Lbs/SF and delete the Striping for Taxiway "G" and add the enhanced Taxiway Striping at all 10 Taxiway Hold line locations. The revised bid price for this item is $ 17,500.00. Add cost of $2,500.00 to contract.
3. Adjust project cost for Bid Item No. 3 to Change the Type III beads from 7lbs/Sf to 10 Lbs/SF. The revised bid price is this item is $ 2,000.00. Add cost of $1,000.00 to contract.

Justification:

1. The Project Specification stated 7 lbs per gallon of paint instead of the required 10 lbs for the Type III glass beads. The enhanced taxiway markings are required for the airport per recent letter from FAA. The striping on Taxiway "G" is only two years old and is in very good condition and to save money on this project this area is deleted.

CONTRACT PRICE prior to this Change Order:	$ 59,000.00
Increase in Contract Price:	$ 7,500.00
CONTRACT PRICE Including this Change Order:	$ 66,500.00
Substantial Completion Time Prior to This Change Order:	60 Calendar Days
Final Completion Time Prior to This Change Order:	60 Calendar Days
Net Time Change Resulting From This Change Order:	0 Calendar Days
Current Contract Completion Dates Including This Change Order: Final Completion:	December 27, 2007

Change to CONTRACT TIME:
The CONTRACT TIME will be (increased)(~~decreased~~) by 0 calendar days.

The date for completion of all work will be December 27, 2007.

Approvals Required:
To be effective this Order must be approved by the Owner if it changes the scope or objective or the PROJECT, or as may otherwise be required by the GENERAL CONDITIONS.

Requested by: Harold Townsend — Time Striping, Inc. — Date: 11-2-07

Recommended by: K Wayne Jones — McClelland Consulting Engineers, Inc. — Date: 11-2-07

Approved by: ______________ City of Fayetteville — Date

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

11/20/2007
City Council Meeting Date
Agenda Items Only

Greg Tabor	Police	Police
Submitted By	**Division**	**Department**

Action Required:

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

$31,516	$ 517,428.00	Underage Drinking Prevention Conference
Cost of this request	Category / Project Budget	Program Category / Project Name
1010.2900.5315.00	$ 463,172.00	
Account Number	Funds Used to Date	Program / Project Category Name
07036-1	$ 54,256.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] **Budget Adjustment Attached** [XXX]

Department Director — Date: 10-30-07

City Attorney — Date: 11/06/07

Finance and Internal Service Director — Date: 11-6-07

Mayor — Date: 11/6/07

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office — ENTERED 11/2/07

Received in Mayor's Office — ENTERED 11/6/07

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

To: Mayor Dan Coody and members of the City Council

From: Greg Tabor, Chief of Police

Date: October 31, 2007

Re: **2008 Underage Drinking Prevention Conference Grant Application**

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

Background: Underage drinking is a problem, not just in Fayetteville, but also throughout the entire state. There has never been a State Underage Drinking Prevention Conference in Arkansas. The Fayetteville Police Department has attended the National Underage Drinking Prevention Conference in the past and is one of two law enforcement agencies in the state, which have attended these conferences. We have learned many new ideas and practices from these conferences and we have been able to implement some enforcement strategies to help us combat underage drinking.

Discussion: The Fayetteville Police Department seeks to host the first Arkansas Underage Drinking Prevention Conference with the assistance of the Arkansas Alcohol Beverage Control Enforcement Office, the Pacific Institute of Research and Evaluation (P.I.R.E.), the Arkansas State Police Highway Safety Office and Mothers Against Drunk Driving (M.A.D.D.). We are anticipating approximately 150 participants to register and attend this two and one half day conference. We are targeting Arkansas law enforcement as our primary audience. This grant is through the Alcoholic Beverage Control Enforcement for the amount of $31,515.55. This grant is a reimbursement grant.

Budget Impact: $31,516 will be added to Contract Services from the State Grant Account. A budget adjustment is attached.

RESOLUTION NO. ______

A RESOLUTION AUTHORIZING THE FAYETTEVILLE POLICE DEPARTMENT TO ACCEPT A GRANT FROM THE ARKANSAS ALCOHOLIC BEVERAGE CONTROL ENFORCEMENT DIVISION IN THE AMOUNT OF $31,516.00 TO HOST A STATE UNDERAGE DRINKING PREVENTION CONFERENCE; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE .

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville Police Department to accept a Grant from the Arkansas Alcoholic Beverage Control Enforcement Division in the amount of $31,516.00 to host a State Underage Drinking Enforcement Conference.

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

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

APPROVED: ATTEST:

By: ____________________________ By: ____________________________

DAN COODY, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Police Division: Police Program: Support Services	Date Requested	Adjustment Number
2007		10/26/2007	

Project or Item Added/Increased:
Recognize revenue from the 2007/08 Underage Drinking Prevention Grant and the expenses to host a state wide conference as provded by this grant.

Project or Item Deleted/Reduced:
None

Justification of this Increase:
These funds will allow the Fayetteville Police Department to host an Underage Drinking Prevention Conference.

Justification of this Decrease:

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Contract services	1010	2900	5315	00	31,516	07036	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
State Grants-Operational	1010	0001	4302	01	31,516	07036	1

Approval Signatures

Requested By — Date

Budget Manager — Date

Department Director — Date 10-30-07

Finance & Internal Services Director — Date

Mayor — Date

Budget Office Use Only

Type: A B C D E

Posted to General Ledger — Initial — Date

Posted to Project Accounting — Initial — Date

Entered in Category Log — Initial — Date

Alcoholic Beverage
Control Enforcement
1515 West Seventh Street, Suite 204
Little Rock, Arkansas 72203-2259
Phone: (501) 682-8174 Fax: (501) 682-3874
http://www.state.ar.us/dfa

October 2, 2007

Notification of Award

FY 2005 Enforcing the Underage Drinking Laws Grant

Fayetteville Police Department

Mayor Dan Coody,

The Arkansas Alcoholic Beverage Control Enforcement Division is pleased to announce that your proposal for the Underage Drinking Prevention Conference has been approved in the amount of **$31,515.55.** As with all mini-grant awards issued by this agency, funding for the grant will be strictly on a reimbursement basis and only with supporting documentation.

Reporting Requirements

A detailed written report and reimbursement request is due no later than June 15, 2008. *Failure to submit the report and reimbursement request by the deadline may result in a cancellation of this award or only partial reimbursement. The report should include a detailed description/narrative of all activities and data compilation.* Reimbursement will be issued only for the specific items and services indicated in the proposal. To ensure full reimbursement, detailed receipts must be attached to the reimbursement request. To receive reimbursement for promotional items, copies or samples must be submitted with the reimbursement request.

Additionally, please ensure you are familiar with the OJJDP financial guide section on Conferences and meetings- rules and regulations, which has already been provided to you. Ensure reimbursement is requested only for approved budget items and activities and adhere to the OJJDP rules to avoid denial of any reimbursements.

Should you have any questions or concerns, please contact:

Sharon D. Dixon
Grant Coordinator II
DFA/Intergovernmental Services
1515 W. 7th, Suite 400
Little Rock, AR 72203
501-682-5263
FX 501-682-5206

Doris R. Smith
Program Support Manager
DFA/ Intergovernmental Services
1515 W 7th
Little Rock AR 72201
501-682-5260

Congratulations once again on your award.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

11/20/2007
City Council Meeting Date
Agenda Items Only

Greg Tabor	Police	Police
Submitted By	**Division**	**Department**

Action Required:

Approve the receipt of grant funds for Community Policing supplies in the amount of $500 from Target.

$ 500.00	$ 95,297.00	Materials and Supplies
Cost of this request	Category / Project Budget	Program Category / Project Name
1010.2900.5201.00	$ 83,129.00	Crime Prevention Supplies
Account Number	Funds Used to Date	Program / Project Category Name
03044-4	$ 12,168.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] **Budget Adjustment Attached** [XXX]

Department Director — Date: 10-30-07

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

City Attorney — D. J. Whit — Date: 11/06/07

Finance and Internal Service Director — Paul A. Be — Date: 11-6-07

Mayor — Dan Coody — Date: 11/6/07

Received in City Clerk's Office — ENTERED 11/21/07

Received in Mayor's Office — ENTERED 11/6/07

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS POLICE DEPARTMENT

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police

DATE: October 09, 2007

SUBJECT: Target Law Enforcement Grant

Recommendation: Council approves the receipt of grant funds in the amount of $500.00 from Target for the purchase of Community Oriented Policing supplies.

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

Discussion: Originally the grant was to be used for the purchase of a power point projector, however the grant was $500.00 and not $1,500.00, so the purchase of a power point projector is not possible. The Target funds can be used for other Community Policing supplies.

Budget Impact: The amount of $500 will be added to the Crime Prevention Supplies account. A budget adjustment is attached to this request.

FAYETTEVILLE POLICE DEPARTMENT
100-A WEST ROCK STREET
FAYETTEVILLE, ARKANSAS 72701

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
PHONE: 479.587.3555 FAX: 479.587.3522

RESOLUTION NO. ______

A RESOLUTION AUTHORIZING THE FAYETTEVILLE POLICE DEPARTMENT TO ACCEPT A GRANT FROM TARGET IN THE AMOUNT OF $500.00 FOR THE PURCHASE OF COMMUNITY ORIENTED POLICING SUPPLIES; AND APPROVING A BUDGET ADJUSTMENT TO RECOGNIZE THE GRANT REVENUE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby authorizes the Fayetteville Police Department to accept a grant from Target in the amount of $500.00 for the purchase of Community Oriented Policing supplies.

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

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

APPROVED: ATTEST:

By: ______________________________

DAN COODY, Mayor

By: ______________________________

SONDRA E. SMITH, City Clerk/Treasurer

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year		Date Requested	Adjustment Number
2007	Department: Police Division: Police Program: Support Services	10/26/2007	

Project or Item Added/Increased:	Project or Item Deleted/Reduced:
Recognize revenue from the 2007Target Grant and the expenses the grant will cover	None

Justification of this Increase:	Justification of this Decrease:
Increase Crime Prevention Supplies for use by the Community Oriented Policing Division.	

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Crime prevent/investigate	1010	2900	5201	00	500	03044	4

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Donations - Police Dept	1010	0001	4808	02	500	03044	4

Approval Signatures		Budget Office Use Only		
Requested By	Date	Type: A B C D E		
Budget Manager	Date	Posted to General Ledger	Initial	Date
Department Director	Date 10-30-07	Posted to Project Accounting	Initial	Date
Finance & Internal Services Director	Date	Entered in Category Log	Initial	Date
Mayor	Date			

TARGET

September 17, 2007

Sergeant Shannon Gabbard
sergeant
Fayetteville Police Department
100 -A West Rock Street
Fayetteville, AR 72701

Dear Sergeant Gabbard:

Target is pleased to inform Fayetteville Police Department that a grant has been approved in the amount of $500 for support of the Community Policing Division.

In addition to the grant check, we have enclosed a Charitable Contribution Receipt. Please take a moment to complete the receipt and return it to us so we can comply with Internal Revenue Service guidelines.

We also ask that you identify us as "Target" if you choose to produce any announcements or articles in recognition of this grant.

Since 1946, we have given 5% of our income to the communities we serve. Target is proud to partner with organizations like yours to inspire education, make the arts affordable and accessible, and foster safe families and communities nationwide.

Thank you for the work you do every day to make a difference in your community.

Sincerely,

Target Community Relations

Enclosures: Check, Charitable Contribution Receipt

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS POLICE DEPARTMENT

May 21, 2007

Target Inc.
3545 N. Shiloh Drive
Fayetteville, AR 72703

Dear Sir or Madam:

The Fayetteville Police Department in it's effort to better serve the community is asking for the assistance of Target. This letter is to inform you of our desire to apply for a 2007 Target Law Enforcement Grant.

We are requesting $1500 to use for the purchase of a multi-media projector. Currently the Police Department has appropriate laptop computers for teaching, but rarely have access to a multi-media projector. The following divisions of Fayetteville Police Department would utilize the projector to educate and inform the citizens of Fayetteville about a wide variety of topics:

- The Community Policing Division would utilize the projector when speaking to Neighborhood Watch Groups, Neighborhood Associations, Bank Alarm Response System, Underage Drinking/Fraudulent Identification, Child Passenger Safety, Graffiti Prevention/Removal and during the Citizen's Police Academy.
- The School Resource Officer Division when presenting information to school aged children on a wide variety of topics such as bullying, alcohol awareness, and drug awareness.

In the past there have been several instances in which material was being presented, but no multi-media projector was available, so other less desirable teaching measures had to be used. We believe that this valuable teaching tool would help educate the Citizen's of Fayetteville by accommodating a wide variety of learning styles and by doing so, make Fayetteville a safer place to live.

Sincerely,

Sergeant Shannon Gabbard

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 479-587-3555 FAX: 479-587-3522

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

11/20/2007
City Council Meeting Date
Agenda Items Only

John Goddard	Information Technology	Finance
Submitted By	**Division**	**Department**

Action Required:

The special Census of 2006 reveals an imbalance in our ward populations, which under state law requires the City Council to examine the need for redistricting to achieve equal representation.

(No Cost)	$ -	
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. Becker 11-2-07
Department Director Date

11-2-07
City Attorney Date

Paul A. Becker 11-5-07
Finance and Internal Service Director Date

Dan Coody 11/6/07
Mayor Date

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office SCANNED 11/21/07

Received in Mayor's Office ENTERED 11/5/07

Comments:

City Council Meeting of November 20, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Paul Becker, Finance & Internal Services Director
From: John Goddard, GIS Coordinator
Date: October 30, 2007

Subject: Approval of a Resolution to Redistrict Ward 2 and Ward 4 to achieve a balance in ward populations.

RECOMMENDATION

Staff recommends an adjustment between Ward 2 and Ward 4 -- moving Precinct 3 out of Ward 4 and into Ward 2. The population in precinct 3 is 3851 and is located on exhibit A.

Population at the time of 2006 Special Census
Ward 1) 16,631 24.76%
Ward 2) 13,731 20.45%
Ward 3) 16,335 24.32%
Ward 4) 20,461 30.47%
Total: 67,158

Current Ward Population (adjusted for annexations):
Ward 1) 16,637 24.51%
Ward 2) 13,731 20.23%
Ward 3) 16,337 24.06%
Ward 4) 21,182 31.21%
Total: 67,887

Ward Population with proposed change (moving Precinct 3 from Ward 4 to Ward 2):
Ward 1) 16,637 24.51%
Ward 2) 17,582 25.90%
Ward 3) 16,337 24.06%
Ward 4) 17,335 25.53%
Total: 67,887

BACKGROUND

The special Census of 2006 reveals an imbalance in our ward populations, which under state law requires the City Council to examine the need for redistricting to achieve equal representation.

BUDGET IMPACT

(No impact)

ADDITIONAL INFORMATION

You will find additional information at the following internet site:
http://www.accessfayetteville.org/government/gis/interactive_maps/index.html
This site includes a report with a breaksdown of each Census Block into precints and Wards (under GIS Documents), plus an Interactive Map called "Fayetteville Redistricting Map" with populations of each Census Block.

RESOLUTION NO. _____

A RESOLUTION TO REDISTRICT WARD TWO AND WARD FOUR TO EQUALIZE POPULATION WITHIN THE WARDS PURSUANT TO THE 2006 CENSUS

WHEREAS, a special federal census was conducted within Fayetteville in 2006 resulting in a total population of 67,158; and

WHEREAS, the 2006 Special Census revealed an imbalance in Ward populations that should be remedied prior to the 2008 General Election; and

WHEREAS, the transfer of Precinct 3 (bounded by Wedington Drive on the South, Garland on the East and I-540 on the North and West) as shown on Exhibit A from Ward Four to Ward Two will bring all wards to within one percent of a quarter of the city's population and thus satisfy constitutional mandates for roughly equivalent populations in each ward.

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 redistricting of Fayetteville's Ward 2 and Ward 4 by moving Precinct 3 from Ward Four to Ward Two as shown on Exhibits A, B. and C attached hereto.

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

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

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

Exhibit A

PRECINCT 3

City of Fayetteville, Arkansas

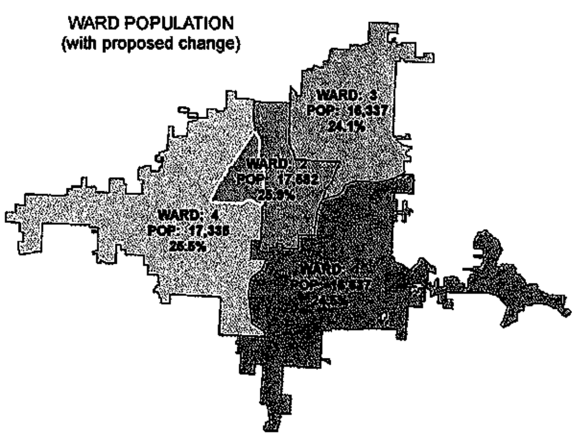
N

Precinct 3

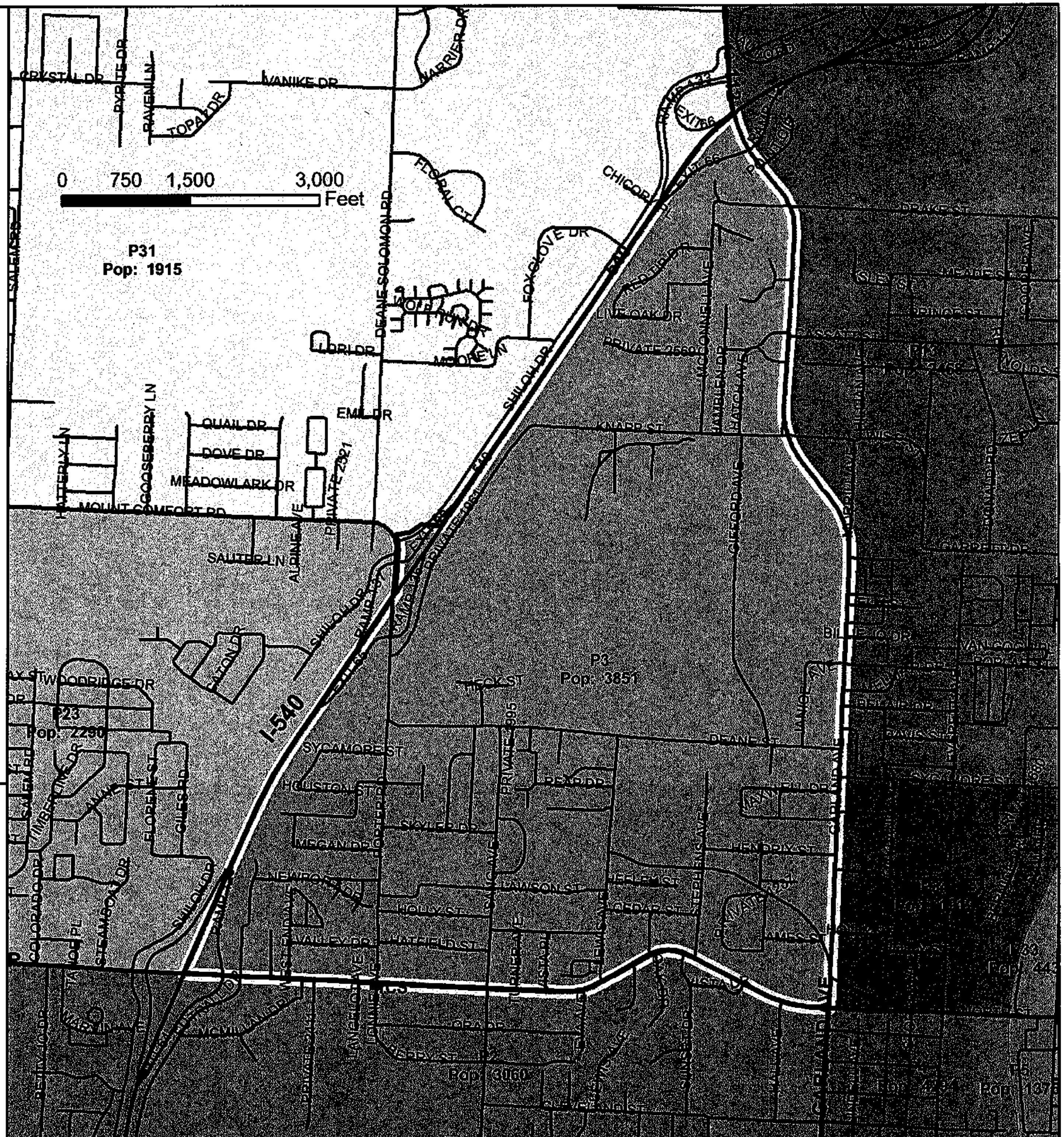
Proposed Ward Boundary

Street

Precincts



Map Document: (G:\GISWORK\Redistricting2006\Maps\Redistricting_Proposed_Staff_Review_Precinct3.mxd)
10/31/2007 -- 4:36:27 PM

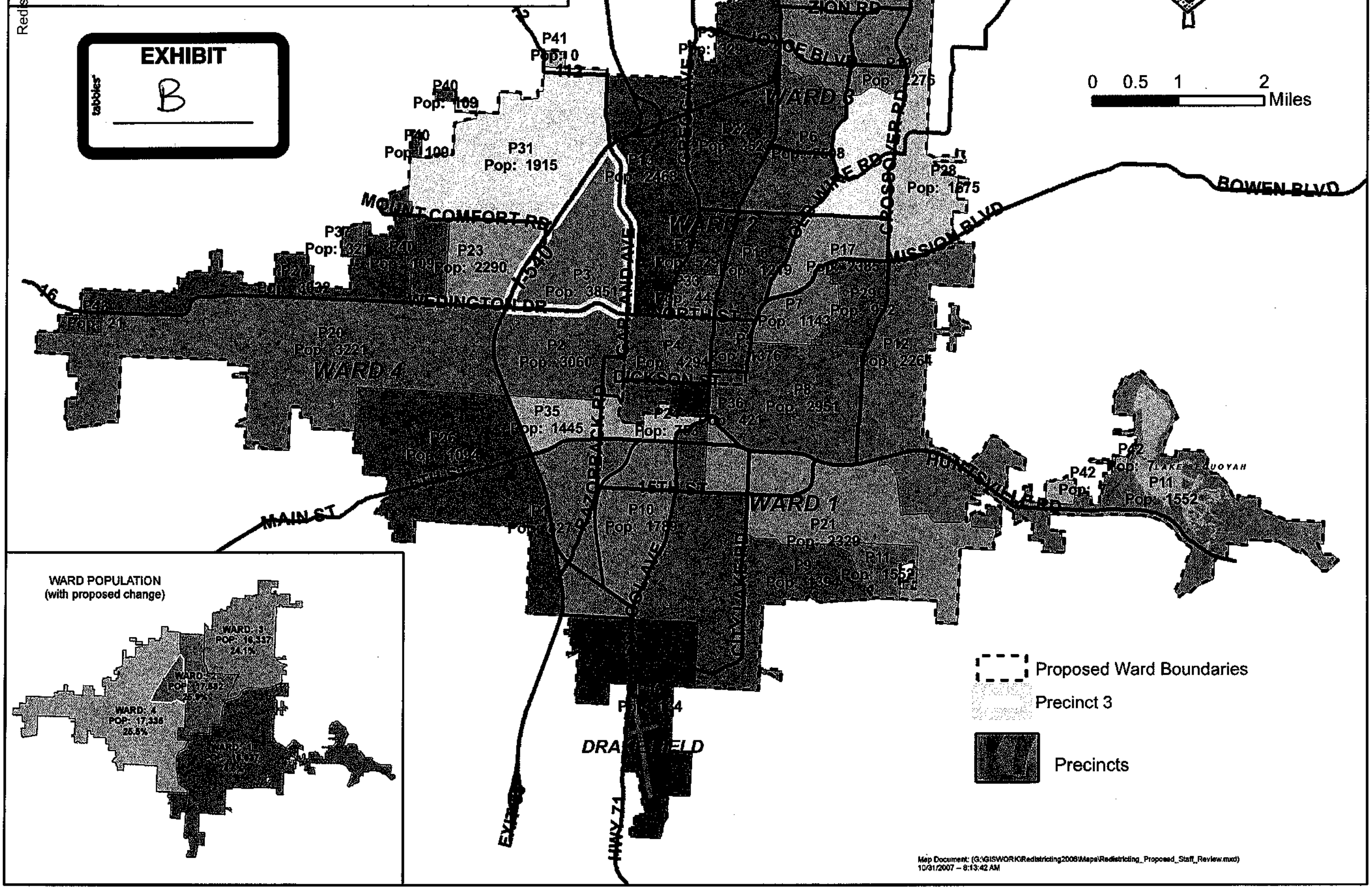


PROPOSED WARD REDISTRICTING

City of Fayetteville, Arkansas

(Move Precinct 3 from Ward 4 into Ward 2)

