Mayor Lioneld Jordan

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 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

Final Agenda
City of Fayetteville Arkansas
City Council Meeting
March 3, 2009

A meeting of the Fayetteville City Council will be held on March 3, 2009 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

Presentations, Reports and Discussion Items: None

Agenda Additions: None

A. Consent:

1. Approval of the February 17, 2009 City Council meeting minutes. **APPROVED.**

2. **Bid # 09-19 Sweetser Construction:** A resolution awarding Bid # 09-19 to Sweetser Construction and approving the purchase of curb and gutter construction services utilized by various divisions of the City of Fayetteville in the estimated amount of $229,825.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 48-09.

3. **Bid # 09-20 ABC Central Block, Inc.:** A resolution awarding Bid # 09-20 to ABC Central Block, Inc. and approving the purchase of bricks utilized by various divisions of the City of Fayetteville in the estimated amount of $20,075.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 49-09.

4. **Arkansas Historic Rehabilitation Tax Credit:** A resolution to support the establishment of an Arkansas Historic Rehabilitation Tax Credit.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 50-09.

5. **Fayetteville District Court:** A resolution approving a budget adjustment for the Fayetteville District Court in the amount of $10,000.00 to recognize revenue from the Court Automation Fund for the purchase of laptops, printer and DVD player.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 51-09.

6. **Fayetteville Executive Airport DBE Program Revision:** A resolution to accept and approve the updated Fayetteville Executive Airport Disadvantaged Business Enterprise (DBE) Program revision and participation goal for FY2009; and authorizing the Mayor to sign the required objectives/policy statement.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 52-09.

7. **Arkansas Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Executive Airport staff to apply for and accept an 80/20 grant in the estimated amount of $87,790.00 from the Arkansas Department of Aeronautics to fund the Terminal Building HVAC Repair Project.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 53-09.

8. **"Fayetteville Forward" Summit:** A resolution to approve a budget adjustment of $38,500.00 to fund an Economic Development "Fayetteville Forward" Summit and to approve a letter agreement with the University of Arkansas Sam M. Walton College of Business to facilitate the "Fayetteville Forward" Summit for $17,500.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 54-09.

B. Unfinished Business:

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

This ordinance was left on the Second Reading at the November 6, 2008 City Council meeting and Tabled Indefinitely.

THIS ITEM WAS TABLED TO THE APRIL 21, 2009 CITY COUCIL MEETING.

2. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. (*This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting. This ordinance failed at the December 2, 2008 City Council meeting. This ordinance was Re-considered at the December 16, 2008 City Council meeting and then Tabled to the February 3, 2009 City Council meeting.)*

   This ordinance was Tabled at the February 3, 2009 City Council meeting to the March 3, 2009 City Council meeting.

   THIS ITEM WAS TABLED TO THE MARCH 17, 2009 CITY COUNCIL MEETING.

C. New Business:

1. **Residential Energy Efficiency Program Participating Home Sign:** A resolution to approve a Residential Energy Efficiency Program Participating Home Sign pursuant to § 174.03 (F) of Chapter 174: Signs of the Unified Development Code.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 55-09.

2. **2009 Washington County Animal Sheltering Services:** A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2009.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 56-09.

3. **RZN 08-3189 (First Baptist Church):** An ordinance rezoning that property described in rezoning petition RZN 08-3189, for approximately 4.08 acres, located at 20 Dickson Street from C-PZD 05-1704 First Baptist Church to MSC, Main Street Center.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5221.

4. **RZN 08-3190 (Lolley):** An ordinance rezoning that property described in rezoning petition RZN 08-3190, for approximately 1.67 acres, located at 5, 8, 12, and 20 South Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5222.

5. **VAC 09-3197 (Butterfield Trail Village):** An ordinance approving VAC 09-3197 submitted by McClelland Consulting Engineers for property located at 1923 Joyce Boulevard to vacate a portion of a utility easement, a total of 0.05 acres.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5223.

6. **ADM 09-3198 Amend Chapter 161:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to Amend Chapter 161: Zoning Districts in order to amend and unify building setback and building height regulations in residential single-family, multi-family and residential-office zoning districts.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5224.