EXHIBIT B

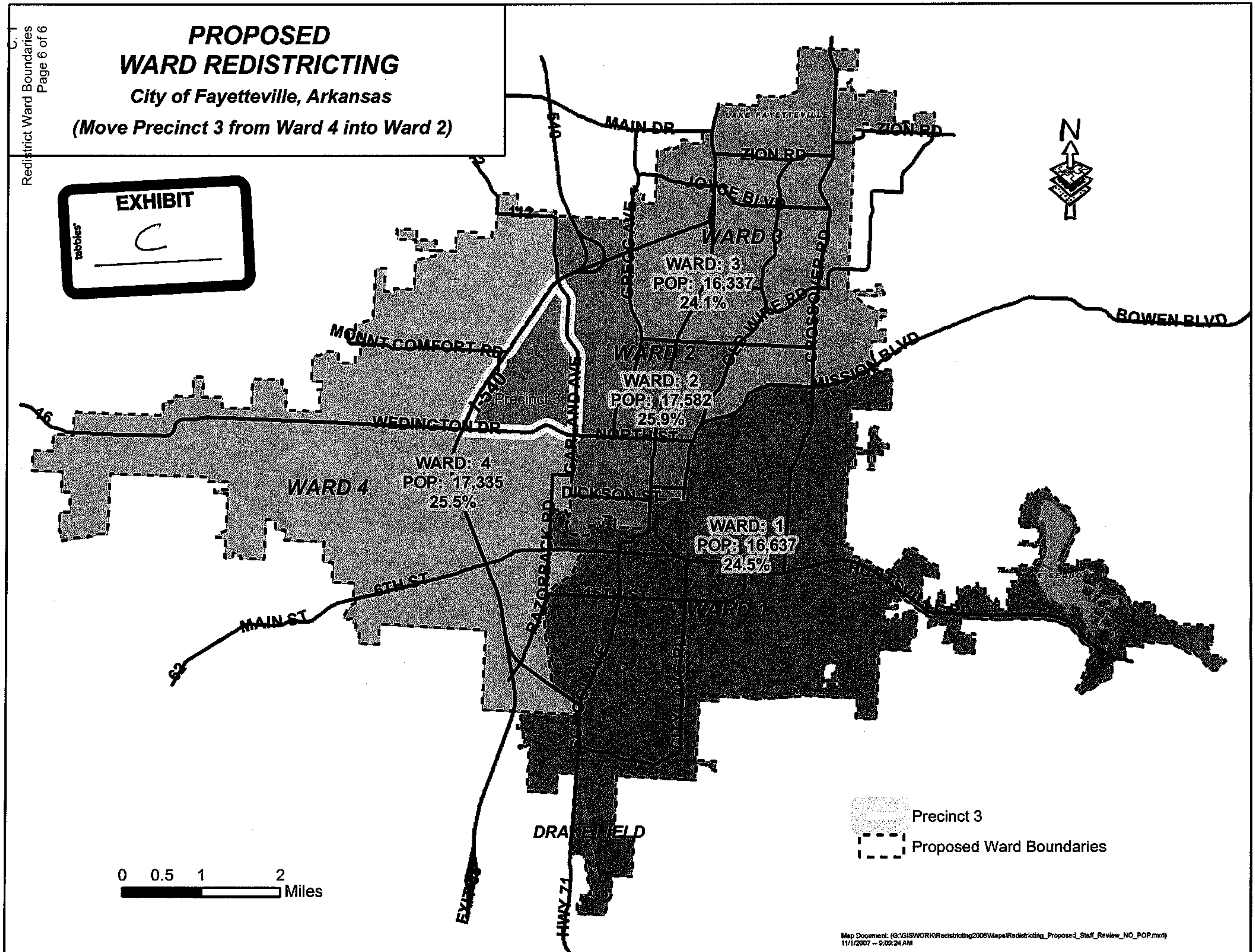


PROPOSED WARD REDISTRICTING

City of Fayetteville, Arkansas

(Move Precinct 3 from Ward 4 into Ward 2)

EXHIBIT
C



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

20-Nov-07
City Council Meeting Date

Tim Conklin	Planning and Development Mgt.	Operations
Submitted By	Division	Department

Action Required:

ADM 07-2805: (Chapter 161: Zoning Amendments): Submitted by City of Fayetteville Planning Department in order to reinstate Hillside/Hilltop Overlay District (HHOD) regulations that were inadvertently removed from Chapter 161: Zoning and Chapter 170: Stormwater, Drainage and Erosion Control, and to clarify the HHOD regulations contained in Chapter 172: Parking and Loading.

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 ☐

11-3-07
Department Director Date

11-5-07
City Attorney

Paul A. Becker 11-5-07
Finance and Internal Service Director Date

Dan Coody 11/6/07
Mayor Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office ENTERED 11/6/07

Received in Mayor's Office ENTERED 11/5/07

Comments:

City Council Meeting of November 20, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Leif Olson, Long Range Planner
Tim Conklin, Planning and Development Management Director

Date: Oct. 31, 2007

Subject: **ADM. 07-2805 An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to reinstate Hillside/Hilltop Overlay District regulations that were inadvertently removed from Chapter 161: Zoning and Chapter 170: Stormwater Management, Drainage and Erosion Control, and to clarify Hillside/Hilltop Overlay District regulations in Chapter 172: Parking and Loading.**

RECOMMENDATION

Planning Staff recommends approval of an ordinance to reinstate the Hillside/Hilltop Overlay District (HHOD) building height regulations in the RMF-24 and R-O Zoning Districts, to insert HHOD regulations in the stormwater ordinance, and to clarify the parking lot requirements in the HHOD.

BACKGROUND

The City Council adopted the Downtown Zoning Districts and Map in October of 2006. Inadvertently, the Hillside / Hilltop Overlay District building heights were not included in the appropriate zoning districts when Chapter 161: Zoning was adopted in its entirety. Planning Staff was unaware that these regulations were not included in the adopted exhibit of the Zoning Chapter.

In order to correct this oversight, Chapter 161: Zoning needs to be amended to reflect the original intent of the Hillside/Hilltop Overlay District height requirements in the RMF-24 and R-O Zoning Districts. Chapter 170 Stormwater was also amended and re-adopted in October of 2006 without the HHOD stormwater provisions adopted with Ordinance No. 4855 in April of 2006. The Parking and Loading chapter has been difficult to administer and clarification is needed in order to more clearly define the intent of the off-street parking requirements in the HHOD.

BUDGET IMPACT

None

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT CODE CHAPTER 161: ZONING REGULATIONS, CHAPTER 170: STORMWATER MANAGEMENT, DRAINAGE AND EROSION CONTROL, AND CHAPTER 172: PARKING AND LOADING TO COMPLY WITH THE INTENT OF THE HILLSIDE/HILLTOP OVERLAY DISTRICT ORDINANCE NO. 4855 ADOPTED IN APRIL 2006.

WHEREAS, Ordinance No. 4855 was passed in April of 2006 and established special building height limitations within the Hillside/Hilltop Overlay District; and

WHEREAS, Ordinance No. 4930 to implement the Downtown Master Plan Zoning Code contained eleven sections amending the Unified Development Code in October of 2006; and

WHEREAS, Exhibit D attached and adopted by Ordinance No. 4930 did not include the previous amendments to §§161.14 (F) and §161.16 (F) *Height regulations* and therefore unintentionally repealed them; and

WHEREAS, Chapter 170: Stormwater Management, Drainage and Erosion Control was adopted in its entirety in October of 2006 without including the Hillside/Hilltop Overlay District regulations; and

WHEREAS, The Hillside/Hilltop regulations .contained in Chapter 172: Parking and Loading is clarified in order to more clearly state the intent of the Ordinance;

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

Section 1: The City Council of the City of Fayetteville, Arkansas, hereby repeals §161.14 (F) and §161.16 (F) *Height regulations* of the Unified Development Code and enacts a new subsection (F) in both sections as shown below.

"(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 except for the HHOD. Within the HHOD, the maximum building height is 60 feet as measured from the lowest point of the structure at the historic grade prior to development to the highest point of the structure, allowing three stories on the uphill side and four stories on the downhill side of the building. If the building is placed on a graded pad, then the height of the building is reduced, allowing a maximum of three stories as measured from the historic grade, pre-development."

Section 2: That Chapter 170: Stormwater Management, Drainage and Erosion Control is amended to include Hillside/Hilltop Overlay District regulations in §170.01, §170.03 and §170.05, a copy of which marked Exhibit "A" is attached hereto and made a part hereof.

Section 3: That Chapter 172: Parking and Loading is amended to clarify the intent of the Hillside/Hilltop Overlay District Ordinance in §172.04, a copy of which marked Exhibit "B" is attached hereto and made a part hereof.

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

APPROVED: ATTEST:

By: ______________________ By: ______________________

DAN COODY, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

EXHIBIT "A"

Chapter 170: Stormwater Management, Drainage and Erosion Control: is amended by inserting the following language shown in bold in the appropriate sections.

§170.01 Intent

(A) *Intent.* It is the intent of this chapter to protect, maintain, and enhance the health, safety, and general welfare of the citizens of the City of Fayetteville by:

(5) Requiring that erosion control measures are implemented and function on a lot-by-lot basis.

(6) Encouraging the use of storm water best management practices to reduce runoff. These measures would include permeable pavers, green roofs, rain gardens, cisterns and rain barrels for irrigation use.

(7) Encouraging the use of environmentally conscious measures to reduce the amount of storm water generated by development, especially in the Hillside Overlay District. Methods may include but, are not limited to, rain gardens, permeable pavement, green roofs, cisterns for the collection and redistribution of storm water for irrigating purposes, etc.

§170.03 Permits Required

(D) *Exceptions where no drainage permit is required.* Drainage permits are not required for the following:

(1) *Single-family/duplex.* One single-family residence or duplex **not located within the 100 year flood plain, the Hillside Overlay District, or on a slope 15 % or greater.**

§170.05 Permit Application

A storm water management, drainage, and erosion control permit application shall be submitted to the City Engineer using appropriate forms as provided by the city. **An applicant may apply jointly for contiguous parcels or subdivisions as long as the erosion control measures are in place until project completion.** A permit application shall contain sufficient information and plans to allow the City Engineer to determine whether the project complies with the requirements of this chapter. The specific items to be submitted for a permit application shall be in the form and follow the procedures as described in the *Drainage Criteria Manual,* Section 1, Drainage Report Checklist. Submittal information and plans shall include, but not be limited to the following:

EXHIBIT "B"

Chapter 172: Parking and Loading: is amended by removing the language shown in Strikeout and inserting the language shown in bold in the appropriate sections.

172.04 Parking Lot Design Standards

(E). *Hillside Hilltop Overlay District.*

(1) *Separation of Parking Pads in Multi-Family~~, Office, and Commercial Development~~* **and Non-Residential Development**. Parking pads shall be separated by a minimum undisturbed area of 15 feet between parking pads. Streets and access drives are permitted to cross this undisturbed area.

(2) *Cut and Fill Slopes.* Parking pads should be encouraged to utilize cut slopes with retaining walls to minimize disturbance.`

(3) *Maximum number of spaces per parking lot for multi-family and ~~office use~~* **non-residential uses.** Parking pads shall have a maximum of 30 spaces per pad.

(4) *Parking lot location. ~~with multi-family and office structures.~~* ~~When the building is located adjacent to the street the parking shall be located in the rear. When the multi-family structure is located off of the street, a minimum of 35' of undisturbed area shall separate the building from the street.~~ **Parking lots shall be set back with a minimum of 35' of undisturbed area required adjacent to the street right-of-way.**

(5) Developers of multi-family~~, office, and commercial~~ **and non-residential** uses in the Hillside Overlay District are encouraged to refer to the Hillside Best Management Practices Manual for guidance and direction in the design of their project.

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

20-Nov-07
City Council Meeting Date

Jeremy Pate JP	Planning	Operations
Submitted By	Division	Department

Action Required:

ADM 07-2806: Vantage Center PZD Amendment: Submitted by Lindsey Management Company, Inc. for property located at the end of Shepard Lane adjacent to Frontage Road. The request is to approve an ordinance amending the approved R-PZD 05-1543, Vantage Center, to permit Use Unit #14, Hotel, Motel and Amusement Facilites as a permitted use on the subject property

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a $ -	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ]   Budget Adjustment Attached [ ]

Department Director	Date: 11-2-07
City Attorney	Date: 11-2-07
Finance and Internal Service Director	Date: 11-7-07
Mayor	Date: 11/6/07

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 11/21/07

Received in Mayor's Office
ENTERED 11/2/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: November 1, 2007

Subject: Amendment to R-PZD 05-1543 (Vantage Center), to permit Use Unit #14

RECOMMENDATION

Staff recommends approval of an ordinance amending the Residential Planned Zoning District for Vantage Center (R-PZD 05-1543), permitting Use Unit #14, Hotel, Motel and Amusement Facilities, as a use by right. Staff has proposed conditions within the draft ordinance that are important for the Council to consider, to provide a true mixture of uses on the property.

BACKGROUND

Lindsey Management Company, Inc. has submitted a request to amend the approved R-PZD 05-1543, Residential Planned Zoning District for Vantage Center. The project consists of a mixed-use development in four buildings. Each building contains 6,733 SF of retail space (on the first floor only) and 19 multi-family units within the three-story structures, for a total of 26,932 SF of retail and 76 dwelling units. The request is to allow for much of the retail space to be converted to an extended stay motel type use, which is only permitted under Use Unit #14, Hotel, Motel and Amusement Facilities. When the PZD was approved, it did not include this use as a permitted or conditional use on the property.

Only the first floor of the buildings would be affected, as the second and third floors are purely residential. The applicant requests to allow 73% of the first floor of the mixed use buildings, or 19,660 SF to be utilized for an extended stay hotel/motel use, the remaining 27% of the first floors, or 7,272 SF would be utilized for the other permitted non-residential uses.

Staff finds in favor of the proposed concept to add Use Unit #14, finding that a hotel/motel use would be a compatible and complementary use in this area. Staff's recommendation for this original project was based on the development providing a true mixed-use project, wherein users of the residential units and others visiting or residing in the area would have the opportunity to utilize the retail, restaurant and other commercial services proposed. It is staff's finding that limiting the proposed hotel/motel use to 73% of the non-residential floor area on this site is in keeping with the original recommendation and approval of the Planned Zoning District by the Planning Commission and City Council. This would allow for the flexibility of use in the other non-residential areas to provide a mixture of retail, restaurant and other services for nearby residents. Staff has proposed a condition that limits the time a room can be occupied to a maximum of 30 days, in order for the space to not become a residential use. Additionally, a condition states that the hotel/motel floor area will be operated as an extended stay motel type operation and shall remit sales and HMR taxes accordingly.

DISCUSSION

This item was not considered by the Planning Commission. Minutes from previous meetings have been included, as has the staff report from the original Planned Zoning District approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING A RESIDENTIAL PLANNED ZONING DISTRICT ENTITLED R-PZD 05-1543, VANTAGE CENTER, LOCATED AT THE END OF SHEPARD LANE ADJACENT TO FRONTAGE ROAD, CONTAINING APPROXIMATELY 4.68 ACRES, TO ALLOW THE ADDITION OF USE UNIT #14, HOTEL, MOTEL AND AMUSEMENT FACILITIES AS A PERMITTED USE, AS DESCRIBED HEREIN.

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

Section 1. That Use Unit #14, Hotel, Motel and Amusement Facilities, as defined by the City of Fayetteville Unified Development Code, is hereby approved as a permitted use and reflected in the Planned Zoning District zoning criteria for R-PZD 05-1543, Vantage Center.

Section 2. That the approval of Use Unit #14 as a permitted use on the subject property shall be conditioned upon the following:

1. Use Unit #14 shall be limited to a maximum of 73% of the overall non-residential square feet on the property as shown on Exhibit "A", in order to retain a true mixture of retail uses, as proposed and approved with the original Planned Zoning District for Vantage Center.

2. Any portion of the property or structures designated for non-residential use and hereby approved for Use Unit #14 shall not be converted to residential use, and shall remit sales and HMR taxes accordingly. An occupant's stay within any one hotel/motel room shall be limited to a maximum of 30 days.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the Planned Zoning District have been met.

Section 4. That the Planned Zoning District ordinance and official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

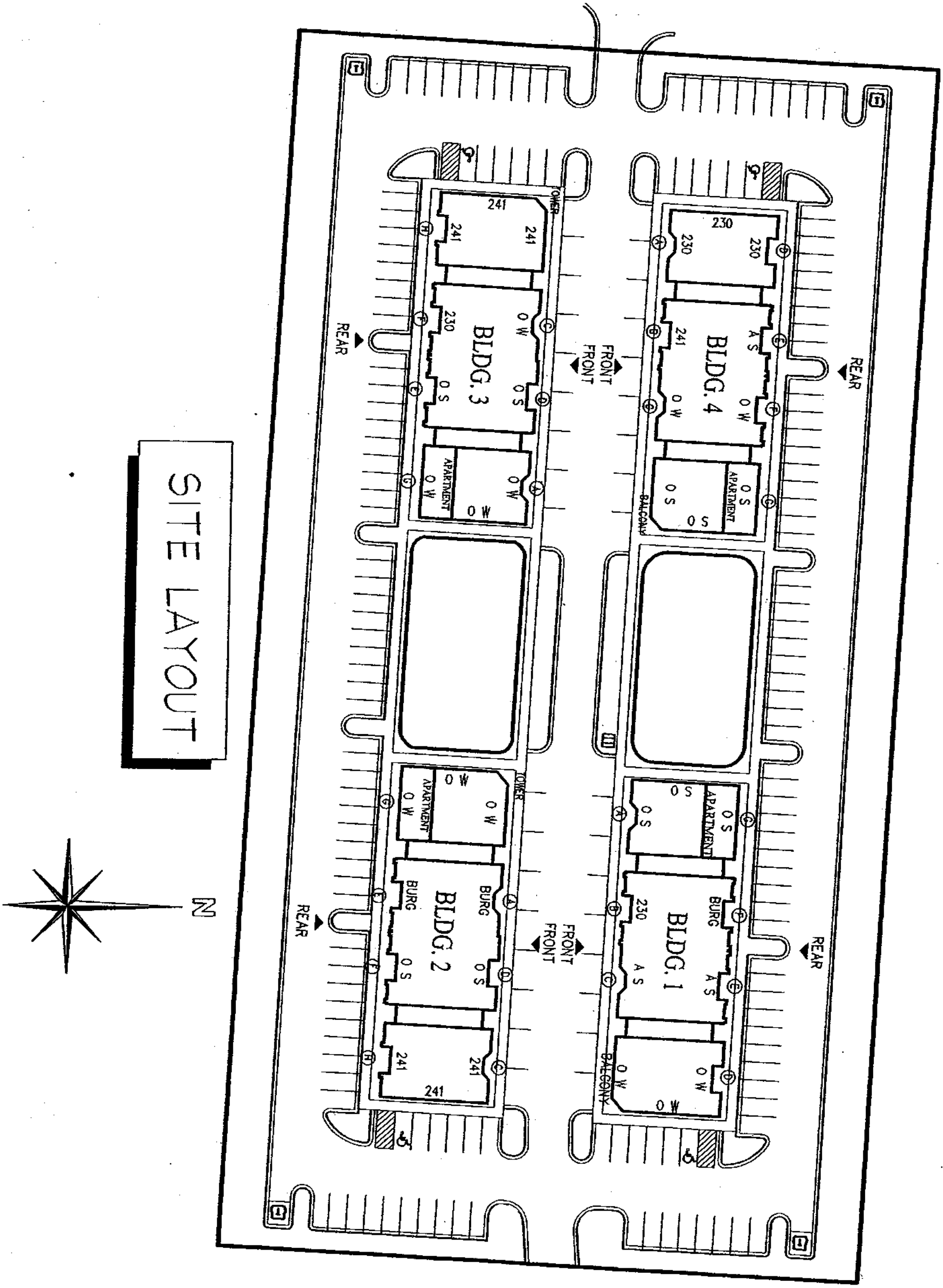
PASSED AND APPROVED this _______ day of ___________, 2007.

APPROVED: ATTEST:

By: ______________________________
DAN COODY, Mayor

By: ____________________________________
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"


SITE LAYOUT
N
BLDG. 1
BLDG. 2
BLDG. 3
BLDG. 4
FRONT
FRONT
REAR
REAR
REAR
REAR
APARTMENT
APARTMENT
APARTMENT
APARTMENT
TOWER
TOWER
BALCONY
BALCONY

Lindsey Management Co., Inc.

1200 E. Joyce Boulevard ■ P.O. Box 13000 ■ Fayetteville, AR 72703 ■ (479) 521-6686 ■ Fax (479) 527-8840

October 16, 2007

RECEIVED
OCT 1 6 2007
PLANNING DIV.

Mr. Jeremy Pate
City of Fayetteville
125 West Mountain Street
Fayetteville, AR 72701

RE: Modification of Vantage Center PZD

Dear Mr. Pate:

On October 4, 2007, Vantage Center, a Limited Partnership ("Vantage Center"), submitted a letter to the City of Fayetteville requesting a modification of the Vantage Center PZD. In that request, Vantage Center asked that multifamily residential be added as a permitted use for up to 75% of the property.

Vantage Center would like to amend the modification request to the Vantage Center PZD. At this time, we would like to request that Use Unit 14, hotel, motel, amusement, be allowed on up to seventy three percent (73%) of the first floor of the mixed use buildings. The remaining twenty-seven percent (27%) of the first floor would retain the current permitted uses.

The only part of these buildings that will be affected by the allowance of an additional permitted use will be a portion of the first floor only. No changes are being sought for the second or third floors.

If there is any other information that can be provided, or any way that I can help, please let me know.

Thank you.

Sincerely,

Hugh Jarratt
Corporate Attorney

Enclosure

Fayetteville
ARKANSAS

PC Meeting of September 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~August 30, 2005~~ *September 14, 2005*

R-PZD 05-1543: Residential Planned Zoning District (VANTAGE CENTER,): Submitted by JERRY KELSO for property located at THE END OF SHEPARD LANE ADJACENT TO FRONTAGE ROAD. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and R-A, RESIDENTIAL AGRICULTURAL and contains approximately 4.68 acres. The request is to approve a Residential Planned Zoning District with 26,932 square feet retail space, 124 bedrooms, and 187 parking spaces.

Property Owner: VANTAGE CENTER, LLC Planner: ANDREW GARNER

Findings:

Background: This proposal was first heard at Technical Plat Review on June 1, 2005 and was tabled by staff due to concerns with site development plans. The revisions produced following subsequent meetings with staff are those presented before the Subdivision Committee.

Property and Setting: The site is located at the end of Shepard Lane in northern Fayetteville between Frontage Road and Stearn Street. The site is largely undeveloped with the existing Lindsey Communications residential-office building and a gravel drive located in the western portion of the site. The some stands of mature trees trending north-south through some of the eastern portions of the site. As depicted in *Table 1*, the site is surrounded by a mix of commercial and residential uses.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Large-lot residential	C-1, Neighborhood Commercial
South	Undeveloped commercial lots	C-2, Thoroughfare Commercial
East	Stearn Street Apartments	R-O, Residential Office
West	Mixed-use commercial	C-2, Thoroughfare Commercial

Water and Sewer: Water and sewer lines are available to the site.

Adjacent Master Street Plan Streets: Frontage Drive (a Collector Street)

Proposal: The applicant requests a rezoning and preliminary plat approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for a mixed use development consisting of four buildings. Each of the proposed buildings will contain 6,733 square feet of retail space, twelve 2-bedroom units, and seven 1-bedroom units. The proposed uses and parking are detailed in *Table 2*.

Table 2
Proposed Vantage Center Residential Planned Zoning District

Land Use	Square Feet	No. of Units	No. of Bedrooms	Parking Required
Proposal Per Building				
Commercial Retail	6,733	NA	NA	27
Multi-Family Residential 2-Bedroom	NA	12	24	24
Multi-Family Residential 1-Bedroom	NA	7	7	7
Total	6,733	19	31	58
Proposal for Entire Development (Four Buildings)				
Total	26,932	76	124	232*

* The development proposes 187 parking spaces, which is within the +/-30% allowed by ordinance.

The development is proposed to have two means of access with Shepard Lane extending east-west through the development in a "Main Street" streetscape, linking Frontage Road to the west with Steam Street to the east. Shepard Lane would incorporate parallel parking and widened sidewalks, with the majority of parking located to the rear of the four structures. Additionally, two greenspace areas in the center of the development would be utilized for as park/gathering areas and stormwater detention. The development is intended to create a true mixed-use development consisting where residential and commercial uses can co-exist using the same building, parking areas, and surrounding amenities. The existing residential community to the east of the site as well as the proposed residential uses on the site will help support the commercial businesses planned in this development. The development is proposed to be under single ownership, with dwelling units rented and retail space leased. All interior streets, landscaping, common areas and buildings would be maintained by the developer. Zoning criteria for the proposed zoning district is depicted in *Table 3*.

Street Improvements Proposed: Improvements to Frontage Drive along the project frontage of 14' from centerline including pavement, curb and gutter, and six-foot sidewalks.

Tree Preservation:

Existing Canopy: 21%
Preserved Canopy: 5%
Mitigation Required: 88 onsite trees

Table 3
Vantage Center Zoning Criteria

Use Units Allowed	
Use Unit No.	**Permitted Uses**
1	City-wide uses by right
2	City-wide uses by conditional use permit
3	Public protection and utility facilities
4	Cultural and recreational facilities
5	Government facilities
12	Offices, studios and related services
13	Eating places
15	Neighborhood shopping goods
25	Professional offices
26	Multi-family dwellings
Use Unit No.	**Conditional Uses**
16	Shopping Goods
17	Trades and services
Setback Regulations	
Front (Along Frontage)	25'
Front (Along Shepard)	0'
Sides	8'
Rear	25'
Building Area	
Maximum ~~16% or 32,022 sq. ft.~~ *20%*	
Height Regulations	
Maximum 42'	

Recommendation: Staff recommends forwarding **R-PZD 05-1543** with a recommendation of approval to the full Planning Commission with the following conditions:

Conditions of Approval:

1. Planning Commission determination of commercial design standards. *Staff finds that the building elevations meet the City's commercial design standards by minimizing or avoiding: unarticulated wall surfaces, square "boxlike" structures, metal siding that dominates the main facades, and large out of scale signs. Additionally, the development provides a unifying and identifiable theme and is compatible with adjacent development.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION

2. Planning Commission determination of a waiver request for the requirement of 40' from an intersection to a curb cut, for the westernmost curb cut along Shepard Lane that is approximately 35' from Frontage Road. *Staff is in support of the request for the proposed curb cut along Shepard Lane as the entrance fulfills the intent of providing an enhanced "Main Street" streetscape, along with providing needed parking in the "rear" to meet ordinance requirements.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION

3. Submit elevations of proposed monument signage.

4. Identify the height of the proposed buildings on the elevations and on the site plan.

5. All zoning criteria such as setbacks, protective easements, and designated lot uses (depicted in *Table 3* and elsewhere described in this report) are binding with the approval of the R-PZD. Submitted covenants and building elevations are likewise binding to the project. Additionally, please designate a building height regulation and building area maximum criteria to the zoning criteria listed on the cover sheet of the plat.

6. Submit a lighting plan in conformance with the City's lighting ordinance.

7. Street improvements to Frontage Road shall include 14 feet from centerline including curb, gutter, pavement and 6-foot sidewalks through the driveway entrance. The sidewalks on Frontage Road shall connect with existing sidewalk to the north and south of the driveway. Six-foot sidewalks shall be constructed through the project to connect Stearn Street with Frontage Road.

8. No fences shall be allowed within utility easements.

9. All monument signage must comply with the sign ordinance.

10. Include the 14 notes that coordinate with the Tree Protection Fencing detail. These can be found in the Landscape Manual and should be located on the Tree Preservation sheet.

11. Mitigation will be required to replace 15,863 square feet of canopy. Using the mid-level density factor, 55 2-inch caliper trees or $13,750 will be required. If not all trees can be located on-site then a combination of plantings and money in lieu may be approved by the Urban Forester.

12. Before approval of building permit a tree and maintenance plan must be submitted for approval to the Urban Forester.

13. All trash enclosures shall be screened from view with materials that are compatible with and complementary to the proposed buildings.

14. All utilities shall be screened with materials complementary to the proposed buildings.

15. Please modify all sheets of the drawings for consistency regarding the number of parking spaces: the cover sheet says 187 spaces, the landscape plan says 289 spaces, and the tree preservation plan says 173 spaces.

16. Dimension the size and location of proposed sidewalks on the site plan and landscape plan.

17. Add a note to the plat that all utilities shall be installed underground and that any existing utilities over 12 kV shall be relocated underground.

18. Trash service shall be coordinated with the Solid Waste Division. Al trash enclosures shall be screened from view with materials that are compatible with and complementary to the proposed buildings. Dimension turnaround areas at dumpster location. Dumpster pads need to be a minimum of 15' in length.

19. The numbers and percentage on the site coverage note do not add up. For example, the building area, sidewalk area, paving area, and greenspace numbers add up to 198,997 square feet, and the total site is listed as 203,695. Please revise to make the numbers and percentages for the site total accurately.

Standard Conditions of Approval:

20. 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).

21. 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 the City's current requirements.

22. Payment of parks fees in the amount of $29,868 shall be required prior to building permit. Prior to R-PZD approval, this amount shall be considered and approved by the Parks and Recreation Advisory Board and City Council to meet ordinance requirements for over 100 residential units.

Additional Conditions:

a. ______________________________

b. ______________________________

R-PZD 05-1543: Planned Zoning District (Vantage Center, pp 136): Submitted by Jerry Kelso of Crafton, Tull & Associates for property located at the east end of Shepherd Lane. The property is zoned C-1, neighborhood Commercial and contains approximately 4.68 acres. The request is to approve a Residential Planned Zoning District with 26,932 sq.ft. retail space, 124 bedrooms and 196 parking spaces.

Ostner: The next item on our agenda is R-PZD for Vantage Center. If we could have the staff report please.

Garner: This site is located at the end of Shepherd Lane between Frontage Road and Stearns Street. The site is zoned C-1 and R-A and is largely undeveloped with the communications residential office building and a gravel drive located on the western portion of the site and mature trees turning south on the eastern portion of the site. On page 13.1 the site is surrounded by a mixture of commercial and residential uses. Immediately to the west of this site is the commercial corridor and Appleby's restaurant and to the east is Stearns Street apartments. The applicant requests rezoning and Preliminary Plat for a residential subdivision within a unique R-PZD zoning district. The proposed use of this site is for a mixed use development consisting of four buildings. Each of the buildings will contain approximately 6,700 sq.ft. of retail commercial space, 12 two bedroom units and 7 one bedroom units. The building in general with regard to access concerns would have two means of access with Shepherd Lane running east/west through the development and a main streetscape linking Frontage Road to the west and Stearns Street to the east. Shepherd Lane would incorporate parallel parking, a widened sidewalk with the majority of the parking located to the rear of the structures. Additionally, two greenspace areas in the center of the structures would be utilized as gathering area and storm water detention. The intent of the development is to be a mixed use development with commercial and residential structures together and using the same infrastructure and streets. Table 3 on page 13.3 of your packet describes the zoning criteria proposed with this development. You can see the use units allowed would provide a mix of office, shopping, eating places and residences. Setback regulations would be a 25' setback along Frontage Road, a 0' setback along Shepherd, 8' setbacks along the sides and a 25' setback along the rear property lines. The building area should read 20%. The height regulation would be a maximum of 42'. We are recommending approval of this R-PZD with several conditions. Planning Commission determination of commercial design standards. As you can see from the elevations, there are some material samples of the bricks that will be used and the types of buildings. Staff finds that they meet Commercial Design Standards with a variety of structures and materials and articulation. Condition two, Planning Commission determination of a waiver request. There is a waiver request for the intersection of Shepherd Street into the curb cut coming into this development and staff is in support of the request for the proposed curb cut and we find that with the pedestrian access and the way that the development is laid out it would be an appropriate and safe means of access. Condition five specifies all zoning criteria in this report as depicted in table 3 are binding with the approval of this R-PZD. The conditions are relatively straight forward other than that.

Ostner: Is the applicant present?

Kelso: I am Jerry Kelso with Crafton, Tull & Associates representing the owner on this one. As staff had said, this is a true mixed use development where we have got commercial on the bottom and residential apartments on top. We have four buildings. The elevations that you see there are both the front and the back so it would be the same on both sides. We are in agreement with the conditions of approval.

Ostner: At this point I am going to call for public comment. Seeing none, I will close the public comment session and bring it back to the Commission.

Anthes: How long has the current property owner owned this piece of property?

Kelso: Mr. Lindsey has owned it for at least a couple of years.

Anthes: Do you know when this lot was cleared of trees?

Kelso: I do not know. I do know that there have been no trees taken down since he has had ownership of it.

Anthes: Mr. Pate, do you know when this was cleared? I believe this was a wooded parcel and this lot was cleared without a development plan. Do you know the time frame on that and what is the statute of limitations on that?

Pate: Five years. If the property was cleared within five years by the owner or developer they would be penalized at the time of development.

Anthes: Has anybody researched that?

Pate: Not that I'm aware. The urban forester reviewed that and can answer that question.

Anthes: What do you do in a case like that Mr. Williams?

Williams: The ordinance would require replacing the canopy plus the 10% increase in the normal requirement if it was done within five years without an agricultural purpose or with intent to get around the tree ordinance.

Anthes: Is that something that we can determine after we pass the project?

Williams: No, because this project is dependent upon not having as much land devoted to tree preservation area I think.

Kelso: We have done a tree preservation based upon what is out there.

Williams: How long has the owner owned this property?

Kelso: I don't know for sure. We started the apartments next to it about three years ago and I think that is about the time he purchased it.

Williams: I can't tell you how long it has been cleared at this point.

Anthes: What do we do if we have a question about that?

Williams: We do have some aerial maps, but they might not be from five years ago. That would be some evidence at some point in time that there were trees on it when the aerial was done. That doesn't mean that the next day someone didn't clear the land. I don't know what our evidence would be on this.

Anthes: I just remember it happened and I don't know whether it is within that five year period or not and when I saw this development come through I just had a question about it. Since it wasn't in the staff report I thought I needed to ask.

Pate: We did not pick up on that at all in our investigation. We do typically look at aerials, we don't always look at every site five years prior and obviously, that did not occur on this site.

Kelso: I will say that since Mr. Lindsey purchased it he has not cut anything.

Anthes: What happens if a land owner clears a parcel and sells it the next day and a development comes through immediately on that?

Williams: I don't think you can have someone else clear it and sell it and nothing happens, I think that would be against the spirit of that particular part of the ordinance. On the other hand, we have to have some definite evidence to be able to say that you have to do this and at this point I don't think staff has any evidence that this was cleared within the last five years.

Anthes: My question was more for future to find out if we check that as a matter of course and what the ramifications would be.

Pate: I honestly cannot say whether or not we have checked that.

Anthes: How do these buildings differ, if at all, from the corner of 6th Street and I-540?

Kelso: These are the same buildings.

Pate: One of the conditions of approval from the Planning Commission was to alter those side elevations, those have been altered pretty dramatically, I don't think this Commission ever saw that.

Clark: Are you in agreement with the conditions of approval?

Kelso: Yes.

Clark: I will move that we forward R-PZD 05-1543 with the stated conditions and findings of fact as indicated in the staff report.

Myres: I will second.

Ostner: Is there further discussion? Will you call the roll?

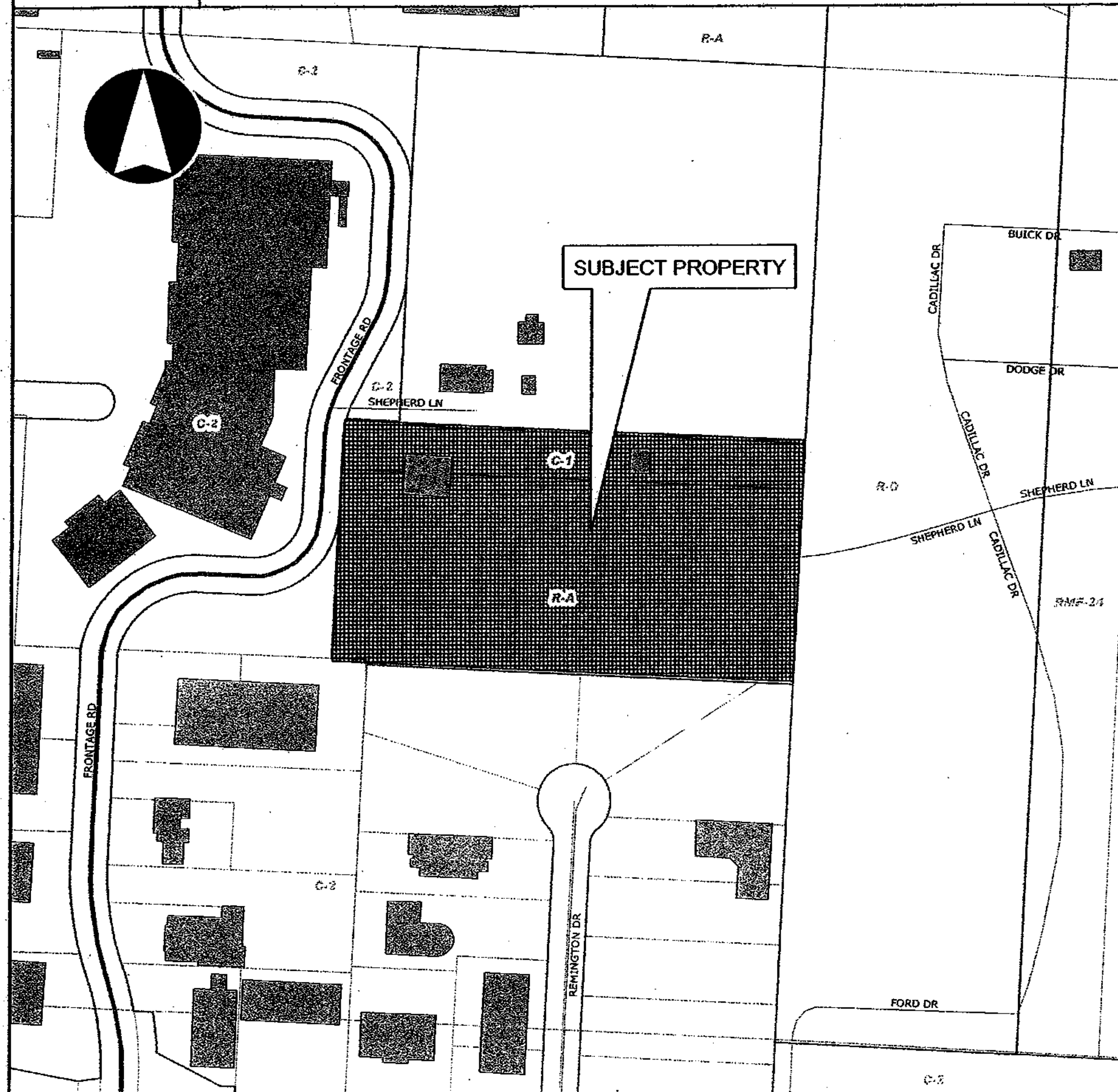
Roll Call: Upon the completion of roll call the motion to forward R-PZD 05-1543 to the City Council was approved by a vote of 8-0-0.

Morgan: The motion carries.

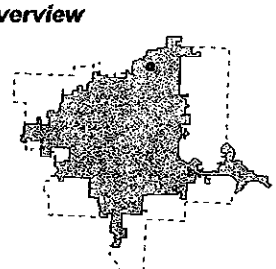
RPZD05-1543

Close Up View

VANTAGE CENTER



Overview



Legend

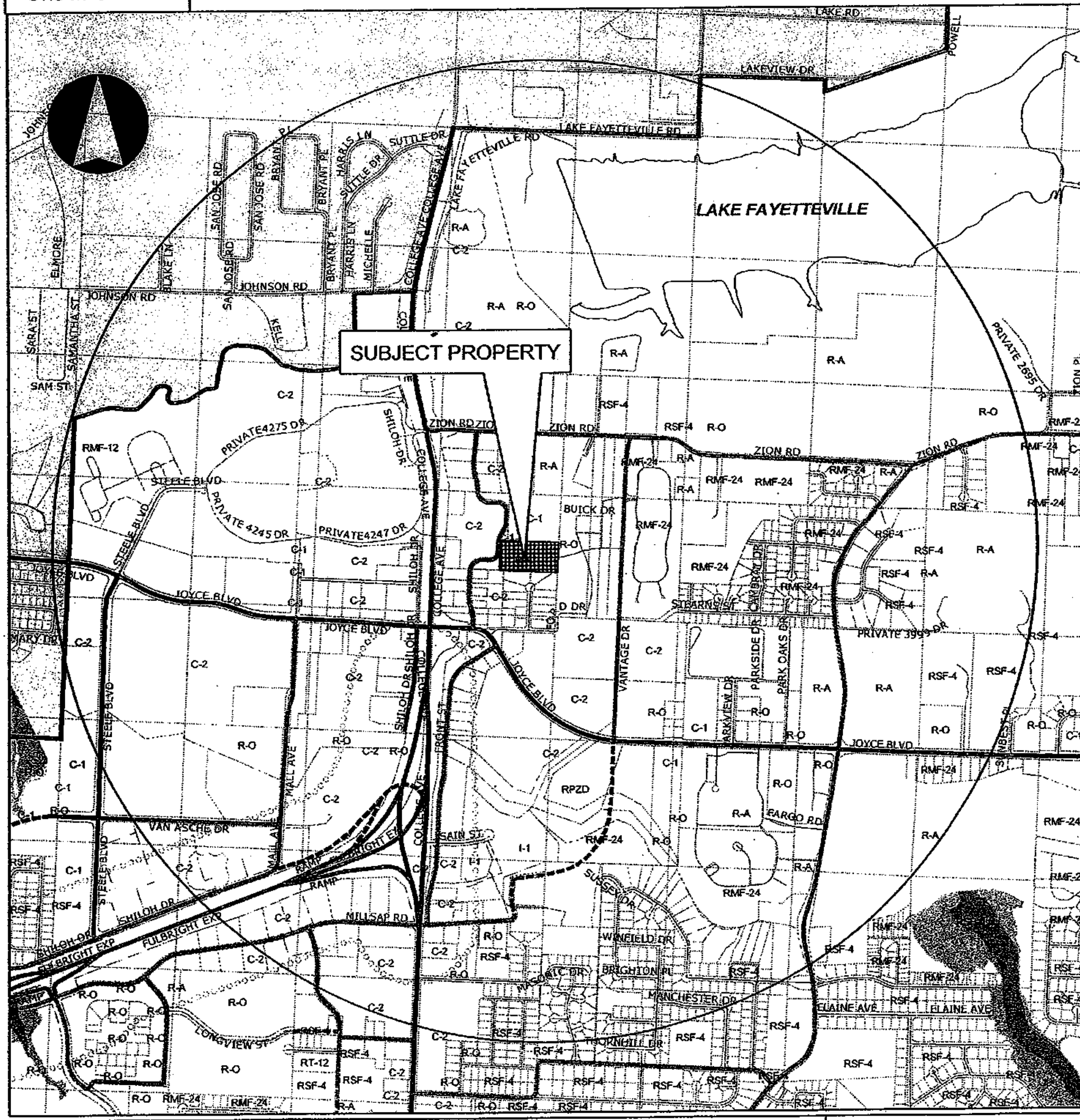
RPZD05-1543 Overlay District — FLOODWAY — 100 YEAR — 500 YEAR — LIMIT OF STUDY — BaseLine Profile

Fayetteville

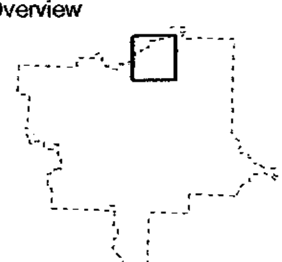
Outside City

0 75 150 300 450 600 Feet

RPZD05-1543	VANTAGE CENTER
One Mile View	



Overview



Legend

Subject Property

RPZD05-1543

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

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

20-Nov-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

ADM 07-2807: Approval of a waiver from the Unified Development Code Ch. 166.20 Expiration of Approved Plans and Permits, to permit an extension for the Vantage Center Planned Zoning District until October 4, 2008.

$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 11-2-07 Date

City Attorney 11-2-07

Finance and Internal Service Director Paul A. Becker 11-5-07 Date

Mayor Dan Coody 11/6/07 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office ENTERED 11/21/07

Received in Mayor's Office ENTERED 11/5/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: November 1, 2007

Subject: Vantage Center Planned Zoning District Expiration

RECOMMENDATION

Planning staff recommends approval of a waiver for Vantage Center R-PZD from the Unified Development Code, *§166.20 Expiration of Approved Plans and Permits*, with the condition that all building permits shall be obtained by the applicant prior to October 4, 2008 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 contains approximately 4.68 acres, located at the end of Shepard Lane between Frontage Road and Stearn Street. The City Council adopted an ordinance granting approval of a Planned Zoning District (R-PZD 05-1543) on the site on October 4, 2005. The combination zoning and development action allowed for the development of a mixed use development consisting of four buildings. Each of the proposed buildings would contain 6,733 SF of non-residential space, twelve two-bedroom units, and seven one-bedroom units, for a total of 26,932 SF of non-residential space and 76 residential units.

The subject Planned Zoning District was approved in October of 2005, prior to the adoption of the current Planned Zoning District Ordinance amendments that allow for larger and more complex projects to request a more reasonable period of time in which to obtain building permits. 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.

The Vantage Center project is very similar to the Southern View Phase II PZD in southwest Fayetteville, which has just been completed. The applicant has chosen to wait and see how the market would react to a mixed-use produce of this type, before the substantial investments were made to move forward with the project. Now that the Southern View Phase II project is complete, the applicant has made the decision to move forward with the project and has applied for grading and building permits.