7. **ADM 09-3205 Amend Chapter 164:** An ordinance amending the Unified Development Code by adding subsection 164.11 (B): Side Setbacks, to include bulk and area requirements for zero lot line and common wall development.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 5225.

8. **ADM 09-3206 Amend Chapter 162:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 162: Use Units in order to add a use unit description for accessory dwelling units.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 5226.

9. **Amend Chapter 117:** An ordinance to amend **§** 117.47 **Advertising** of the Fayetteville Code.

   THIS ITEM FAILED AND REFERRED TO THE ORDINANCE REVIEW COMMITTEE.

Announcements:

1. **City Council Tour: None**

Adjournment: Meeting adjourned at 7:55 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

City Council Meeting: **March 3, 2009** **Adjourn:** 7:55 PM

Subject:	**Roll**				
Rhoads arrived at 6:05 PM	**Thiel**	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Mayor Jordan	✓			

9-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Lewis				
	Gray				
	Mayor Jordan				

City Council Meeting: **March 3, 2009**

Subject:	**Consent**				
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Ferrell			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
passed	**Rhoads**	absent during the vote			
	Ferrell	✓			
	Lucas	✓			
Minutes	**Lewis**	✓			
approved 48-09	**Gray**	✓			
to 54-09	**Mayor Jordan**				

7-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Lewis				
	Gray				
	Mayor Jordan				

City Council Meeting: **March 3, 2009**

Subject:	**RZN 08-3084 (Candlelight Place)**				
Motion To:		3rd Read	Table to 4/21/09		
Motion By:		Petty	Cook		
Seconded:		Lewis	Petty		
B. 1	**Thiel**	✓	✓		
Unfinished	**Cook**	✓	✓		
Business	**Petty**	✓	✓		
	Rhoads	absent during the vote	✓		
Tabled	**Ferrell**	✓	absent during the vote		
to	**Lucas**	✓	✓		
April 21,	**Lewis**	✓	✓		
2009	**Gray**	✓	✓		
	Mayor Jordan				
		7-0	7-0		

Subject:	**Amberwood Place Appeal**				
Motion To:		Send back to the Planning Commission		Table to the March 17 meeting	
Motion By:		Cook		Ferrell	
Seconded:		Lewis		Rhoads	
B. 2	**Thiel**	N		✓	
Unfinished	**Cook**	✓		✓	
Business	**Petty**	N		✓	
	Rhoads	N		✓	
Tabled	**Ferrell**	N		✓	
to	**Lucas**	N		✓	
March	**Lewis**	✓		✓	
17, 2009	**Gray**	N		✓	
	Mayor Jordan				
		2-6 Failed		8-0	

City Council Meeting: March 3, 2009

Subject:	Residential Energy Efficiency Program Participating Home Sign				
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Lewis			
C. 1	Thiel	✓			
New	Cook	✓			
Business	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
Passed	Lewis	✓			
	Gray	✓			
55-09	Mayor Jordan				

8-0

Subject:	2009 Washington County Animal Sheltering Services				
Motion To:		Approve			
Motion By:		Lewis			
Seconded:		Gray			
C. 2	Thiel	✓			
New	Cook	✓			
Business	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
passed	Lucas	✓			
	Lewis	✓			
	Gray	✓			
56-09	Mayor Jordan				

8-0

City Council Meeting: **March 3, 2009**

Subject:	**RZN 08-3189 (First Baptist Church)**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Cook	Gray		
Seconded:		Rhoads	Cook		
C. 3	**Thiel**	✓	✓	✓	
New	**Cook**	✓	✓	✓	
Business	**Petty**	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
Passed	**Lucas**	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
5221	**Mayor Jordan**				
		8-0	8-0	8-0	

Subject:	**RZN 08-3190 (Lolley)**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Cook	Cook		
Seconded:		Ferrell	Ferrell		
C. 4	**Thiel**	✓	✓	✓	
New	**Cook**	✓	✓	✓	
Business	**Petty**	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
Passed	**Lucas**	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
5222	**Mayor Jordan**				
		8-0	8-0	8-0	