A one-year approval extension was granted by the Planning Commission on October of 2006, extending the approval to October 4, 2007. While processing the building permits for this development the one-year extension expired and the City can not continue processing building permits for the subject property. Given the unique nature of the project being very similar to the Southern View phase II project that was recently completed, as well as the additional submittal requirements under the new PZD ordinance, staff would support a waiver from the Unified Development Code 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 applicant/developer is actively pursuing the development of this project, which was the intent of the ordinance adoption. Staff proposes a time limit on the extension of the approval of approximately one year, to expire on October 4, 2008. Building permits will be able to be pulled for the buildings that can be permitted immediately; however, an existing waterline has to be relocated before permits can be pulled on two of the buildings, which is another delay in pulling permits. All building permits for Vantage Center PZD would have to be obtained for this project by October 4, 2008, or the approvals would expire without the ability to request renewal by the Planning Commission.

DISCUSSION

None.

BUDGET IMPACT

None.

ORDINANCE NO. _______

AN ORDINANCE TO WAIVE SECTION 166.20 OF THE UNIFIED DEVELOPMENT CODE AND TO EXTEND THE EXPIRATION DATE FOR R-PZD 05-1543 (VANTAGE CENTER) TO OCTOBER 4, 2008.

WHEREAS, after the Vantage Center R-PZD was approved in 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 Vantage Center PZD is very similar to the Southern View phase II project that was recently completed on the west side of Fayetteville, and the applicant needed to wait and see how the market would react to a mixed-use produce of this type in this area before substantial investments were made to move forward; and

WHEREAS, the applicant desires to move forward with the Vantage Center PZD project based on the feasibility of the Southern View phase II project; and

WHEREAS, the developer of Vantage Center has shown progress in recent months in application for construction and building permits which are expected to be issued within the next year;

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 U.D.C. and extends the expiration date of R-PZD 05-1543 (Vantage Center) passed on October 4, 2005, for the applicant to obtain all building permits by October 4, 2008.

PASSED and **APPROVED** this___day of ___, 2007.

APPROVED:

By: ________________________________
DAN COODY, Mayor

ATTEST:

By: ________________________________
SONDRA SMITH, City Clerk

Rogers, Arkansas 72756
479.636.4838 t 479.631.6224 f
www.craftontullsparks.com

Crafton Tull Sparks

architecture | engineering

Birmingham
Conway
Little Rock
Oklahoma City
Rogers
Russellville
Tulsa
Wichita

September 28, 2007

Mr. Jeremy Pate
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, AR 72701

RE: PZD Expiration
Vantage Center
CTA Job No. 021131-01

Dear Mr. Pate:

On behalf of Mr. Jim Lindsey (a.k.a. Vantage Center LLP), we request the city council's consideration to allow a one year extension of the Vantage Center Mixed use project to secure building permits. The approval for this project was conditioned on the PZD receiving all its building permits within one calander year. An extension for an additional year was granted by the planning commission, however the current ordinance does not allow the planning commission to approve any more time above one year.

This project if very similar to "Southern View phase II", which has just been completed. It was the intent to see how the market would react to a mixed-use product of this type, before the big investments were made to move forward. Now that that Southern View phase II is complete, we should be able to determine the feasibility of this product within the next few months. Therefore, we have delayed starting construction and pulling building permits until that determination can be made. Southern View phase II took longer to construct than was anticipated.

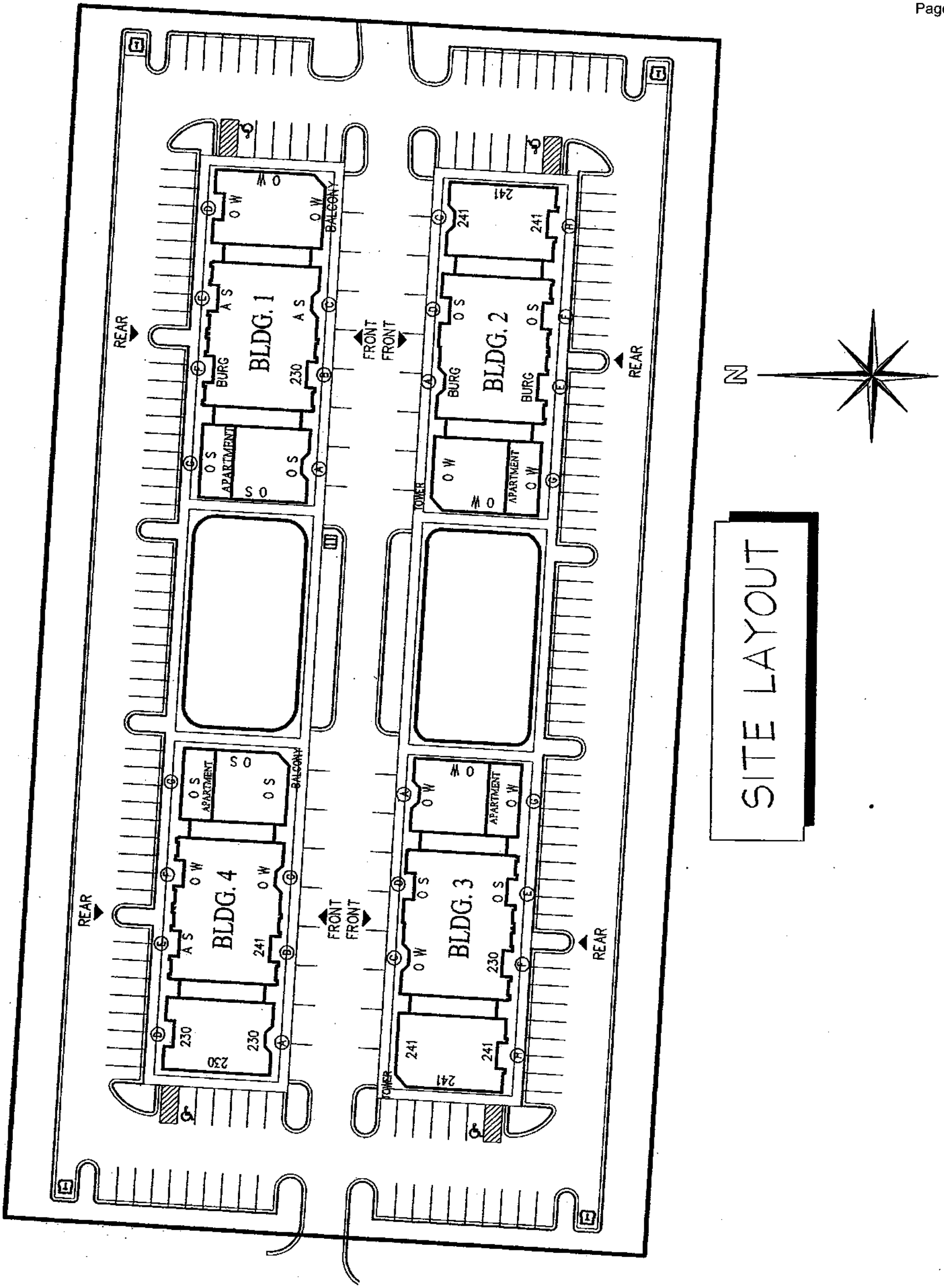
Engineering has approved the current plans, and a pre-construction meeting has been held by City of Fayetteville staff for site work. Building permits are being pulled for the buildings that can be permitted at this time, however an existing waterline has to be relocated before permits can be pulled on 2 of the buildings, which is another delay in pulling permits before the deadline date.

We appreciate your assistance with this project and ask that the city council look favorably on this request. When completed, we believe Vantage Center will be another true mixed use product the city has been trying develop.

Sincerely,

Crafton, Tull, Sparks & Associates, Inc.

Jerry Kelso, P.E.
Vice President


SITE LAYOUT
N
BLDG. 1
BLDG. 2
BLDG. 3
BLDG. 4
FRONT
FRONT
REAR
BALCONY
APARTMENT
TOWER
BURG
230
241

ORDINANCE NO. 4776

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1543, VANTAGE CENTER, LOCATED AT THE END OF SHEPARD LANE ADJACENT TO FRONTAGE ROAD, CONTAINING APPROXIMATELY 4.7 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From C-1, Neighborhood Commercial and R-A, Residential Agricultural, to R-PZD 05-1543 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and **APPROVED** this 4th day of October, 2005.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

By: Sondra Smith
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 05-1543

TRACT 1 SURVEY DESCRIPTION:

PART OF THE SE 1/4 OF THE SE 1/4 OF SECTION 23, T-17-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS:
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 23, THENCE N02°47'48"E 480.38 FEET TO THE POINT OF BEGINNING; THENCE N87°17'11"W 620.79 FEET; THENCE N02°47'48"E 328.12 FEET; THENCE S87°17'11"E 620.79 FEET; THENCE S02°47'48"W 328.12 FEET TO THE POINT OF BEGINNING, CONTAINING 4.68 ACRES, MORE OR LESS.
SUBJECT TO ALL EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

Fayetteville
ARKANSAS

PC Meeting of September 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION CORRESPONDENCE

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

TO:	Fayetteville Planning Commission
FROM:	Andrew Garner, Current Planner Brent O'Neal, Staff Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~August 30, 2005~~ *September 14, 2005*

R-PZD 05-1543: Residential Planned Zoning District (VANTAGE CENTER,): Submitted by JERRY KELSO for property located at THE END OF SHEPARD LANE ADJACENT TO FRONTAGE ROAD. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and R-A, RESIDENTIAL AGRICULTURAL and contains approximately 4.68 acres. The request is to approve a Residential Planned Zoning District with 26,932 square feet retail space, 124 bedrooms, and 187 parking spaces.

Property Owner: VANTAGE CENTER, LLC		Planner: ANDREW GARNER

Findings:

Background: This proposal was first heard at Technical Plat Review on June 1, 2005 and was tabled by staff due to concerns with site development plans. The revisions produced following subsequent meetings with staff are those presented before the Subdivision Committee.

Property and Setting: The site is located at the end of Shepard Lane in northern Fayetteville between Frontage Road and Stearn Street. The site is largely undeveloped with the existing Lindsey Communications residential-office building and a gravel drive located in the western portion of the site. The some stands of mature trees trending north-south through some of the eastern portions of the site. As depicted in *Table 1*, the site is surrounded by a mix of commercial and residential uses.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Large-lot residential	C-1, Neighborhood Commercial
South	Undeveloped commercial lots	C-2, Thoroughfare Commercial
East	Stearn Street Apartments	R-O, Residential Office
West	Mixed-use commercial	C-2, Thoroughfare Commercial

Water and Sewer: Water and sewer lines are available to the site.

Adjacent Master Street Plan Streets: Frontage Drive (a Collector Street)

Proposal: The applicant requests a rezoning and preliminary plat approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for a mixed use development consisting of four buildings. Each of the proposed buildings will contain 6,733 square feet of retail space, twelve 2-bedroom units, and seven 1-bedroom units. The proposed uses and parking are detailed in *Table 2*.

Table 2
Proposed Vantage Center Residential Planned Zoning District

Land Use	Square Feet	No. of Units	No. of Bedrooms	Parking Required
Proposal Per Building				
Commercial Retail	6,733	NA	NA	27
Multi-Family Residential 2-Bedroom	NA	12	24	24
Multi-Family Residential 1-Bedroom	NA	7	7	7
Total	6,733	19	31	58
Proposal for Entire Development (Four Buildings)				
Total	26,932	76	124	232*

* The development proposes 187 parking spaces, which is within the +/-30% allowed by ordinance.

The development is proposed to have two means of access with Shepard Lane extending east-west through the development in a "Main Street" streetscape, linking Frontage Road to the west with Steam Street to the east. Shepard Lane would incorporate parallel parking and widened sidewalks, with the majority of parking located to the rear of the four structures. Additionally, two greenspace areas in the center of the development would be utilized for as park/gathering areas and stormwater detention. The development is intended to create a true mixed-use development consisting where residential and commercial uses can co-exist using the same building, parking areas, and surrounding amenities. The existing residential community to the east of the site as well as the proposed residential uses on the site will help support the commercial businesses planned in this development. The development is proposed to be under single ownership, with dwelling units rented and retail space leased. All interior streets, landscaping, common areas and buildings would be maintained by the developer. Zoning criteria for the proposed zoning district is depicted in *Table 3*.

Street Improvements Proposed: Improvements to Frontage Drive along the project frontage of 14' from centerline including pavement, curb and gutter, and six-foot sidewalks.

Tree Preservation:

Existing Canopy: 21%
Preserved Canopy: 5%
Mitigation Required: 88 onsite trees

Table 3
Vantage Center Zoning Criteria

Use Units Allowed	
Use Unit No.	**Permitted Uses**
1	City-wide uses by right
2	City-wide uses by conditional use permit
3	Public protection and utility facilities
4	Cultural and recreational facilities
5	Government facilities
12	Offices, studios and related services
13	Eating places
15	Neighborhood shopping goods
25	Professional offices
26	Multi-family dwellings
Use Unit No.	**Conditional Uses**
16	Shopping Goods
17	Trades and services
Setback Regulations	
Front (Along Frontage)	25'
Front (Along Shepard)	0'
Sides	8'
Rear	25'
Building Area	
Maximum ~~16% or 32,022 sq. ft.~~ *20%*	
Height Regulations	
Maximum 42'	

Recommendation: Staff recommends forwarding **R-PZD 05-1543** with a recommendation of approval to the full Planning Commission with the following conditions:

Conditions of Approval:

1. Planning Commission determination of commercial design standards. *Staff finds that the building elevations meet the City's commercial design standards by minimizing or avoiding: unarticulated wall surfaces, square "boxlike" structures, metal siding that dominates the main facades, and large out of scale signs. Additionally, the development provides a unifying and identifiable theme and is compatible with adjacent development.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION

2. Planning Commission determination of a waiver request for the requirement of 40' from an intersection to a curb cut, for the westernmost curb cut along Shepard Lane that is approximately 35' from Frontage Road. *Staff is in support of the request for the proposed curb cut along Shepard Lane as the entrance fulfills the intent of providing an enhanced "Main Street" streetscape, along with providing needed parking in the "rear" to meet ordinance requirements.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION

3. All zoning criteria such as setbacks, protective easements, and designated lot uses (depicted in *Table 3* and elsewhere described in this report) are binding with the approval of the R-PZD. Submitted covenants and building elevations are likewise binding to the project.

4. Submit a lighting plan in conformance with the City's lighting ordinance.

5. Street improvements to Frontage Road shall include 14 feet from centerline including curb, gutter, pavement and 6-foot sidewalks through the driveway entrance. The sidewalks on Frontage Road shall connect with existing sidewalk to the north and south of the driveway. Six-foot sidewalks shall be constructed through the project to connect Stearn Street with Frontage Road.

6. No fences shall be allowed within utility easements.

7. All monument signage must comply with the sign ordinance.

8. Include the 14 notes that coordinate with the Tree Protection Fencing detail. These can be found in the Landscape Manual and should be located on the Tree Preservation sheet.

9. Mitigation will be required to replace 15,863 square feet of canopy. Using the mid-level density factor, <u>55 2-inch caliper trees or $13,750</u> will be required. If not all trees can be located on-site then a combination of plantings and money in lieu may be approved by the Urban Forester.

10. Before approval of building permit a tree and maintenance plan must be submitted for approval to the Urban Forester.

11. All trash enclosures shall be screened from view with materials that are compatible with and complementary to the proposed buildings.

12. All utilities shall be screened with materials complementary to the proposed buildings.
13. Please modify all sheets of the drawings for consistency regarding the number of parking spaces: the cover sheet says 187 spaces, the landscape plan says 289 spaces, and the tree preservation plan says 173 spaces.

14. Dimension the size and location of proposed sidewalks on the site plan and landscape

plan.

15. Add a note to the plat that all utilities shall be installed underground and that any existing utilities over 12 kV shall be relocated underground.

16. All trash enclosures shall be screened from view with materials that are compatible with and complementary to the proposed buildings.

Standard Conditions of Approval:

17. 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).

18. 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 the City's current requirements.

19. Payment of parks fees in the amount of $29,868 shall be required prior to building permit. Prior to R-PZD approval, this amount shall be considered and approved by the Parks and Recreation Advisory Board and City Council to meet ordinance requirements for over 100 residential units.

Additional Conditions:

a. ____

Planning Commission Action: Required YES

Recommendation to be: X Approved ___ Denied

Meeting Date: **September 12, 2005** Clark; Myres 2nd 7-0-0

Comments:

____

____

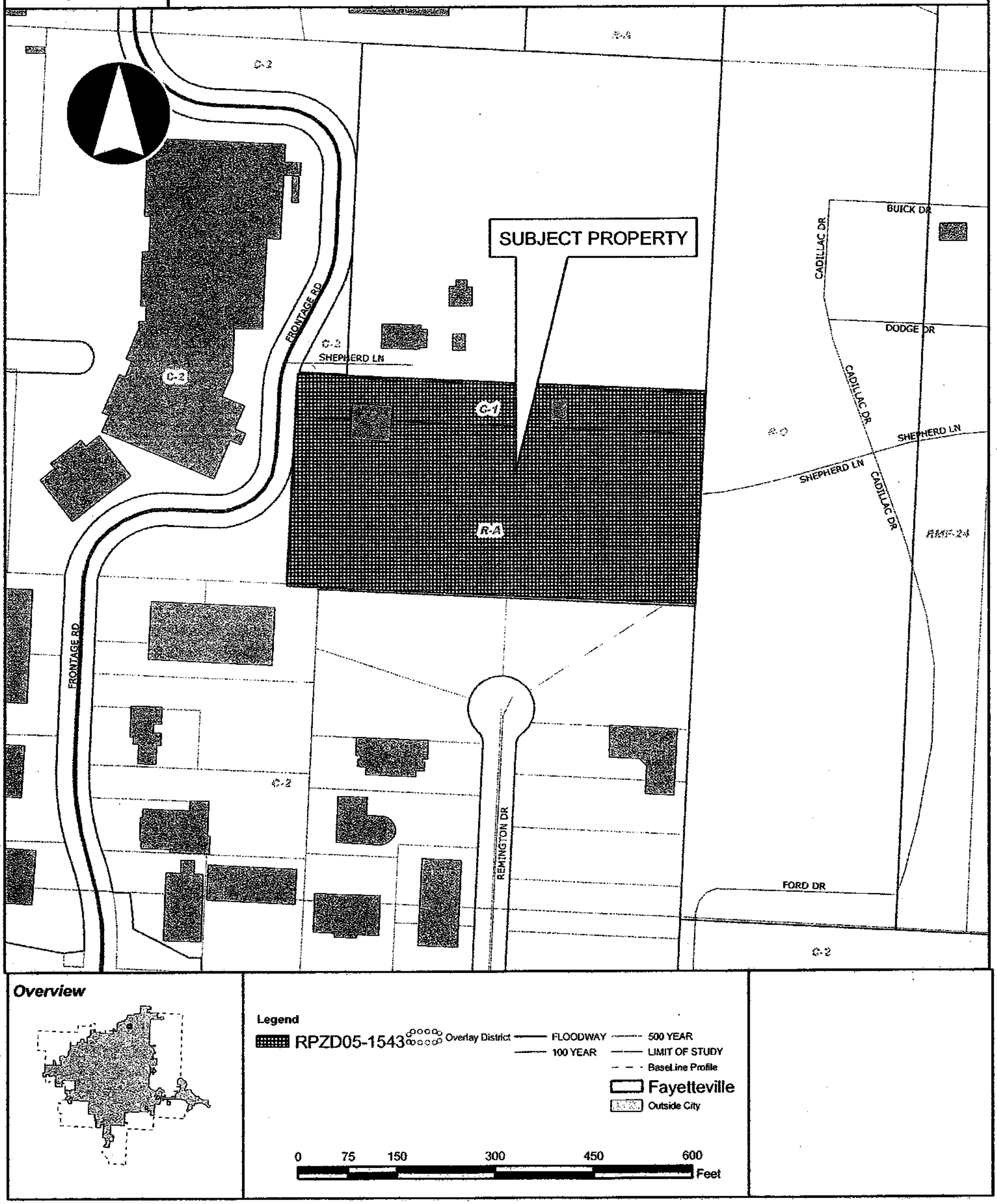
The **"Conditions of Approval"** listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

______________________ ______________________
Signature Date

RPZD05-1543

Close Up View

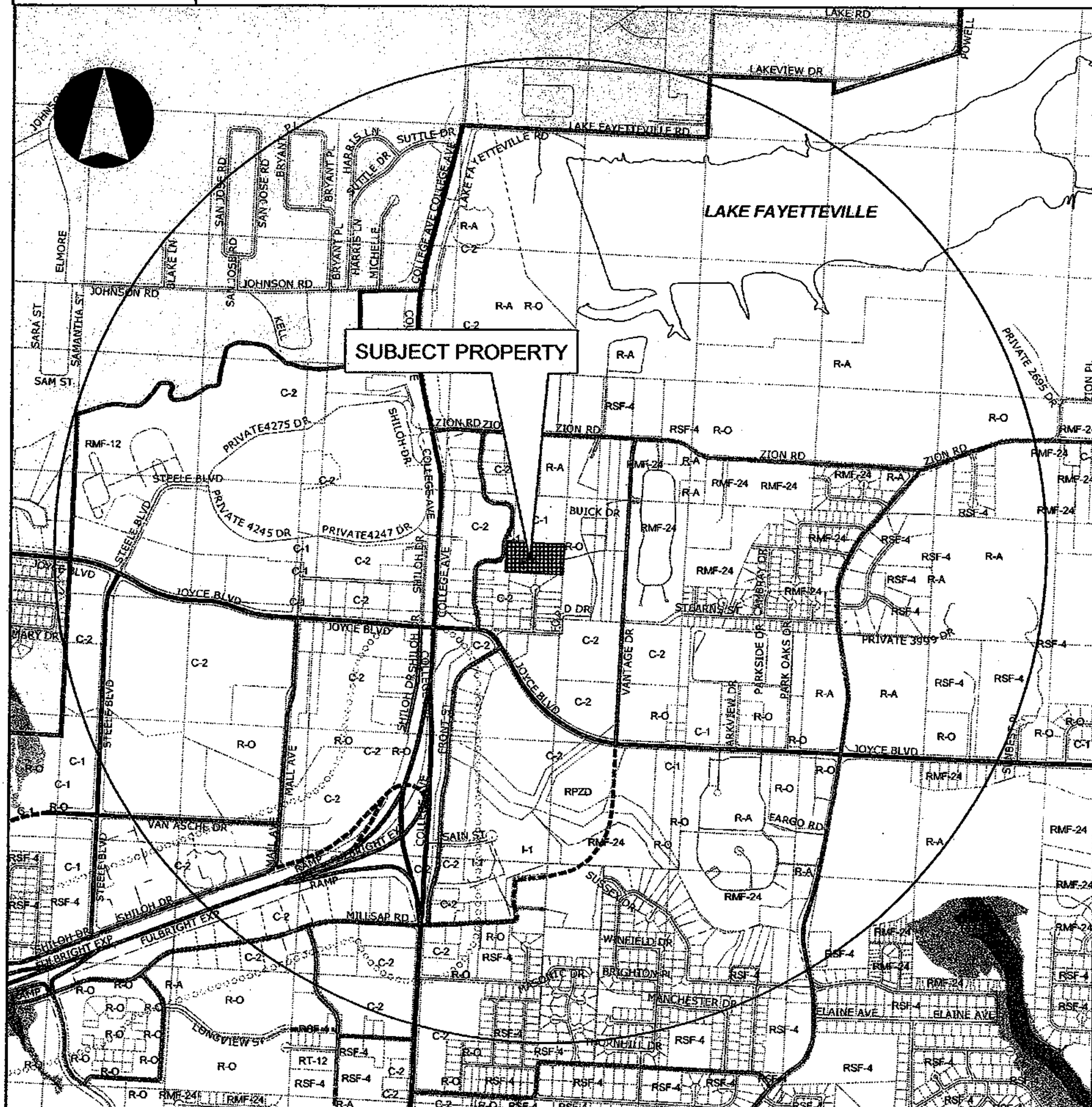
VANTAGE CENTER



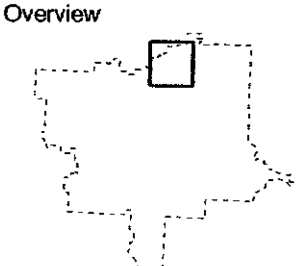
RPZD05-1543

One Mile View

VANTAGE CENTER



Overview



Legend

Subject Property

RPZD05-1543

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

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

20-Nov-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

ADM 07-2808: Zion Gardens (Lakewood) PZD Amendment: Submitted by Zion Place, LLC for property located northwest of the intersection of Randal Place and Zion Road. The request is to approve an ordinance amending the approved R-PZD 05-1599, Zion Gardens PZD (Lakewood) and associated Final Plat 06-2261 to reflect revised conditions of approval to eliminate the requirement for pier and above-grade beam foundation system on lots 66-76.