City Council Meeting: **March 3, 2009**

Subject:	**VAC 09-3197 (Butterfield Trail Village)**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Cook	Ferrell		
Seconded:		Ferrell	Lewis		
C. 5	**Thiel**	✓	✓	✓	
New	**Cook**	✓	✓	✓	
Business	**Petty**	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
Passed	**Lewis**	✓	✓	✓	
	Gray	✓	✓	✓	
5223	**Mayor Jordan**				
		8-0	8-0	8-0	

Subject:	**ADM 09-3198 Amend Chapter 161**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Cook	Cook		
Seconded:		Ferrell	Petty		
C. 6	**Thiel**	✓	✓	✓	
New	**Cook**	✓	✓	✓	
Business	**Petty**	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
Passed	**Lewis**	✓	✓	✓	
	Gray	✓	✓	✓	
5224	**Mayor Jordan**				
		8-0	8-0	8-0	

City Council Meeting: **March 3, 2009**

Subject:	ADM 09-3205 Amend Chapter 164				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Cook	Cook		
Seconded:		Petty	Petty		
C. 7	**Thiel**	✓	✓	✓	
New	**Cook**	✓	✓	✓	
Business	**Petty**	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
Passed	**Lucas**	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
5225	**Mayor Jordan**				
		8-0	8-0	8-0	

Subject:	ADM 09-3206 Amend Chapter 162				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Cook	Cook		
Seconded:		Petty	Ferrell		
C. 8	**Thiel**	✓	✓	✓	
New	**Cook**	✓	✓	✓	
Business	**Petty**	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
Passed	**Lucas**	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
5226	**Mayor Jordan**				
		8-0	8-0	8-0	

City Council Meeting: **March 3, 2009**

Subject:	**Amend Chapter 117**				
Motion To:		Amend to remove van & motor vehicle		2nd Read	3rd Read
Motion By:		Lucas		Rhoads	Ferrell
Seconded:		Thiel	- recended 2nd	Cook	Rhoads
C. 9	**Thiel**	—		✓	✓
New	**Cook**	Motion		✓	✓
Business	**Petty**	Rescinded		✓	✓
	Rhoads			✓	✓
	Ferrell			✓	✓
	Lucas			✓	✓
	Lewis			✓	✓
	Gray			✓	✓
	Mayor Jordan				

8-0 8-0

Subject:					
Motion To:		Pass			
Motion By:					
Seconded:					
C. 10	**Thiel**	N			
New	**Cook**	N			
Business	**Petty**	N			
	Rhoads	N			
Failed	**Ferrell**	✓			
	Lucas	N			
	Lewis	N			
	Gray	N			
	Mayor Jordan				

1-7
Failed

Mayor Lioneld Jordan

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 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

Final Agenda
City of Fayetteville Arkansas
City Council Meeting
March 3, 2009

A meeting of the Fayetteville City Council will be held on March 3, 2009 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the February 17, 2009 City Council meeting minutes.

2. **Bid # 09-19 Sweetser Construction:** A resolution awarding Bid # 09-19 to Sweetser Construction and approving the purchase of curb and gutter construction services utilized by various divisions of the City of Fayetteville in the estimated amount of $229,825.00.

3. **Bid # 09-20 ABC Central Block, Inc.:** A resolution awarding Bid # 09-20 to ABC Central Block, Inc. and approving the purchase of bricks utilized by various divisions of the City of Fayetteville in the estimated amount of $20,075.00.

4. **Arkansas Historic Rehabilitation Tax Credit:** A resolution to support the establishment of an Arkansas Historic Rehabilitation Tax Credit.

5. **Fayetteville District Court:** A resolution approving a budget adjustment for the Fayetteville District Court in the amount of $10,000.00 to recognize revenue from the Court Automation Fund for the purchase of laptops, printer and DVD player.

6. **Fayetteville Executive Airport DBE Program Revision:** A resolution to accept and approve the updated Fayetteville Executive Airport Disadvantaged Business Enterprise (DBE) Program revision and participation goal for FY2009; and authorizing the Mayor to sign the required objectives/policy statement.