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a $ -	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] Budget Adjustment Attached [ ]

Department Director	Date: 11-02-07
City Attorney	Date: 11-2-07
Finance and Internal Service Director	Date: 11-5-07
Mayor	Date: 11/6/07

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 11/2/07

Received in Mayor's Office
ENTERED 11/2/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy Pate, Director of Current Planning JP

Date: November 1, 2007

Subject: Administrative item modifying the Master Development Plan of the Zion Gardens Residential Planned Zoning District (ADM 07-2808) (Lakewood)

RECOMMENDATION

The City Urban Forester recommends approval of an ordinance amending the Zion Gardens Planned Zoning District, which was platted with the name "Lakewood Subdivision" to modify the condition of approval requiring homes on lots 66-76 to have a pier and above-grade foundation system.

BACKGROUND

The subject property consists of approximately 13.55 acres located immediately northwest of the intersection of Randal Place and Zion Road. The Fayetteville City Council approved R-PZD 05-1599 (Zion Gardens) on September 20, 2005 for a residential development with 95 attached and detached townhomes. The property was subdivided into 97 lots as approved with Final Plat 06-2261 on January 17, 2007, and has been developed for several detached townhomes.

The applicant requests a modification to the condition of approval included with the PZD and Final Plat requiring homes on lots 66-76 to have a pier and above-grade foundation system to save additional tree canopy. During the initial review of the PZD proposal, the developer proposed removal of the trees along Zion Road. Staff recommended changes to the development proposal that allowed the preservation of these trees without the loss of residential units. At this time, homes are being constructed within the development, and more detailed information has been provided to staff, including the size of the homes to be constructed on these particular lots. The original condition of approval required homes on lots 66-76 to utilize a pier and beam type foundation instead of a more typical slab foundation, in an effort to reduce the impact to tree canopy. The City Urban Forester inspected the property and has determined that the pier and above-grade foundation system required in condition of approval number eight of R-PZD 05-1599 and condition of approval number three in FPL 06-2261 is not necessary with the construction of a smaller building footprint on these lots and with additional conditions of approval for tree preservation. A memorandum from the City Urban Forester is attached, and the recommended conditions of approval are reflected in the ordinance, herein.

DISCUSSION

This item was not heard by the Planning Commission.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING A RESIDENTIAL PLANNED ZONING DISTRICT ENTITLED R-PZD 05-1599, ZION GARDENS, LOCATED IMMEDIATELY NORTHWEST OF THE INTERSECTION OF RANDAL PLACE AND ZION ROAD, CONTAINING APPROXIMATELY 13.55 ACRES, TO REFLECT REVISED CONDITIONS OF APPROVAL TO ELIMINATE THE REQUIREMENTS FOR PIER AND ABOVE-GRADE FOUNDATION SYSTEM ON LOTS 66-76, AS DESCRIBED HEREIN.

WHEREAS, the City Council by approval of the associated Planned Zoning District required all homes located on lots 66-76 to be constructed with pier and above-grade foundation system to save additional tree canopy and create fewer disturbances; and

WHEREAS, upon inspection by the City Urban Forester it has been determined that the pier and above-grade foundation system required in condition of approval number eight of R-PZD 05-1599 and condition of approval number three in FPL 06-261 is not necessary with the construction of a smaller building footprint on lots 66-76;

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

Section 1. That condition of approval number eight (8) as approved for R-PZD 05-1599 (Zion Gardens) and approved as condition of approval number three (3) for the Zion Gardens/Lakewood Final Plat (FPL 06-2261), is hereby replaced with the following conditions:

1. The construction of homes on lots 66-76 shall be consistent with the building footprints as depicted on Exhibits "A" and "B".
2. The area for tree preservation on lots 66-76 shall include the narrow canopied slope between the front porches and the meandering sidewalk.
3. Tree preservation fencing shall be installed along the limits of disturbance/dripline of the canopy along the southern portion of lots 66-76 and inspected and approved by the Urban Forester prior to construction of any homes on those lots.
4. Tree preservation fencing may be removed or relocated only with specific approval from the Urban Forester.
5. Connectivity from the front porches of lots 66-76 to the sidewalk shall be staked and approved by the Urban Forester prior to construction.

6. If trees or ground cover are removed in this area, replacement will be required. During the construction of homes on lots 66-76, any damaged or removed canopy shall be mitigated for as specified in Chapter 176 of the Unified Development Code.

Section 2. That the Final Plat for said subdivision shall be amended by way of documents to be recorded at the Washington County Courthouse and permanently filed with the Final Plat.

Section 3. That the Planned Zoning District ordinance is hereby amended to reflect the change provided in Section 1 above.

PASSED AND APPROVED this _______ day of ___________, 2007.

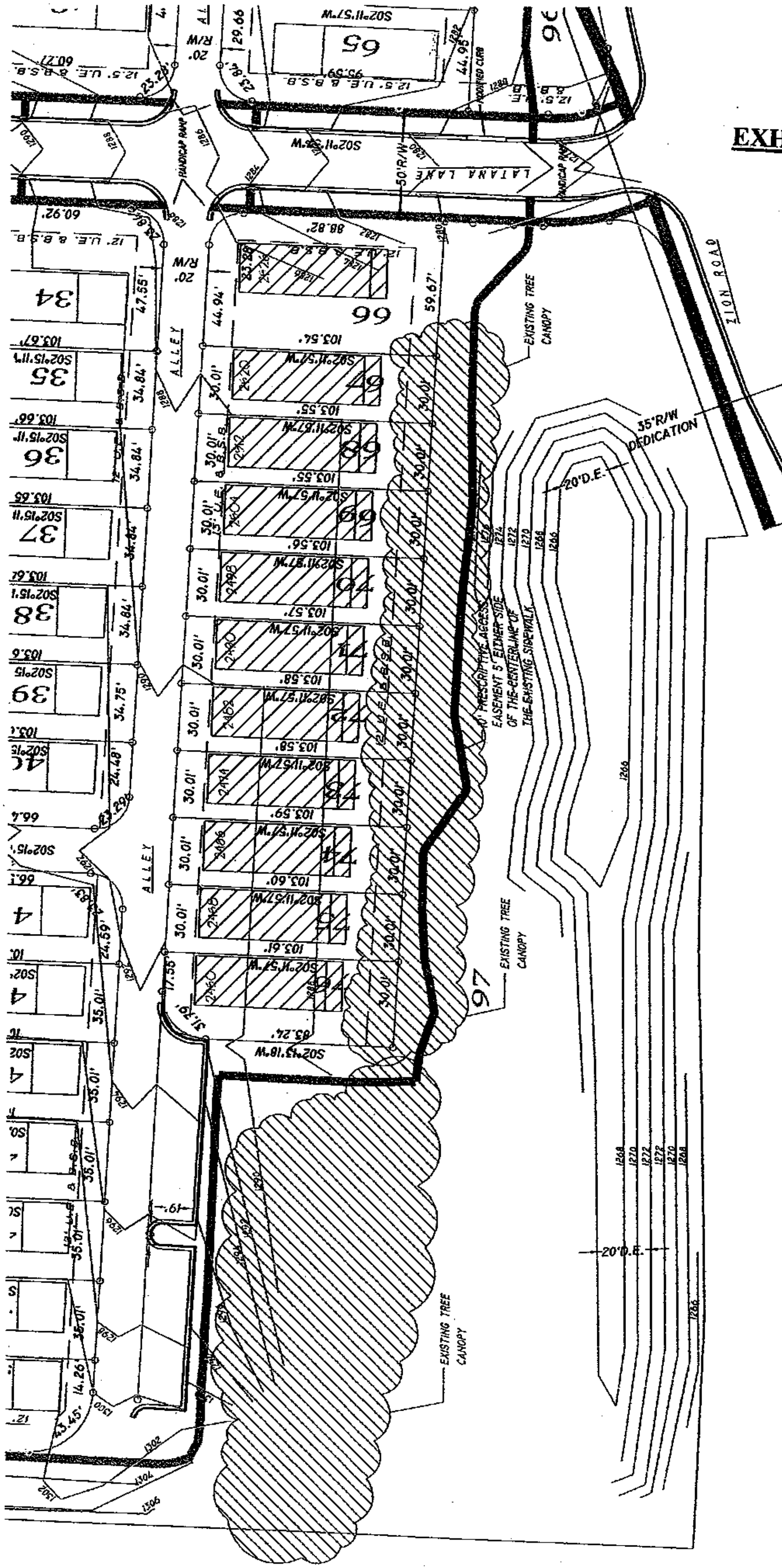
APPROVED:

By: ____________________________
DAN COODY, Mayor

ATTEST:

By: ____________________________
SONDRA SMITH, City Clerk/Treasurer

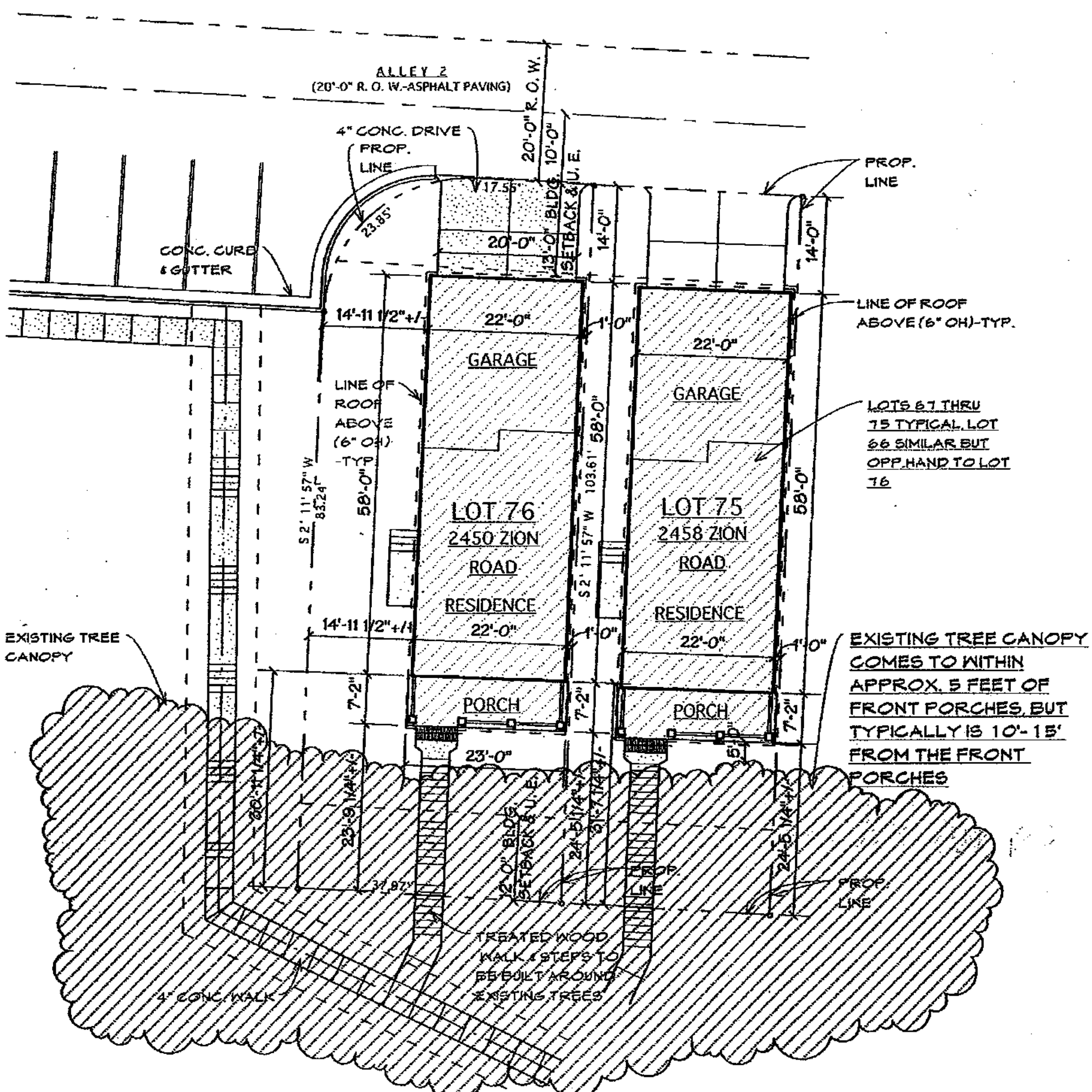
EXHIBIT "A"



LAKEWOOD SUBDIVISION - LOTS 66 THRU 76
TREE CANOPY

EXHIBIT "B"

Typical Lay-out



LAKEWOOD SUBDIVISION
ZION ROAD ADDRESSES
SITE PLAN LOTS #76 & #75 (LOTS 67-75 TYP.)

SCALE: 1" = 20'

8-3 (L)

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PARKS AND RECREATION DIVISION

Date: October 26, 2007

To: Mayor Coody and City Council

From: Sarah K. Patterson, Urban Forester

Subject: Amendment to Zion Gardens/Lakewood PZD

The request to modify the final plat and PZD booklet for the Lakewood Subdivision is supported by staff. When this project was originally approved in 2005, it was a condition of approval that lots 66-76 would be required to use a pier and beam foundation system in order to save more tree canopy and create fewer disturbances. The request also includes a modification to allow a smaller floor plan for these particular lots to ensure complete preservation. Since the recordation of final plat, I have met on-site with the owners/developers to look at these specific lots. The completion of the infrastructure and staking of the lots revealed that a very minimal amount of canopy existed. The majority of the canopy/ground cover was small cedars, shrub honeysuckle, and tall grasses. As the slope gets greater between the southern property line and constructed sidewalk, the tree canopy composition turned to insignificant black cherry, elm, and ground covering ivy. It was decided at this time that the cedars and smaller shrubs, not constituting a tree by ordinance, would be removed so as to better evaluate the actual tree canopy and dripline.

October 1, 2007 I met on-site for a second time after the selective removal had been completed. At this time it was determined that the construction of the homes and attached porches could be constructed without affecting the remaining trees. To the advantage of this project, the amount of growth removed had been competing with the existing trees. With this type of competition, the natural growth of the trees is asymmetrical with the majority of the lateral branches reaching to the south rather than north. Staff is confident that once the two story footprint begins to be framed little to no roots or branches will be affected.

Conditions of approval for the modification include;

1. The area preserved will include the narrow canopied slope between the front porches and the meandering sidewalk. Tree protection fencing must be installed along the limits of disturbance/dripline of the canopy along the southern portion of lots 66-76. The fencing must be installed to the specification found in the Landscape Manual and approved by the City of Fayetteville's Urban Forester before any disturbance occurs on these lots. Tree protection fencing can only be removed or relocated with

specific approval from the Urban Forester.

2. Connectivity from the front porches of lots 66-76 to the sidewalk will need to be staked and approved by the Urban Forester. The integrity of the slope and trees should be taken into consideration when this route is planned. If trees or ground cover is removed in this area, replacement will be required.
3. During the construction of the homes on lots 66-76, any damaged or removed canopy shall be mitigated for as specified in Chapter 167 of the Unified Development Code.

Zion Place, LLC
P.O. Box 4034
Fayetteville, AR 72702-4034

October 17, 2007

Jeremy Pate
Planning Division
City of Fayetteville
113 W Mountain Street
Fayetteville, AR 72701

RE: LAKEWOOD SUBDIVISION

Jeremy,

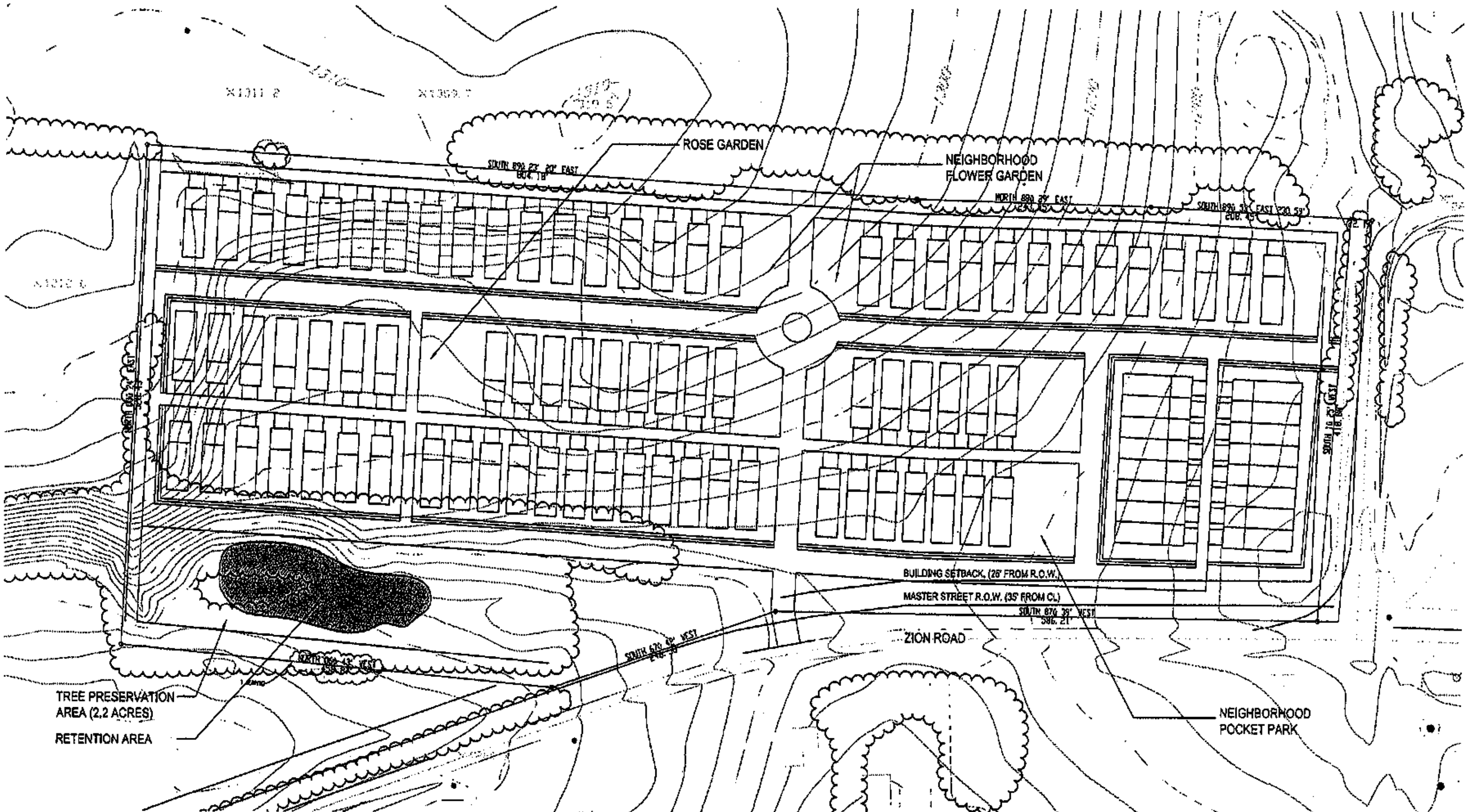
As you may recall, when we (the members of Zion Place, LLC) submitted the Preliminary Plat for the Lakewood Subdivision, known as Zion Gardens at the time, we along with Sarah Patterson were concerned about protecting a group of mature trees located adjacent to Lot 66 through 76. One of the conditions of approval, as noted on the Final Plat as Note #21, basically states that if the homes were to encroach into these trees that the builder would use a pier and beam foundation to limit root damage. At the time of Preliminary Plat we had not completed the construction drawings for the homes in Lakewood. We have now developed a plan specifically for those lots that has a much shorter foundation footprint that would allow us to use a slab on grade foundation without really coming close to those trees root systems. Sarah has met with us on site to confirm what we are talking about as evidenced by one of the lots being staked out for this new foundation footprint.

Essentially what we are asking for is to amend the PZD Ordinance so that as long as we are constructing this plan with the smaller footprint that we will not be required to construct the houses with the pier and beam foundation.

If you have any questions or need further clarification, please do not hesitate to contact me.

Sincerely,

Tim Cooper, Member
Zion Place, LLC



OWNER:

CLARK, CARLTON, LAMBERTH
ADDRESS
FAYETTEVILLE, AR ZIP
(479) ###.####

DEVELOPER:

NAME(S)
ADDRESS
CITY, ST ZIP
PHONE

ARCHITECT:

COOPER ARCHITECTS
397 W. POPLAR ST.
FAYETTEVILLE, AR 72703
(479) 575.0071

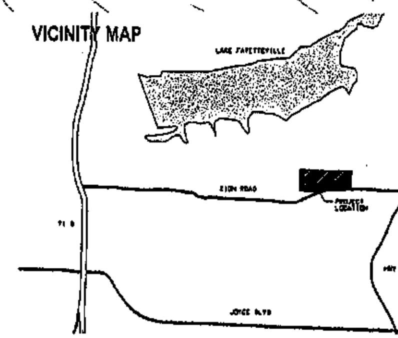
ZION PLACE

CURRENT ZONING:	R-O	PROPOSED GREEN SPACE:	3 ACRES +/-
TOTAL ACRES:	13.2 +/-	PROPOSED BUILT SPACE:	10 ACRES +/-
PROPOSED UNITS:	78 SF UNITS 16 MF UNITS 94 TOTAL UNITS	PARKING SPACES REQ:	197 @ 30% REDUCTION 188 PROVIDED IN GARAGES BALANCE PROVIDED IN ON-STREET PARKING
PROPOSED UNITS PER ACRE:	7.2		
PROPOSED SQ. FT. PER UNIT:	2,000 MAX	TREE CANOPY:	2.2 ACRES +/- (17%)
TOTAL BUILT SQ. FT.:	188,000		

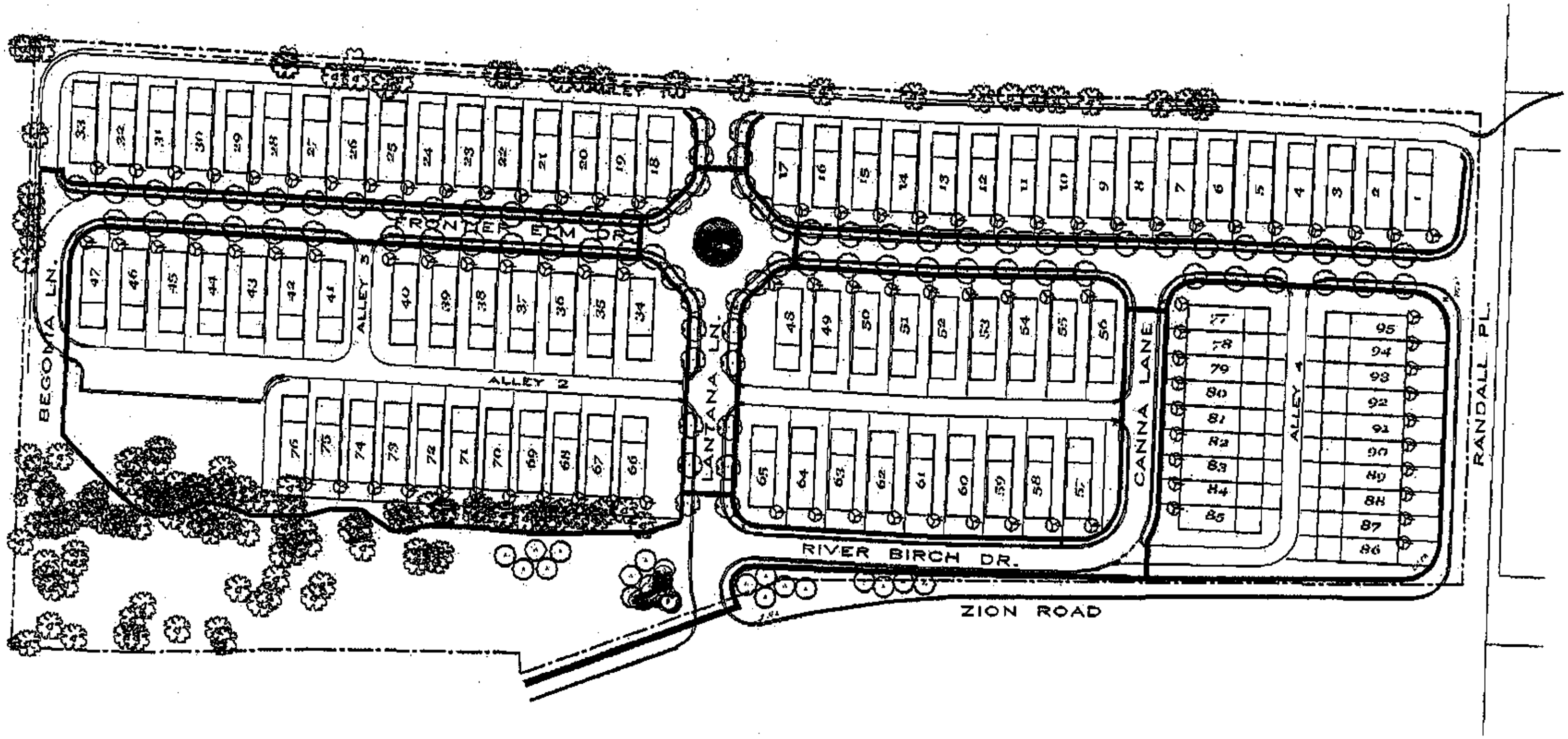
50' 100' 250' 500'

N

VICINITY MAP



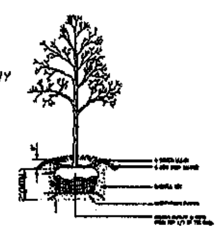
Cooper Architects



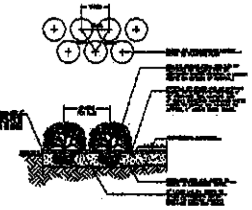
ZONING & PROPOSED USED: RSF-4, 253 SINGLE FAMILY DWELLINGS.

OWNER/DEVELOPER:

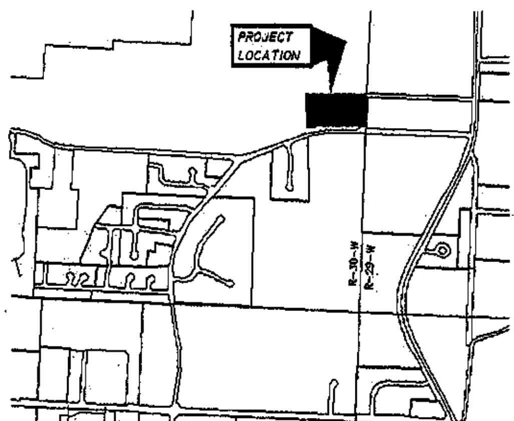
ENGINEER: H2 ENGINEERING, INC.
2758 MILLENNIUM DRIVE
SUITE #
FAYETTEVILLE, AR 72703
(479) 582-4234



TREE PLANTING



SHRUB PLANTING



SURVEY DESCRIPTION

A part of the NE1/4 of the SE1/4 of Section 24, Township 17 North, Range 30 West, being more particularly described as follows:
Beginning at the Northwest corner of the NE1/4 of the SE1/4 of said Section 24 and running thence S86°44'28"E 604.17 feet; thence S88°52'07"E 243.36 feet; thence S87°14'08"E 230.59 feet to a point on the centerline of Randall Place, said point being N87°14'08"W 22.14 feet from the Northeast corner of the NE1/4 of the SE1/4 of said Section 24; thence S2°09'04"W 416.17 feet along said centerline to a point where said centerline intersects the North right-of-way line, extended, of Zion Road; thence leaving said centerline and running Southwesterly along said North right-of-way line the following: N89°42'09"W 600.2 feet, S70°20'58"W 246.5 feet to a fence corner; thence leaving said right-of-way and running Northwesterly along a fence line the following: N4°01'52"W 18.0 feet, N89°06'06"W 184.03 feet, S88°38'09"W 69.82 feet, S89°01'W 91.67 feet, N67°26'18"W 102.66 feet to a fence corner located on the West line of said 40 acre tract; thence leaving said fence line and running N2°11'57"E 537.49 feet to the point of beginning, containing 13.9 acres, more or less, City of Fayetteville, Washington County, Arkansas.
Subject to the Randall Place right-of-way along the East line and any other easements and/or right-of-ways of record.

Basis for Bearings: City of Fayetteville State Plane Coordinates.

FLOOD CERTIFICATION: The herein described tract is in a non-flooded area and not within the 100 year flood plain. Per FIRM Map No. 05143C 0101E, dated 7/21/99.

PLANT SCHEDULE

SCALE - 1" = 80-0"

CERTIFICATE OF AUTHORIZATION
H2 ENGINEERING INCORPORATED
No. 1105
ARKANSAS ENGINEER

Zion Gardens Landscape Plan

PAGE		PAGES
-	of	-

Checked by: WCJ
Drawn by: MLW

Date: 28 JULY 05
PLAT PAGE: 98
H2 PROJECT NUMBER: 05-030
Revisions:

ALL AROUND LANDSCAPING, INC.

H2 ENGINEERING, INC.
2758 MILLENNIUM DRIVE
Suite 1
FAYETTEVILLE, ARKANSAS 72703
PHONE: (479) 582-4234
FAX: (479) 582 9254

Fayetteville ARKANSAS

PC Meeting of August 22, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission
FROM: Andrew Garner, Senior Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: July 28, 2005

R-PZD 05-1599: RESIDENTIAL PLANNED ZONING DISTRICT (ZION GARDENS, 137): Submitted by H2 ENGINEERING, INC. for property located at NW OF THE INTERSECTION OF RANDAL PLACE AND ZION ROAD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 13.9 acres. The request is to approve the preliminary plat of a Residential Planned Zoning District with 95 townhomes, attached and detached, on the subject property.

Property Owner: MORRISS & ANN HENRY
Submitted on behalf of: ZION PLACE, LLC
Planner: ANDREW GARNER

Findings:

Property Description: The property consists of a total of 13.9 acres located west of Crossover Road and immediately northwest of the intersection of Randal Place and Zion Road. The property is mainly large open pasture with some mature trees in the southwestern corner of the property and along the property lines. The property is zoned R-O (Residential-Office) and is located adjacent to undeveloped open pasture with some scattered rural single family residences. R-O currently allows for office, studio, single family and duplex housing up to 24 units per acre.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Pasture; single family residence	Residential-Agriculture (R-A)
South	Single family residences; open pasture	Residential Single Family Residences (RSF-4); Residential-Agriculture (R-A)
East	Undeveloped disturbed lot; Fayetteville Athletic Club	Residential Multi-Family 24 Units/Acre (RMF-24); Residential-Office (R-O); Neighborhood Commercial (C-1)
West	Open pasture	Residential-Agriculture (R-A)

Proposal: The applicant requests a rezoning and preliminary plat approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for a single family development with 95 attached and detached townhomes. The project is designed to encourage a "neighborhood feel" by fronting the units to the streets, providing adequate sidewalks, tree-lined streets to be maintained by the property owner's association, and trees on the front and rear of alternating lots. The applicant has submitted a draft Bill of Assurance/Restrictive Covenants with specific restrictions intended to promote a traditional neighborhood including architectural, landscaping, building, and development requirements for each unit.

The applicant proposes 97 lots as follows: 76 lots (lots 1-76) to be detached single-family homes, 18 lots (lots 77-95) in the southeastern portion of the site are to be either detached or attached townhomes, and lots 96-97 will remain undeveloped for easement, open space, and tree preservation. The lots will front on the streets and have access from the rear off 16-foot public alleys (with the exception of lots 66-76 that will front the tree preservation area in the southwest corner of the site). The total density proposed is 7.5 units per acre.

To further clarify "townhome," it is a: a row house on a small lot, which has exterior limits common to other similar units. Title to the unit and its lot is vested in the individual owner with a fractional interest in common areas, if any. A **townhouse** is a home that is attached to one or more other houses, but which sits directly on a parcel of land that you also own; it is considered a single-family dwelling.
(Source: mortgagewarehousemb.com)

The following bulk and area regulations are proposed by the applicant:

ZONING CRITERIA: R-PZD 05-1599 Zion Gardens

(A) *Proposed Uses.*

LOTS	USE UNIT	ALLOWABLE USES
Lots 1-95	Unit 1	City-wide uses by right
Lots 1-95	Unit 2	City-wide uses by conditional use
Lots 1-95	Unit 8	Single-family dwelling
Lots 1-95	Unit 24	Home Occupations
Lots 77-95	Unit 26	Multi-Family Dwellings
Lots 96-97	No use unit allowed	Tree Preservation, Utilities, and Landscaped Area

All other uses allowed within the R-PZD zoning district shall not be permitted.

(B) *Density.*

Units for entire Subdivision	Number of Acres	Units Per Acre
95	13.55	7.01

Note: The property is currently zoned Residential-Office (R-O) which allows up to 24 units/acre.

(C) *Bulk and area regulations.*

	Single-family dwellings	Multi-family dwellings	Other uses (Lot 96)	Other uses (Lot 97)
Lot minimum width	20 feet minimum per dwelling/lot	20 feet minimum per dwelling/lot	200 feet minimum	585 feet minimum
Lot area minimum	3,000 SF minimum per dwelling/lot	2,200 SF minimum per dwelling/lot	1,650 SF minimum	2.2 acres
Land area per dwelling unit	Varies. Only one dwelling unit per lot permitted.	Varies. Only one dwelling unit per lot permitted.	1,650 SF minimum (or one lot)	2.2 acres

(D) *Setback requirements.*
Building setbacks vary.
Front Building Setback: 12'
Rear Building Setback: 0'
Side Building Setback: 0'. *All detached or attached townhomes permitted on these lots shall have a separation that meets building code requirements.*

(E) *Height.* Maximum 56.5' height to allow for three-story structures.

(F) *Building area.* Single-Family Attached: 75% maximum built area.
Single-Family Detached: 65 % maximum built area.

Water & Sewer: Water and sewer lines are being extended to serve the development.

Access: Access is provided from Zion Road and Randal Place.
North: Stub-out to vacant property
South: From Zion Road, a Collector
East: Randal Place, a Local Street
West: Stub-out to vacant property

Interior to the project, public streets and alleys are being provided. Most are 40' rights-of-way with 24' wide streets, with one 35' right-of-way (River Birch Drive) and one 50-foot right-of-way (Lantana Lane) with a 28' wide street. Alleys are within a 20' right-of-way and are 16' in width. Sidewalks are located on both sides of each public street.

Adjacent Master Street Plan Streets: Zion Road (Collector); Randal Place (Local Street)

Street Improvements: As requested by the City, a traffic study was prepared by the applicant to address potential traffic safety and congestion as a result of the proposed project. The traffic study concluded that if Zion Road and Randal Place are improved to Master Street Plan standards, all study area intersections and roadway segments are calculated to operate at Level of Service (LOS) "D" or better.[1] The traffic study also concluded that sight distance along Zion

[1] LOS refers to the operating characteristics of road segments and intersections, with ratings starting at LOS A for a free flow traffic condition, and LOS F for a gridlock traffic condition. It is general industry standard that LOS D and higher are acceptable, however, the City of Fayetteville does not have a formalized significance threshold.

Road is acceptable. The traffic study did not address the sight distance along Randal Place.

Based on independent review of the traffic study and site visits by Staff, the following street improvements are recommended:

- Improvements to Zion Road along the project frontage to Master Street Plan standards with 34' of pavement, curb and gutter and storm drainage along the north side of the street, ending at the edge of pavement on the south side of the street , 6' sidewalk at the right-of-way along the project frontage. This creates a collector street width for this frontage, minus the curb and gutter on the south side, which will be installed by adjacent development. Alignment to be approved by City Engineering Staff.
- Improvements to Randal Road along the project frontage to Master Street Plan standards with 14' from centerline, curb and gutter, 6' sidewalk at the right-of-way, and storm drainage.

Tree Preservation:	Existing:	12.3%
	Preserved:	6.49%
	Mitigation:	Required, 137 trees on-site.

Parks: The Parks and Recreation Advisory Board recommended accepting money in lieu of land for 95 Single Family Units on June 6, 2005. The applicant is required to pay $52,725 prior to final plat approval.

Public Comment: Staff has received comments from two adjacent property owners discussing concerns with excessive storm water increase and an increase in traffic from the project.

Recommendation: Staff recommends **R-PZD 05-1599** be forwarded to City Council with a recommendation of approval with the following conditions:

Conditions of Approval:

1. Planning Commission determination of street improvements. Staff recommends the following improvements:

   a. Improvements to Zion Road along the project frontage to Master Street Plan standards with 34' of pavement, curb and gutter and storm drainage along the north side of the street, ending at the edge of pavement on the south side of the street , 6' sidewalk at the right-of-way along the project frontage. Alignment to be approved by City Engineering Staff.
   b. Improvements to Randal Road along the project frontage to Master Street Plan standards with 14' from centerline, curb and gutter, 6' sidewalk at the right-of-way, and storm drainage.

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION.

2. Future subdivision signage will be permitted in accordance with standard residential

subdivision signage.

3. All development shall meet applicable building codes for separation and other ordinances of the City of Fayetteville.

4. Interior streets shall be constructed to City of Fayetteville Master Street Plan standards and specifications, with 24-foot and 28-foot wide streets (as indicated on the plat) and four-foot sidewalks on both sides, located at the right-of-way line. The proposed round-a-bout configuration shall reviewed through the construction plan review process by City Engineering to meet their approval.

5. Planning Commission determination of appropriate street width for Frontier Elm Drive that is currently proposed at 40' right-of-way. *Though a through street, staff finds this width to be adequate to allow for safe traffic movement.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION.

6. Based on current calculations, the developer shall be responsible for on-site mitigation to meet the Tree Preservation ordinance, in the amount of **(137) 2-inch caliper large species trees**. A final planting plan, maintenance and monitoring plan, and associated three-year bonds to mitigate for the removal of excess tree canopy is required prior to Final Plat. A copy of the regulations regarding on-site mitigation planting plans is included for your information.

7. Covenants and notes on the final plat that ensure the continued health and vitality of the mitigation trees shall be reviewed by the Urban Forester prior to Final Plat recordation.

8. The construction of homes on lots 66-76 shall require the ~~pier/beam~~ pier and above-grade beam foundation system as submitted with the PZD proposal, in order to count these trees as preserved. Appropriate trimming of tree limbs shall be coordinated with the Urban Forester. PLANNING COMMISSION REVISED 08/22/05

9. Street tree plantings shall be planted generally as shown on the Landscape Plan along the frontage of Zion Road and Randal Road, either in the right-of-way or within the open space along the street. Maximum spacing is to be 30 feet apart.

10. All Master Street Plan sidewalks (6') along Zion Road and Randal Place, and the 4' meandering sidewalk through the tree preservation area shall be constructed, not guaranteed, prior to signing the final plat.

11. All interior curb cuts shall be from proposed alleys.

12. The project shall comply with the zoning criteria A-F as set out in this staff report.

13. Payment of Park fees in the amount of **$52,725** shall be submitted prior to the application of signatures to the final plat.

14. Planning Commission determination of placement of retaining walls along intended street stub-outs (Lantana Lane and Frontier Elm Drive). The retaining walls shall be curved at the stub-out extension to make the future street right-of-way apparent. Additionally, signs shall be installed on both sides of the retaining walls at each stub-out indicating these two streets are intended to connect to adjacent property in the future (coordinate with Transportation Division).

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION.

15. An assessment ~~in the amount of $3,162~~ shall be paid for the construction of the street stub-outs to the property line prior to signing the final plat subject to Engineering Division approval. This assessment includes construction costs for subbase, base, pavement, curb/gutter, and sidewalks. PLANNING COMMISSION REVISED 08/22/05

16. Off-site drainage improvements to alleviate flooding on the Lea property to the northeast of the site include the following:

    a. The applicant shall install a 4' by 8' box culvert under Randal Place ~~with two (2) 24" underground arched pipes~~. PLANNING COMMISSION REVISED 08/22/05

    b. Staff recommends a cost-share for the incremental cost above the cost of constructing an 8' wide trapezoidal channel with a concrete bottom and grass sides to install two (2) 42" arched pipes in order to avoid having an 8' wide above-ground channel on the Lea's property, to be installed by developer. PLANNING COMMISSION REVISED 08/22/05

17. Confirm with the Fire Department the minimum pavement width and turning radius needed to service Lots 66-76. *The applicant has met with the Fire Department and revised the alleys to a 20' width to accommodate emergency access.*

18. All sidewalk street crossings shall be reviewed and approved by the Sidewalk Administrator at the time of construction plan review.

Standard Conditions of Approval

19. 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).

20. 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.

21. Planned Zoning District approval shall be valid for one calendar year, per city ordinance.

22. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

ADDITIONAL CONDITION RECOMMENDED BY PLANNING COMMISSION 08/22/05

23. If staff and the applicant agree that the proposed River Birch Drive can be removed from the plans, the plat shall be revised prior to City Council. If not, the plat stall stay as shown. If River Birch Drive is eliminated the Planning Commission recommends the following:

    a. Shift lots 57-65 to the south to provide additional on-street parking on the widened Alley 2 north or River Birch Drive; and

    b. Leave the existing connection between Alley 4 and Cantana Lane.

PLANNING COMMISSION ACTION: __yes__ **Required**

Motion: Ostner, Lack 2nd (6-0-0) __X__ **Forwarded** ____ **Denied**
Date: __August 22, 2005__

Comments:

____
____
____

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

______________________ ______________________
By **Date**

ORDINANCE NO. 4766

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1599, ZION GARDENS, LOCATED NORTHWEST OF THE INTERSECTION OF RANDALL PLACE AND ZION ROAD, CONTAINING APPROXIMATELY 13.55 ACRES, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION

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

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

> From R-O, Residential Office, to R-PZD 05-1599 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan and development standards as shown on the preliminary plat and all conditions of approval determined appropriate and approved by the Planning Commission on August 22, 2005.

Section 3: 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 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and **APPROVED** this 20th day of September, 2005.

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

APPROVED:

By: Dan Coody
DAN COODY, Mayor

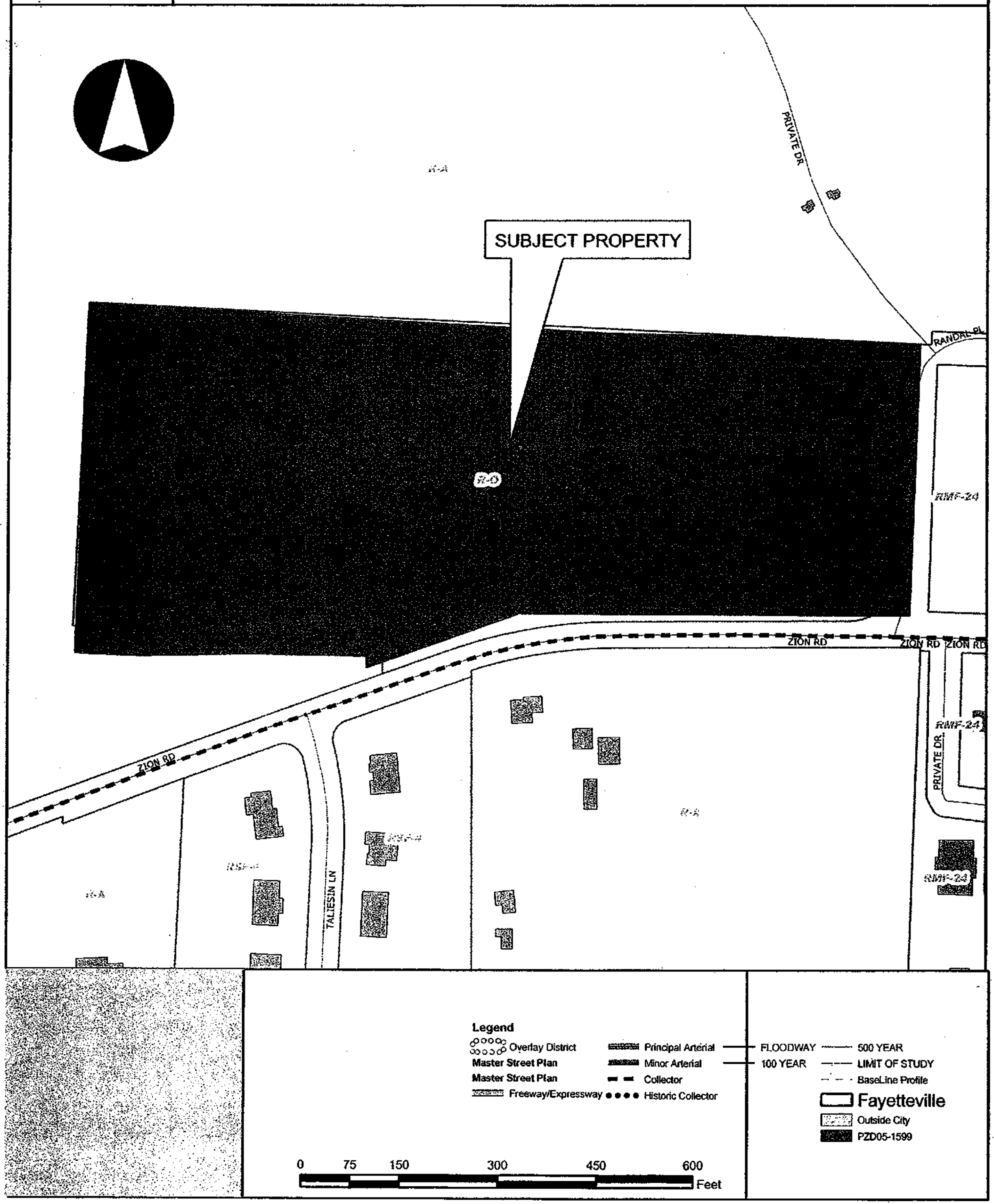
ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