7. **Arkansas Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Executive Airport staff to apply for and accept an 80/20 grant in the estimated amount of $87,790.00 from the Arkansas Department of Aeronautics to fund the Terminal Building HVAC Repair Project.

8. **"Fayetteville Forward" Summit:** A resolution to approve a budget adjustment of $38,500.00 to fund an Economic Development "Fayetteville Forward" Summit and to approve a letter agreement with the University of Arkansas Sam M. Walton College of Business to facilitate the "Fayetteville Forward" Summit for $17,500.00.

B. Unfinished Business:

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

   This ordinance was left on the Second Reading at the November 6, 2008 City Council meeting and Tabled Indefinitely.

2. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. (*This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting. This ordinance failed at the December 2, 2008 City Council meeting. This ordinance was Re-considered at the December 16, 2008 City Council meeting and then Tabled to the February 3, 2009 City Council meeting.)*

   This ordinance was Tabled at the February 3, 2009 City Council meeting to the March 3, 2009 City Council meeting.

C. New Business:

1. **Residential Energy Efficiency Program Participating Home Sign:** A resolution to approve a Residential Energy Efficiency Program Participating Home Sign pursuant to § 174.03 (F) of Chapter 174: Signs of the Unified Development Code.

2. **2009 Washington County Animal Sheltering Services:** A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2009.

3. **RZN 08-3189 (First Baptist Church):** An ordinance rezoning that property described in rezoning petition RZN 08-3189, for approximately 4.08 acres, located at 20 Dickson Street from C-PZD 05-1704 First Baptist Church to MSC, Main Street Center.

4. **RZN 08-3190 (Lolley):** An ordinance rezoning that property described in rezoning petition RZN 08-3190, for approximately 1.67 acres, located at 5, 8, 12, and 20 South Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.

5. **VAC 09-3197 (Butterfield Trail Village):** An ordinance approving VAC 09-3197 submitted by McClelland Consulting Engineers for property located at 1923 Joyce Boulevard to vacate a portion of a utility easement, a total of 0.05 acres.

6. **ADM 09-3198 Amend Chapter 161:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to Amend Chapter 161: Zoning Districts in order to amend and unify building setback and building height regulations in residential single-family, multi-family and residential-office zoning districts.

7. **ADM 09-3205 Amend Chapter 164:** An ordinance amending the Unified Development Code by adding subsection 164.11 (B): Side Setbacks, to include bulk and area requirements for zero lot line and common wall development.

8. **ADM 09-3206 Amend Chapter 162:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 162: Use Units in order to add a use unit description for accessory dwelling units.

9. **Amend Chapter 117:** An ordinance to amend **§**117.47 **Advertising** of the Fayetteville Code

Announcements:

1. **City Council Tour: None**

Adjournment:

.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/3/2009
City Council Meeting Date
Agenda Items Only

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

Action Required:

Action Required: A Resolution to apply for and accept a grant from the AR Dept. of Aeronautics, and signature of the Mayor on the Grant Application. Contact: John Knight, Director AR Dept Aeronautics, 1 Airport Dr, 3rd Floor, Little Rock, AR, 72202, 800-376-6781, e-mail Richard Mills: richard.mills@mail.state.ar.us

Approval of a Budget Adjustment.

REVENUE

$ 70,232.00	$ -	Airport HVAC Improvements
Cost of this request	Category / Project Budget	Program Category / Project Name
5550.0955.6805.00	$ -	Airport Capital
Account Number	Funds Used to Date	Program / Project Category Name
08074 1	$ -	Airport Fund
Project Number	Remaining Balance	Fund Name

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

Department Director — Date 2/20/09

City Attorney — Date 2/23/09

Finance and Internal Services Director — Date 2-24-09

Chief of Staff — Date 2/24/09

Mayor — Date 2/24/09

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office — ENTERED 2-23-09

Received in Mayor's Office — ENTERED 2/24/09

Comments:

Fayetteville
ARKANSAS

AVIATION & ECONOMIC DEVELOPMENT
FAYETTEVILLE EXECUTIVE AIRPORT • DRAKE FIELD

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor Jordan

THRU: Chief of Staff

THRU: Staff/Contract Review Committee

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

DATE: February 20, 2009

SUBJECT: **Approval for Aviation and Economic Development Department to apply for and accept Arkansas Department of Aeronautics 80/20 Grant for the Terminal Building HVAC Repair Project.**

RECOMMENDATION:

Approve application and acceptance of Arkansas Department of Aeronautics 80/20 Grant for a total project amount estimated to be $87,790.00 to fund the Terminal Building HVAC Repair Project and award of an acceptable bid received through the City Purchasing Department to complete the project. Approval of a Budget Adjustment and Signature of the Mayor.

BACKGROUND:

The Fayetteville Executive Airport, Drake Field Terminal Building is no longer being used for its designed purpose. The Terminal Building was designed for airline use with hundreds of people processing through the building to get tickets, baggage, and load for and unload from many destinations. Over the years, since the airlines relocated to XNA, numerous modifications have been made to the building in order to create leasable space and generate revenue for the Airport. The effort has been successful and today the terminal building generates $92,500 in revenue annually. Due to the reconfigured interior, and a deteriorated operating system, the HVAC system no longer functions acceptably. The HVAC system cannot be controlled in the various spaces created by new uses. This project changes the control of the system from pneumatic to electric and installs controls which allow occupants to control the temperature within their space within limits. This project is long overdue and is in purchasing requesting bids. Recently, the Department of Aeronautics received an additional $4,000,000.00 in funding available for the fiscal year ending in June. The new funding was authorized by the State Legislature to allow the Arkansas Airports Commission to use the tax revenue received from the aviation sales tax. These funds can not be used for any other purpose than to provide grants to Arkansas airports for airport projects. The projects must be awarded and final payment from the Department of Aeronautics made by the end of June. The purpose of this item is to approve application and receipt of a grant to accomplish the project and upon receipt of an acceptable bid, award of the project.

DISCUSSION: Currently, airport staff operates the boilers and chiller manually; we turn on the system when we need heat or air and turn it off when there is no longer a need. Aside from the inherent energy inefficiency, this operating technique does not meet our tenant's expectations of reasonable comfort level for their personnel and particularly their customers. The situation generates ongoing and increasingly insistent complaints from tenants and guests. The problem was postponed for as long as possible because of budget concerns and other revenue-generating development priorities. However, the Airport's further neglect of the problem threatens to alienate our tenants and potentially put future rent revenues at risk. This new grant funding through the Arkansas Department of Aeronautics allows the Airport Department the opportunity to complete the project and receive grant revenue to defer most of the cost.

BUDGET IMPACT: Funds are available in the Airport Fund to match the Grant proceeds. Total project cost $87,790.00 with 20% or $17,558.00 local match.

Attachments: Staff Review Form
Budget Adjustment
Grant Application

RESOLUTION NO. ______

A RESOLUTION AUTHORIZING THE FAYETTEVILLE EXECUTIVE AIRPORT STAFF TO APPLY FOR AND ACCEPT AN 80/20 GRANT IN THE ESTIMATED AMOUNT OF $87,790.00 FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS TO FUND THE TERMINAL BUILDING HVAC REPAIR 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 authorizes the Fayetteville Executive Airport staff to apply for and accept an 80/20 grant in the estimated amount of $$87,790.00 from the Arkansas Department of Aeronautics to fund the Terminal Building HVAC Repair Project.

PASSED and **APPROVED** this 3rd day of March, 2009.

APPROVED: ATTEST:

By: ______________________________
LIONELD JORDAN, Mayor

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department / Division / Program	Date Requested	Adjustment Number
2009	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	3/3/2009	

Project or Item Added/Increased:
$87,790 in the Building Maintenance account

Project or Item Deleted/Reduced:
None. To recognize $70,232 in AR Dept of Aeronautics grant funding.

None. To use $17,558 of the Airport's fund balance.

Justification of this Increase:
Will provide for repairs and modifications to the