PZD05-1599

Close Up View

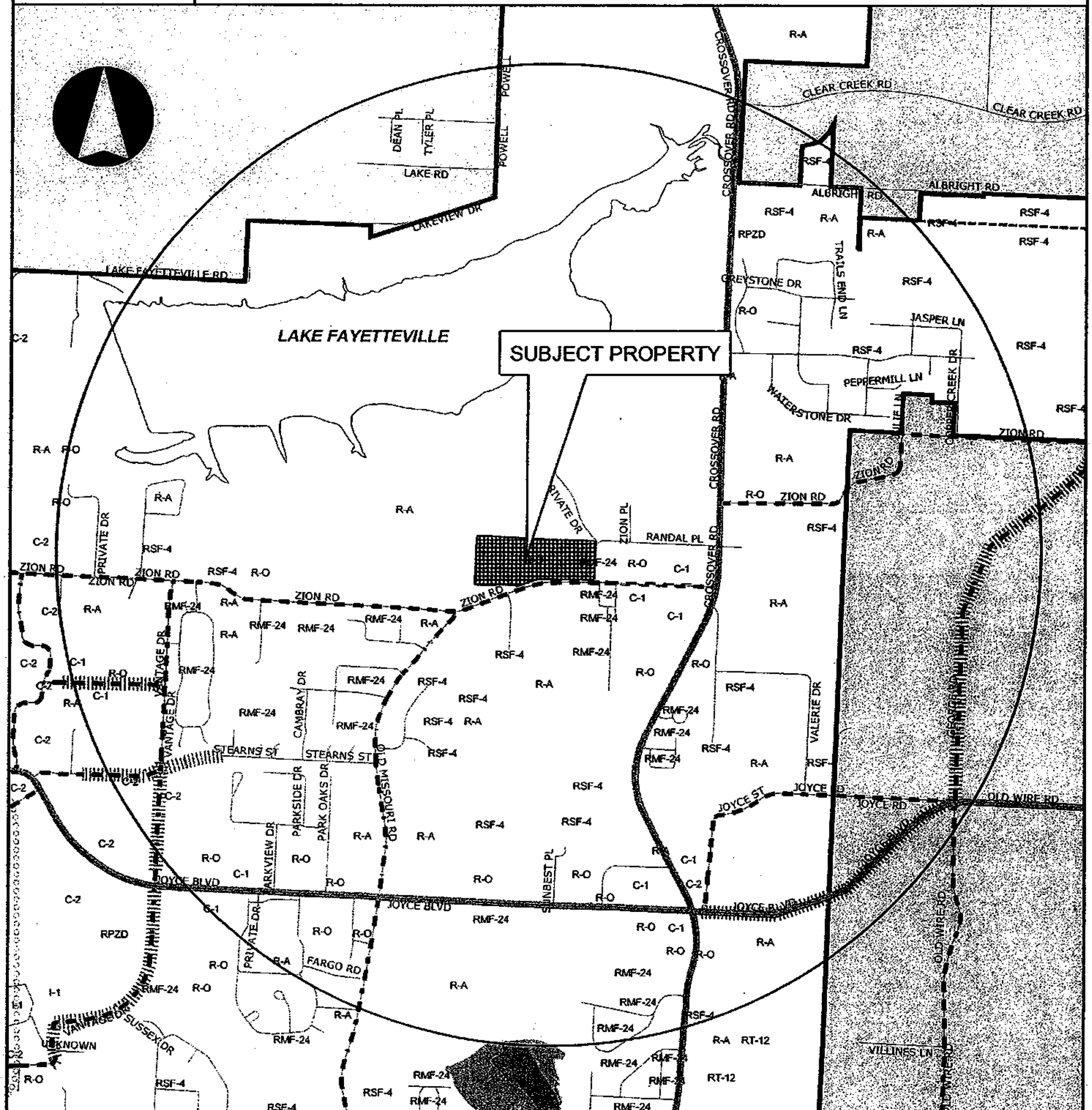
ZION GARDENS

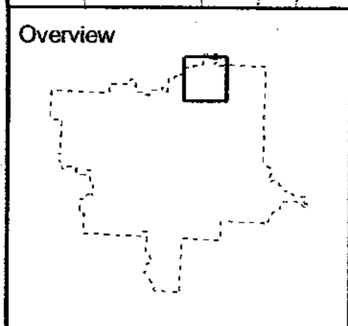


PZD05-1599

One Mile View

ZION GARDENS





Legend

Subject Property

PZD05-1599

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1250.25 0.5 0.75 1 Miles

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

10/30/2007
City Council Meeting Date
Agenda Items Only

Greg Tabor	Police	Police
Submitted By	**Division**	**Department**

Action Required:

City Council adopt the attached False Alarm Reduction Ordinance.

	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — 9-27-07 Date

Previous Ordinance or Resolution # ______

City Attorney — 11/2/07 Date

Original Contract Date: ______

Original Contract Number: ______

Paul A. Becker
Finance and Internal Service Director — 11-5-07 Date

Dan Coody
Mayor — 11/6/07 Date

Received in City Clerk's Office — ENTERED 11/2/07

Received in Mayor's Office — ENTERED 11/2/07

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS POLICE DEPARTMENT

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police

DATE: October 31, 2007

SUBJECT: False Alarm Reduction Ordinance

Recommendation: Council adopts the attached False Alarm Reduction Ordinance.

Background: In 2006, the Fayetteville Police Department responded to 3851 alarm calls. Of those calls, only 28 resulted in a report and/or arrest. The result is a 99% false alarm rate. Alarms require two officers per call. An average of 25 minutes is spent on each alarm call. This results in an estimated cost of $105,611.00.

Discussion: The False Alarm Reduction Association and National Burglar and Fire Alarm Association model ordinance was used when drafting this ordinance. It was also presented to the Ordinance Review Committee, which passed it on to the Council with a recommendation to pass.

Budget Impact: Budget impact will not be known until after a proposal is selected from a third-party administrator. This company would be responsible for registration, alarm tracking, billing, and fee collection. This company would assess its costs from these fees and the remaining balance, if any, would be returned to the city and used to offset the Police Department's cost of responding to these alarms. Estimates from alarm tracking and billing companies indicate they historically only recover 2/3 of the fees assessed. Because of this, the Police Department would not recover its entire costs.

FAYETTEVILLE POLICE DEPARTMENT
100-A WEST ROCK STREET
FAYETTEVILLE, ARKANSAS 72701

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
PHONE: 479.587.3555 FAX: 479.587.3522

ORDINANCE NO. ______

AN ORDINANCE ADOPTING A FALSE ALARM REDUCTION ORDINANCE TO IMPROVE PUBLIC SAFETY BY REDUCING EMERGENCY RESPONSES TO FALSE ALARMS; AND TO ENCOURAGE ALARM USERS TO PROPERLY USE AND MAINTAIN THE OPERATIONAL EFFECTIVENESS OF ALARM SYSTEMS IN ORDER TO REDUCE OR ELIMINATE FALSE ALARMS.

WHEREAS, the Fayetteville Police Department received over 42,360 calls in 2006, of which 3,851 were from alarms; and,

WHEREAS, of these 3,851 calls from alarm systems, 3,823 (or 99.2%) were false alarms; and,

WHEREAS, sending an emergency response to a false alarm decreases the availability of police officers to respond to true emergencies, thereby decreasing public safety; and,

WHEREAS, it has been determined that often these false alarms are the result of the property owner's failure to properly maintain the alarm systems; and,

WHEREAS, this Ordinance contains provisions which strive to reduce false alarms, sets forth a permitting system with controls to facilitate the reduction of false alarms, and requires the disciplined use of alarm systems by Alarm Users.

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 adopts a False Alarm Reduction Ordinance, the full text of which, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Clerk shall place an item on the agenda of the City Council's first regular meeting held in __________________, 2009, to review the False Alarm Reduction Ordinance.

Section 3. Effective Date. In order to allow sufficient time to establish the alarm permit system and issue the necessary permits, this ordinance shall take effect on ____________________, 2008.

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

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

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

EXHIBIT "A" Draft - 10-16-2007

130.23 False Alarm Reduction

(A) Definitions. For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Alarm Administrator means a Person or Persons designated by the Chief of Police to administer, control and review False Alarm reduction efforts and administer the provisions of this Section.

Alarm Dispatch Request means a notification to the Fayetteville Police that an alarm, either manual or automatic, has been activated at a particular Alarm Site.

Alarm Installation Company means a Person who sells, provides, maintains, services, repairs, alters, replaces, moves, and/or installs an Alarm System at an Alarm Site.

Alarm User Permit means a permit issued by the City to the Alarm User to operate an Alarm System, obtained after the Alarm User makes written application to either the Alarm Installation Company, Alarm Monitoring Company, or in the case of a Local Alarm, the Alarm Administrator.

Alarm Site means a single fixed premise or location served by an Alarm System or Systems. Each unit, if served by a separate Arming Station in a multi-unit building or complex, shall be considered a separate Alarm Site.

Alarm System means a device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon a police response, including Local Alarm Systems. Alarm System does not include an alarm installed in a vehicle or on someone's person.

Alarm User Awareness Class means a class conducted for the purpose of educating Alarm Users about the responsible use, operation, and maintenance of Alarm Systems and the problems created by False Alarms.

Alarm User means any Person, who operates an Alarm System.

Arming Station means a device that allows control of an Alarm System.

Automatic Voice Dialer means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio, or other communications system, to the Fayetteville Police requesting dispatch.

Burglar Alarms – means any system or device detecting and reporting any unauthorized entry or attempted entry or property damage upon real property. Alarms on automatic teller machines are included in this definition.

Cancellation means the process where a dispatch is terminated when an Alarm Installation Company or Alarm Monitoring Company for the Alarm Site notifies the Fayetteville Police before their arrival that there is not an existing situation at the Alarm Site requiring response after an Alarm Dispatch Request.

Conversion means the transaction or process by which one Alarm Installation Company or Monitoring Company begins the servicing, monitoring or both of a previously unmonitored Alarm System, or an Alarm System previously serviced or monitored or both by another Alarm Company.

Dispatch means the process in which the Fayetteville Police is instructed to respond to an alarm.

False Alarm means an Alarm Dispatch Request to summon the Fayetteville Police to a non-emergency situation. For enforcement purposes, any Dispatch Request cancelled prior to the arrival of the Fayetteville Police at the Alarm Site will still not be counted as a False Alarm.

Grace Period means a specified length of time from the date of installation or Conversion/Takeover during which no occurrence, fine or penalty is assessed for False Alarms.

Local Alarm System means any Alarm System, which is not monitored, that emits or transmits a local audible, visual or electronic signal indicating an alarm condition only at the Alarm Site.

Monitoring Company means a Person in the business of providing Alarm Monitoring services.

Monitoring means the process by which a Monitoring Company receives signals from an Alarm System and relays an Alarm Dispatch Request to the Fayetteville Police for the purpose of summoning a police response to an Alarm Site.

Purchase means the transaction or process by which an Alarm Company assumes control or possession of an existing alarm account.

Response means the dispatch of Fayetteville Police personnel to the premises where an Alarm System has been activated.

Responsible Individual means an individual who is able and has agreed to:

-receive notification of an Alarm System activation at any time;

-respond to the Alarm Site within 30 minutes at any time; and,

-grant access to the Alarm Site and deactivate the Alarm System upon request.

Robbery alarm (also hold-up alarm or panic alarm) means an alarm signal generated by the manual or automatic activation of a device, or any system, device, or mechanism on or near the premises intended to signal that a robbery or other crime is *in progress*, and that one or more persons are in need of immediate police assistance in order to avoid injury, serious bodily harm or death at the hands of the perpetrator of the robbery or other crime

Takeover means the transaction or process by which an Alarm User takes over control of an existing Alarm System, which was previously controlled by another Alarm User.

Verify means an attempt by the Monitoring Company, or its representatives, to contact the Alarm Site by telephonic or other electronic means, whether or not actual contact with a Person is made, to determine whether an alarm signal is valid before requesting a police dispatch, in an attempt to avoid an unnecessary Alarm Dispatch Request. For purposes of this Section, "verify" requires, that if the initial call to the Alarm Site is unanswered, the Monitoring Company must make a second call to reach a Responsible Individual at a different number than the one listed as the Alarm Site telephone number. This process is known as "ECV," or Enhanced Call Verification.

Zones mean division of devices into which an Alarm System is divided to indicate the general location from which an Alarm System signal is transmitted.

(B) *Administration and funding.*

(1) Responsibility for administration of this Chapter is vested with the Chief of Police

(2) The Chief of Police designates an Alarm Administrator to carry out the duties and functions described in this Chapter.

(3) Monies generated by false alarm service fees pursuant to this Chapter shall be dedicated for use by the Department directly for administration of the alarm program and for recovery of general police services lost to false alarm response.

(4) The Alarm Administrator shall conduct an annual evaluation and analysis of the effectiveness of this Chapter and identify and implements system improvements, as warranted.

(C) *Permit required; Application; Transferability; False Statements.*

(1) No Alarm User shall operate, or cause to be operated, an Alarm System at its Alarm Site without a valid Alarm Permit. A separate Alarm Permit is required for each Alarm Site.

(2) Existing Alarm System. Any alarm system which has been installed before the effective date of this chapter shall be registered by the Alarm User within 120 (One Hundred Twenty) days of such effective date.

(3) Alarm Systems. Any Alarm System that is installed on a protected premises located within the City of Fayetteville, the Alarm User shall have ten (10) days from the date of the installation to notify the Alarm Administrator that an alarm system has been installed and the send the Alarm Administrator the name and address of the Alarm User and a copy of the Customer False Alarm Prevention Checklist. Failure of an Alarm User to notify the Alarm Administrator of a new Alarm System installation within ten (ten) days following installation shall result in a fee of $100.00.

(4) The Alarm Permit application must be submitted by the Alarm User to the Alarm Administrator at the time of an Alarm System installation or Takeover. All Local Alarm System applications must be submitted to the Alarm Administrator at the time of an Alarm System installation or Takeover by the next business day. The Alarm Permit shall be effective until such time as the registered Alarm User no longer occupies the Alarm Site.

(5) An Alarm Monitoring Company or Alarm Installation company <u>may</u> provide the information for an Alarm Permit to the Alarm Administrator on behalf of the Alarm User.

(6) Each Alarm Permit application must include the following information:

(a) the name, complete current address, (including apartment or suite number), and telephone numbers of the Person who will be the Permit holder and be responsible for the proper maintenance and operation of the Alarm System;

(b) the classification of the Alarm Site (e.g. single or multi-family residential, commercial, warehouse, governmental, etc.);

(c) mailing address, if different from the address of the Alarm Site;

(d) the date of installation, Conversion or Takeover of the Alarm System;

(e) the name, address, and telephone number of the Alarm Installation Company or companies performing the Alarm System installation, Conversion or Takeover, and of the Alarm Installation Company responsible for providing repair service to the Alarm System;

(f) the name, address, and telephone number of the monitoring Company, if different from the Alarm Installation Company; any protective / reactive systems , and,

(g) signed certification from the Alarm User stating that:

i. a set of written operating instructions for the Alarm System, including written guidelines on how to avoid False Alarms, have been left with the applicant by the Alarm Installation Company;

ii. the Alarm Installation Company has trained the applicant in the proper use of the Alarm System, including instructions on how to avoid False Alarms; and,

iii. the Alarm User is aware of the fact that a police response may be influenced by factors including, but not limited to, the availability of police units, priority of calls, weather conditions, traffic conditions, and staffing levels.

(6) Any false statement of a material fact made by an applicant for the purpose of obtaining an Alarm Permit shall be sufficient cause for imposition of a fee prior to the issuance of a Permit by the Alarm Administrator.

(7) An Alarm Permit cannot be transferred to another Person or Alarm Site. An Alarm User shall inform the Alarm Installation or Alarm Monitoring Company, in case of a monitored Alarm System, or the Alarm Administrator, in the case of a non-monitored Alarm System, of any change to any of the information on the Alarm Permit application within five (5) business days of such change.

(8) An Alarm Permit is good for two (2) years from the issued date.

(9) The Alarm User is solely responsible for the payment of any fee for services.

(10) Per A.C.A. 17-40-106, the Alarm Permit will be given at no cost to the Alarm User.

(D) *Duties of the Alarm User.*

(1) An Alarm User shall:

(a) maintain the Alarm Site and the Alarm System in a manner that will minimize or eliminate False Alarms;

(b) make every reasonable effort to have a Responsible Individual available at the Alarm Site within 30 minutes after an Alarm Dispatch Request; and,

(c) not activate an Alarm System for any reason other than an occurrence of an event that the Alarm System was intended to report.

(2) An Alarm User shall have a Licensed Alarm Installation Company inspect the Alarm System after three (3) False Alarms within a revolving three-month period. The Alarm Administrator may waive a required inspection if (s)he determines that a False Alarm(s) could not have been related to a defect or malfunction in the Alarm System.

(3) An Alarm User shall not use Automatic Voice Dialers to notify the Fayetteville Police Department.

(4) An Alarm User shall maintain at each Alarm Site an Alarm Permit and a set of written operating instructions for each Alarm System.

(5) Alarm Users may agree with their Alarm Installation Company or Monitoring Company to go through a "grace period" for the first seven (7) days after installation of an Alarm System during which time neither the Alarm Installation Company nor the Monitoring Company will have any obligation to respond to any Alarm Signal from the Alarm Site. If the Alarm Signal is the result of an actual alarm event, the Alarm Installation Company or the Monitoring Company shall send an Alarm Dispatch to the Fayetteville Police.

(E) *Duties and Authority of the Alarm Administrator.*

(1) The Alarm Administrator shall establish a procedure for notification to the Alarm User of the occurrence of a False Alarm. Such notice shall include:

(a) the date and time of police response to the False Alarm;

(b) the response incident number; and,

(c) a statement urging the Alarm User to ensure that the Alarm System is properly operated, inspected, and serviced in order to avoid False Alarms and resulting fee for service.

(2) The Alarm Administrator or the Fayetteville Police may create and implement an Alarm User Awareness Class. The Alarm Administrator may request the assistance of False Alarm Associations, alarm companies and emergency service agencies in developing and implementing the class. The class shall inform Alarm Users of the problems caused by False Alarms and teach Alarm Users how to avoid False Alarms.

(F) *Fees for Service.*

(1) An Alarm User shall be subject to a fee for service, depending on the number of False Alarms within a calendar year based upon the following schedule:

# of False Alarms	Fee for Service
1	$0.00
2	$75.00
3	$100.00
4	$150.00
5	$200.00
6 or more	$250.00

(2) In addition, any Person operating a non-permitted Alarm System will be subject to an additional fee for service of $250.00. The Alarm Administrator may waive the additional fee for non-permitted Alarm Systems, if the Alarm User submits an application for Alarm Permit within ten (10) days after notification of such a violation.

(3) An audible alarm that has not been called into the Fayetteville Police Department by an Alarm Monitoring Service shall not constitute a false alarm under this section.

(4) Notice of the right of Appeal under this ordinance shall be included with any fee for service.

(5) A $25.00 late fee will be assessed for each false alarm invoice not paid within 30 days of notice.

(G) *Robbery Alarm.*

Activation of a robbery alarm shall be deemed an intentional act for which a required fee shall be deemed imposed for false alarms. Any alarm user of such alarms shall pay the city a fee for each and every false robbery alarm to which police respond.

# of False Alarms	Fee for Service
1	$0.00
2-3	$100.00
4 or more	$200.00

The higher fee will continue to be assessed until the alarm user submits a certification from an Alarm Installation Company, stating that the Alarm System has been inspected and repaired (if necessary) by the Alarm Installation Company and proper training has been provided to the alarm user.

A $25.00 late fee will be assessed for each false alarm invoice not paid within 30 days of notice.

(H) *Alarm Cancellations.*

(1) The Monitoring Company shall communicate Verified Cancellations of Alarm Dispatch Requests to the Fayetteville Police in a manner and form prescribed by this Section.

(2) In order for the Fayetteville Police to verify the identity of the Monitoring Company and to confirm that the correct Alarm Dispatch Request is Cancelled, Monitoring Companies must use the Incident Number given to them by the Fayetteville Police when the alarm call was first made.

(3) For Alarm Systems that utilize a Monitoring Company, a request for Cancellation of an Alarm Dispatch Request will only be accepted from the Monitoring Company and only after the Incident Number has been reported to the Fayetteville Police.

(4) If a cancellation occurs prior to law enforcement arriving at the scene, this is not a False Alarm for the purpose of fees for service and no fee will be assessed.

(5) Robbery alarms from financial institutions cannot be canceled and an

officer response is mandatory per the Policies and Procedures of the Fayetteville Police Department. In this situation, if a financial institution employee contacts the Fayetteville Police Department to notify of a false alarm prior to the Alarm Monitoring Company notifying of an alarm dispatch request, then this will be considered a cancellation request and no fee will be assessed.

(I) *Suspension of Response.*

(1) The Alarm Administrator may suspend police response to an Alarm Site by revoking the Alarm Permit if it is determined that:

(a) The Alarm User has 6 or more False Burglary Alarms within a twelve (12) month period; or,

(b) There is a statement of a material fact known to be false in the application for a permit; or,

(c) The Alarm User has failed to make timely payment of a fee for service assessed; or,

(d) The Alarm User has failed to submit a written certification from an Alarm Installation Company that complies with the requirements of this article, stating that the Alarm System has been inspected and repaired (if necessary) and/or additional training has been conducted by the Alarm Installation Company.

(2) A Person commits an offense if he/she operates an Alarm System during the period in which the alarm permit is suspended and is subject to enforcement and Fees.

(3) Unless there is separate indication that there is a crime in progress, the Fayetteville Police Department may refuse a officer response to an Alarm Dispatch Request at an Alarm Site for which the Alarm Permit is suspended.

(4) If the Alarm Permit is reinstated the Alarm Administrator may again suspend police response to the Alarm Site by again suspending the Alarm Permit if it is determined that two (2) False Alarms have occurred within one hundred eighty (180) days after the reinstatement date.

(J) *Appeals.*

(1) If the Alarm Administrator assesses a Fee for Service, the Alarm Administrator shall send written notice of the action and of the right to appeal to the Alarm User.

(2) The Alarm User may appeal an assessment to the Alarm Administrator by setting forth in writing the reasons for the appeal within fifteen (15) business days after receipt of the fee for service or a notice of revocation.

(3) The Alarm User may appeal an adverse decision of the Alarm Administrator to the False Alarm Appeals Panel as follows:

(a) The Alarm User may file a written request for review of an adverse decision of the Alarm Administrator by paying an appeal fee of $25.00, and setting forth the reasons for the appeal within fifteen (15) business days after the date of notification of an adverse decision from the Alarm Administrator. Appeal fees shall be fully refunded if the appeal is granted.

(b) The False Alarm Appeals Panel shall be comprised of five (5) members, each to be appointed by the Chief of Police, to serve a term of three (3) years. The panel will consist of an alarm industry representative, a member of the Fayetteville Police Department, and an at large citizen of Fayetteville.

(c) The False Alarm Appeals Panel shall conduct a review within thirty (30) days of the receipt of the request, and consider all evidence presented by any interested Person(s). The False Alarm Appeals Panel shall make its decision based upon the preponderance of the evidence presented. The False Alarm Appeals Panel shall render its decision to either affirm or reverse the decision of the Alarm Administrator no later than ten (10) days after the date of the hearing.

(4) The filing of a request for appeal shall stay enforcement and collection of any fee for service assessed, until such time as the False Alarm Appeals Panel renders it decision. If a request for appeal is not made within the fifteen (15) period set forth at subsection (J)(3) (a) above, the action of the Alarm Administrator shall be deemed final.

(5) The Alarm Administrator or the False Alarm Appeals Panel may adjust the accrued number of False Alarms based on evidence that:

(a) a False Alarm was caused by the actions of the telephone company, Alarm Installation Company, and/or the Monitoring Company; or,

(b) a False Alarm was caused by a power outage lasting longer than four (4) hours; or,

(c) shows that the Alarm Dispatch Request was not a False Alarm; or,

(d) the officer response was not completed in a timely fashion; and/ or,

(6) In determining the number of False Alarms, multiple alarms occurring in any twenty-four (24) hour period may be counted as one False Alarm: to allow the alarm use time to take corrective action unless the false alarms are directly caused by the alarm user.

(K) *Reinstatement.*

(1) A Person who's Alarm Permit has been revoked may, at the discretion of the Alarm Administrator or the Chief of Police have the Alarm Permit reinstated by the Alarm Administrator or the Chief of Police if the Person:

(a) Submits a new application; and,

(b) pays, or otherwise resolves, all outstanding citations, fees and fines; and,

(c) submits a certification from an Alarm Installation Company, stating that the Alarm System has been inspected and repaired (if necessary) by the Alarm Installation Company;

(2) In addition, the Alarm Administrator may require one or more of the following as a condition to reinstatement:

(a) proof that an employee of the Alarm Installation Company or Monitoring Company caused the False Alarm;

(b) upgrade the alarm control panel to CP-01 Compliant Panel;

(c) a written statement from an independent inspector designated by the Chief of police that the Alarm System has been inspected and is in good working order;

(d) confirmation that all motion detectors are "dual technology" type;

(e) confirmation that the Alarm System requires two independent zones to trigger before transmitting an alarm signal to the Monitoring Company;

(f) confirmation that the Alarm System requires two independent detectors to trigger before transmitting an alarm signal to the Monitoring Company;

(g) certification that the Monitoring Company will not make an Alarm Dispatch Request unless the need for a officer is confirmed by a listen-in device;

(h) certification that the Monitoring Company will not request an Alarm Dispatch unless the need for a officer/deputy is confirmed by a camera device; or

(i) certification that the Monitoring Company will not make an Alarm Dispatch Request unless the need for a officer is confirmed by a Person at the Alarm Site.

(j) alarm user successfully completes an on line alarm awareness class and test.

(L) *Government Immunity.*

An Alarm Permit is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an Alarm Permit, the Alarm User acknowledges that Fayetteville Police Department response may be influenced by factors such as: the availability of officers, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

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

6 Nov 07
~~16-Oct-07~~
City Council Meeting Date

David Jurgens	Wastewater System Imprv Project	Water/Wastewater
Submitted By	Division	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	$ 99,153,095.00	Wastewater System Imp Project
Cost of this request	Category/Project Budget	Program Category / Project Name
4520-9520-5810.00	$ 89,391,891.66	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133.0305	$ 9,761,203.34	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item XX

Budget Adjustment Attached

Department Director — 11 Oct 07 — Date

City Attorney — 10/15/2007 — Date

Paul A. Becker
Finance and Internal Service Director — 10-15-2007 — Date

Mayor — 10/15/07 — Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office
ENTERED
10/12/07

Received in Mayor's Office
ENTERED
10/15/07

Comments:

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

Map Reference	Description

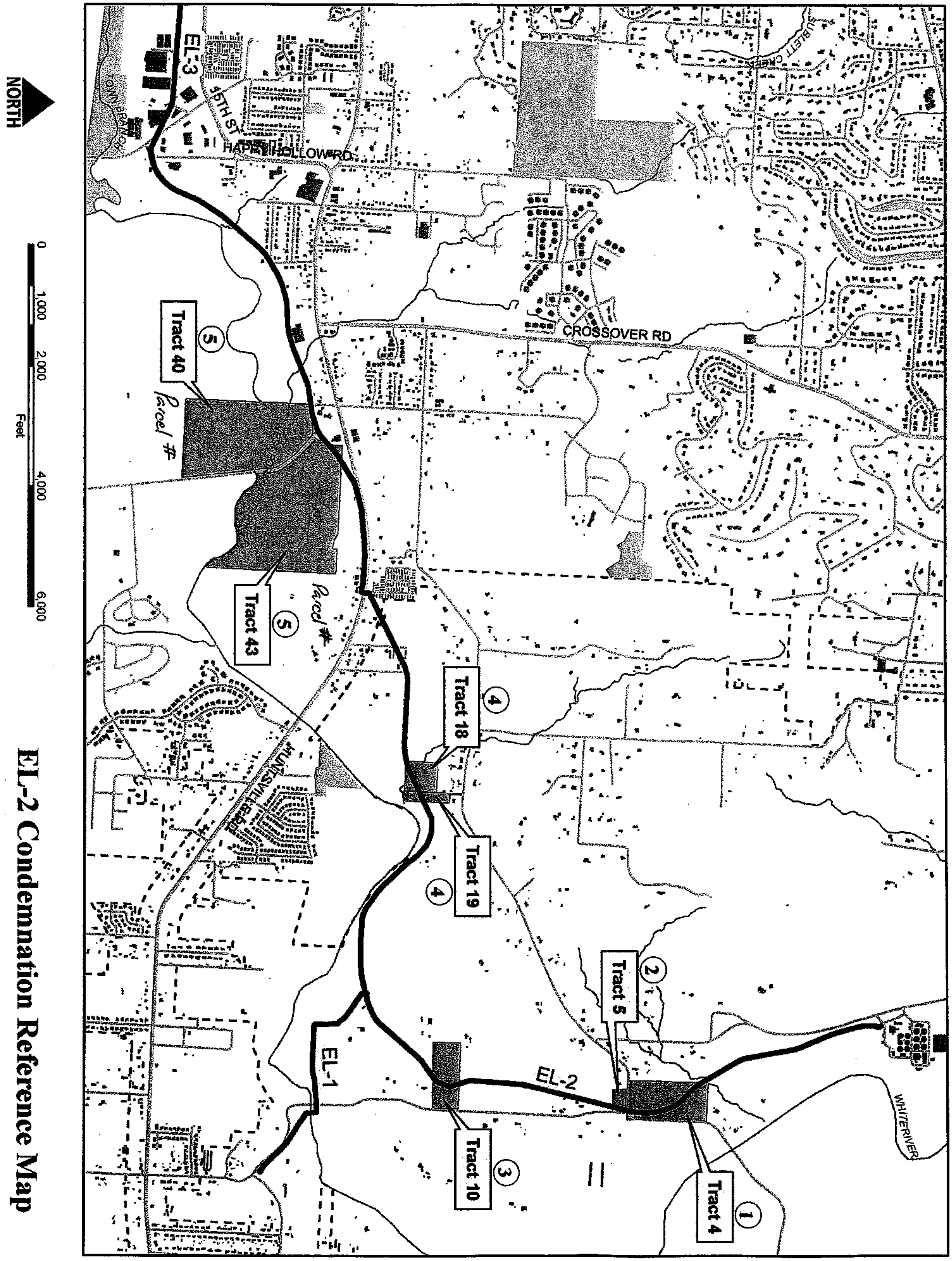
1. Easement Acquired.

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. 765-15268-101and 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

6-Nov-07
City Council Meeting Date

David Jurgens	Wastewater System Imprv Project	Water/Wastewater
Submitted By	Division	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	$ 99,153,095.00	Wastewater System Imp Project
Cost of this request	Category/Project Budget	Program Category / Project Name
4520-9520-5810.00	$ 89,391,891.66	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133.0305	$ 9,761,203.34	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item: XX

Budget Adjustment Attached:

Department Director — Date: 11 Oct 07

City Attorney — Date: 10/15/2007

Paul A. Becker
Finance and Internal Service Director — Date: 10-15-07

Dan Coody
Mayor — Date: 10/15/07

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office
ENTERED 10/15/07

Received in Mayor's Office
ENTERED 10/15/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Water and Sewer Committee

From: David Jurgens, Water & Wastewater Director DJurgens

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

WSIP East Line Esmnt Cndmn CCMemo Oct07.doc

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: ______________________	By: ______________________
DAN COODY, Mayor	**SONDRA E. SMITH**, City Clerk/Treasurer

WSIP East Lines 1 and 2 Easement Condemnation List

Map Reference	Description

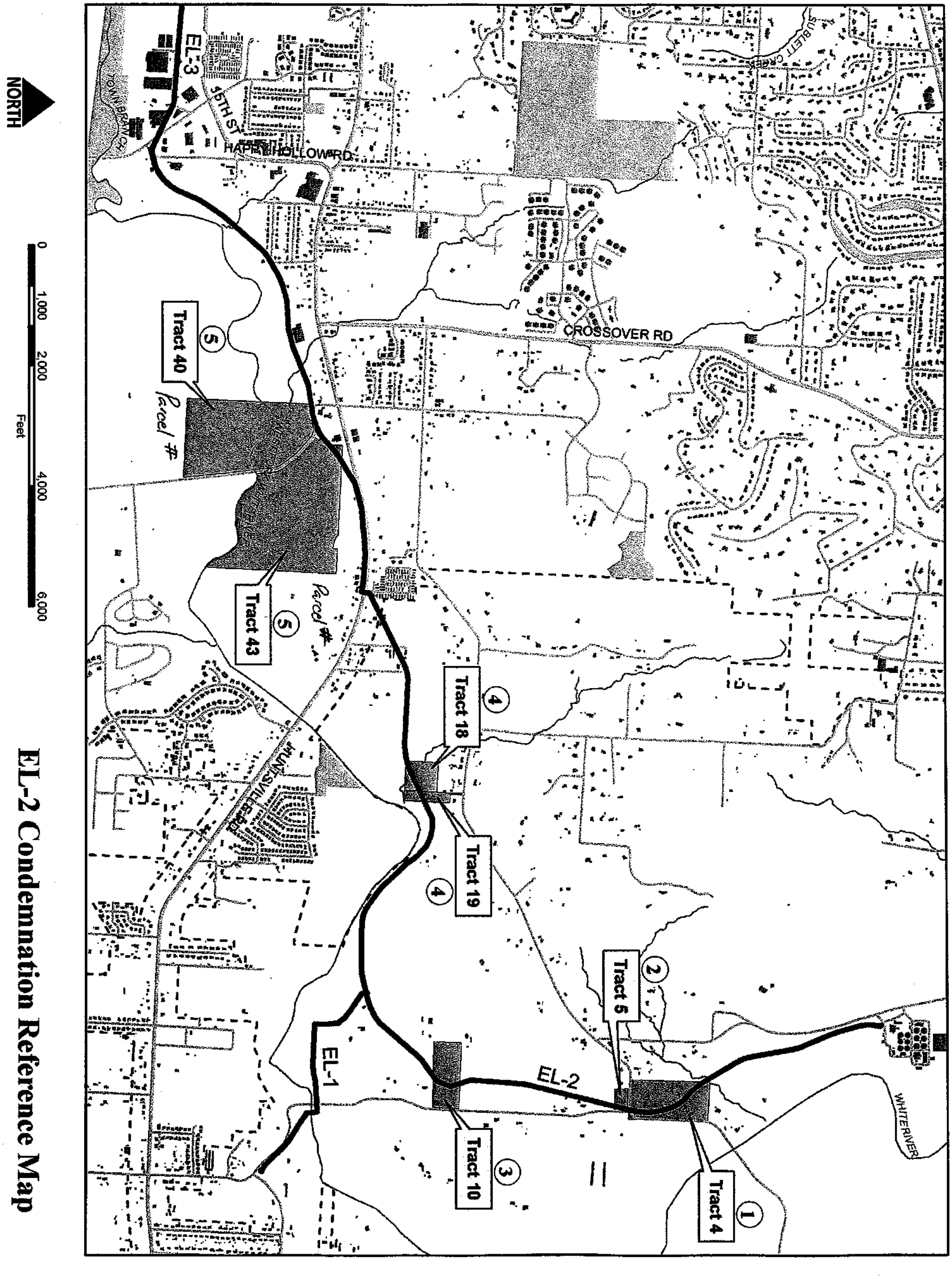
1. Easement Acquired.

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. 765-15268-101and 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

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

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

11/20/2007
City Council Meeting Date

Kevin Springer	Budget & Research	Finance & Internal Services
Submitted By	Division	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. Becker
Department Director — Date: 11-7-07

City Attorney — Date: 11/07/2007

Paul A. Becker
Finance Director — Date: 11-7-07

Dan Coody
Mayor — Date: 11/9/07

Previous Ordinance or Resolution #
Original Contract Date:
Original Contract Number:

Received in City Clerk's Office
ENTERED 11/7/07

Received in Mayor's Office

Comments:

Fayetteville
ARKANSAS

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	*Distribution of the Proposed 2008 Budget* City Council Agenda Session, *Room 326*
Tuesday, November 20, 2007	City Council Meeting *Room 219*
Tuesday, November 27, 2007	Outside Agency Presentations (agenda session) *Room 326*
Tuesday, December 4, 2007	City Council Meeting *Room 219*
Tuesday, December 18, 2007	City Council Meeting *Room 219*

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

Fayetteville
ARKANSAS

City of Fayetteville, Arkansas

Proposed
Annual Budget
& Work Program

Call John Goddard regarding color copies of the redistricting.

Agenda Session 11-13-07

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
November 20, 2007

A meeting of the Fayetteville City Council will be held on November 20, 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:

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

A. Consent:

1. Approval of the October 30, 2007 Special City Council meeting minutes and November 6, 2007 City Council meeting minutes.

2. **Bid # 07-63 Southern Uniform Equipment:** A resolution awarding Bid # 07-63 to Southern Uniform Equipment for the purchase of police uniforms in the amount of $59,178.00 plus applicable taxes; approving additional uniform purchases from the bid on an as-needed basis through December 31, 2008; and approving a budget adjustment in the amount of $41,422.00.

3. **ADM 07-2806 Vantage Center PZD Amendment:** An ordinance amending a Residential Planned Zoning District entitled R-PZD 05-1543, Vantage Center, located at the end of Shepard Lane adjacent to Frontage Road, containing approximately 4.68 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.

4. **ADM 07-2807 Waive Section 166.20 (Vantage Center):** An ordinance to waive section 166.20 of the Unified Development Code and to extend the expiration date for R-PZD 05-1543 (Vantage Center) to October 4, 2008.

5. **ADM 07-2808 Zion Gardens (Lakewood) PZD Amendment:** An ordinance amending a Residential Planned Zoning District entitled R-PZD 05-1599, Zion Gardens, located immediately northwest of the intersection of Randal Place and Zion Road, containing approximately 13.55 acres, to reflect revised conditions of approval to eliminate the requirements for pier and above-grade foundation system on lots 66-76, as described herein.

Get a new ordinance from Kit.

6. **False Alarm Reduction:** An ordinance adopting a false alarm reduction ordinance to improve public safety by reducing emergency responses to false alarms; and to encourage alarm users to properly use and maintain the operational effectiveness of alarm systems in order to reduce or eliminate false alarms.

Remove

7. **Deloris Mae Tuck Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Deloris Mae Tuck.

Remove

8. **Gary Combs, LLC Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Gary Combs, LLC.

9. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended.

Agenda Additions:

Announcements:

1. **City Council Tour: November 19, 2007**

Adjournment:

#7 & #8 Check with David Jurgens about adding this to the next meeting

he said yes add to next meeting

Add #7 New Business – Contract to ___ for the temporary service of hauling waste.

Pre-Agenda Meeting 11/7/07

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
November 20, 2007

A meeting of the Fayetteville City Council will be held on November 20, 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. Northwest Arkansas Community Creative Center (Tentative)~~

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

A. Consent:

1. Approval of the October 30, 2007 Special City Council meeting minutes and November 6, 2007 City Council meeting minutes.

2. **Bid # 07-63 Southern Uniform Equipment:** A resolution awarding Bid # 07-63 to Southern Uniform Equipment for the purchase of police uniforms in the amount of $59,178.00 plus applicable taxes; approving additional uniform purchases from the bid on an as-needed basis through December 31, 2008; and approving a budget adjustment in the amount of $41,422.00.

3. **ADM 07-2807 Waive Section 166.20 (Vantage Center):** An ordinance to waive section 166.20 of the Unified Development Code and to extend the expiration date for R-PZD 05-1543 (Vantage Center) to October 4, 2008.

4. **ADM 07-2808 Zion Gardens (Lakewood) PZD Amendment:** An ordinance amending a Residential Planned Zoning District entitled R-PZD 05-1599, Zion Gardens, located immediately northwest of the intersection of Randal Place and Zion Road, containing approximately 13.55 acres, to reflect revised conditions of approval to eliminate the requirements for pier and above-grade foundation system on lots 66-76, as described herein.

5. **False Alarm Reduction:** An ordinance adopting a false alarm reduction ordinance to improve public safety by reducing emergency responses to false alarms; and to encourage alarm users to properly use and maintain the operational effectiveness of alarm systems in order to reduce or eliminate false alarms.

6. **Deloris Mae Tuck Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Deloris Mae Tuck.

7. **Gary Combs, LLC Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Gary Combs, LLC.

NB#1

8. **Redistrict Ward Boundaries:** A resolution to redistrict Ward Two and Ward Four to equalize population within the wards pursuant to the 2006 census.

Agenda Additions:

Announcements:

1. **City Council Tour: November 19, 2007**

Adjournment:

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

DATE: **November 21, 2007**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of November 20, 2007**

1. Bid #07-03: A resolution awarding Bid #07-63 to Southern Uniform Equipment for the purchase of police uniforms in the amount of $59,178.00 plus applicable taxes; approving additional uniform purchases from the bid on an as-needed basis through December 31, 2008; and approving a budget adjustment in the amount of $41,422.00;

2. Bid #07-75: A resolution awarding Bid #07-75 and approving a contract with Tomlinson Asphalt Company, Inc. in the amount of $594,390.00 for construction of improvements to Gregg Avenue; and approving a 10% project contingency;

3. Arkansas Western Gas Co. Agreement: A resolution approving an agreement with Arkansas Western Gas Company for relocation of gas utility facilities on Zion Road;

4. CEI Engineering Associates, Inc.: A resolution approving contract Amendment No. 1 to the contract with CEI Engineering Associates, Inc. in an amount not to exceed $62,656.46 for construction phase services associated with the Gregg Avenue Improvements Project;

5. McClelland Consulting Engineers, Inc.: A resolution approving contract Amendment No. 1 to the contract with McClelland Consulting Engineers, Inc. in an amount not to exceed $74,690.50 for permitting support, easement document preparation, electrical design and related services associated with the College Avenue Improvements Project;

6. **Time Striping, Inc. Change Order #1:** A resolution to approve Change Order #1 of the contract with Time Striping, Inc. in the amount of $7,500.00 and to approve a budget adjustment of $7,500.00;

7. **Arkansas Alcoholic Beverage Control Enforcement Division Grant:** A resolution authorizing the Fayetteville Police Department to accept a grant from the Arkansas Alcoholic Beverage Control Enforcement Division in the amount of $31,516.00 to host a State Underage Drinking Prevention Conference; and approving a budget adjustment recognizing the grant revenue;

8. **Target Law Enforcement Grant:** A resolution authorizing the Fayetteville Police Department to accept a grant from target in the amount of $500.00 for the purchase of Community Oriented Policing supplies; and approving a budget adjustment to recognize the grant revenue;

9. **Redistrict Ward Boundaries:** A resolution to redistrict Ward Two and Ward Four to equalize population within the wards pursuant to the 2006 census;

10. **ADM 07-2805 (HHOD Regulations):** An ordinance to amend the Unified Development Code Chapter 161: **Zoning Regulations** and Chapter 172: **Parking and Loading** to comply with the Hillside/Hilltop Overlay District Ordinance;

11. **False Alarm Reduction:** An ordinance adopting a false alarm reduction ordinance to improve public safety by reducing emergency responses to false alarms; and to encourage alarm users to properly use and maintain the operational effectiveness of alarm systems in order to reduce or eliminate false alarms;

12. **Temporary Solid Waste Hauling Contract:** A resolution awarding a contract to Roll-Off Services, Inc. in the amount of $6.00 per ton for the temporary hauling of municipal, residential and commercial solid waste;

13. **Amendment to Chapter 33:** An ordinance to amend Chapter 33. **Departments, Boards, Commission and Authorities** by enacting the same Code of Conduct for all appointed committees as followed by the City Council.

RECEIVED

NOV 2 6 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:
November 19, 2007

Publication Charge: $163.53

Subscribed and sworn to before me
This 19 day of Nov. , 2007.

Notary Public Cathy Wiles

My Commission Expires: 2/20/2014

****NOTE** Please do not pay from Affidavit.
Invoice will be sent.**

STATE OF ARKANSAS NOTARY PUBLIC
CATHY J. WILES
Benton County
My Commission Expires
February 20, 2014

RECEIVED

NOV 26 2007

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Monday, November 19, 2007

FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
NOVEMBER 20, 2007

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on November 20, 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:
Mayor's Announcements, Proclamations and Recognitions:
Presentations, Reports and Discussion Items:

A. Consent:
1. Approval of the October 30, 2007 Special City Council meeting minutes.
2. Bid # 07-63 Southern Uniform Equipment: A resolution awarding Bid # 07-63 to Southern Uniform Equipment for the purchase of police uniforms in the amount of $59,178.00 plus applicable taxes; approving additional uniform purchases from the bid on an as-needed basis through December 31, 2008; and approving a budget adjustment in the amount of $41,422.00.
3. Bid # 07-75 Tomlinson Asphalt Company, Inc: A resolution awarding Bid # 07-75 and approving a contract with Tomlinson Asphalt Company, Inc. in the amount of $594,390.00 for construction of improvements to Gregg Avenue; and approving a 10% project contingency.
4. Arkansas Western Gas Company Agreement: A resolution approving an agreement with Arkansas Western Gas Company for relocation of gas utility facilities on Zion Road.
5. CEI Engineering Associates, Inc: A resolution approving contract Amendment No. 1 to the contract with CEI Engineering Associates, Inc in an amount not to exceed $62,656.46 for construction phase services associated with the Gregg Avenue Improvements Project.
6. McClelland Consulting Engineers, Inc: A resolution approving contract Amendment No. 1 to the contract with McClelland Consulting Engineers, Inc. in an amount not to exceed $74,690.50 for permitting support, easement document preparation, electrical design and related services associated with the College Avenue Improvements Project.
7. Time Striping, Inc. Change Order #1: A resolution to approve Change Order #1 of the contract with Time Striping, Inc. in the amount of $7,500.00 and to approve a budget adjustment of $7,500.00.
8. Arkansas Alcoholic Beverage Control Enforcement Division Grant: A resolution authorizing the Fayetteville Police Department to accept a grant from the Arkansas Alcoholic Beverage Control Enforcement Division in the amount of $31,516.00 to host a State Underage Drinking Prevention Conference; and approving a budget adjustment recognizing the grant revenue.
9. Target Law Enforcement Grant: A resolution authorizing the Fayetteville Police Department to accept a grant from Target in the amount of $500.00 for the purchase of Community Oriented Policing supplies; and approving a budget adjustment to recognize the grant revenue.

B. Unfinished Business:

C. New Business:
1. Redistrict Ward Boundaries: A resolution to redistrict Ward Two and Ward Four to equalize population within the wards pursuant to the 2006 census.
2. ADM 07-2805 (Amend Title XV: HHOD Regulations): An ordinance to amend the Unified Development Code Chapter 161: Zoning Regulations and Chapter 172: Parking and Loading to comply with the Hillside/Hilltop Overlay District Ordinance.
3. ADM 07-2806 Vantage Center PZD Amendment: An ordinance amending a Residential Planned Zoning District entitled R-PZD 05-1543, Vantage Center, located at the end of Shepard Lane adjacent to Frontage Road, containing approximately 4.68 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.
4. ADM 07-2807 Waive Section 166.20 (Vantage Center): An ordinance to waive section 166.20 of the Unified Development Code and to extend the expiration date for R-PZD 05-1543 (Vantage Center) to October 4, 2008.
5. ADM 07-2808 Zion Gardens (Lakewood) PZD Amendment: An ordinance amending a Residential Planned Zoning District entitled R-PZD 05-1599, Zion Gardens, located immediately northwest of the intersection of Randal Place and Zion Road, containing approximately 13.55 acres, to reflect revised conditions of approval to eliminate the requirements for pier and above-grade foundation system on lots 66-76, as described herein.
6. False Alarm Reduction: An ordinance adopting a false alarm reduction ordinance to improve public safety by reducing emergency responses to false alarms; and to encourage alarm users to properly use and maintain the operational effectiveness of alarm systems in order to reduce or eliminate false alarms.
7. Temporary Solid Waste Hauling Contract: A resolution awarding a contract to __________ in the amount of $__________ per ton for the temporary hauling of municipal, residential and commercial solid waste.
8. Proposed 2008 Annual Budget & Work Program: A resolution adopting the 2008 Annual Budget and Work Program as approved and amended.

Agenda Additions:

Announcements:
1. City Council Tour: None

Adjournment: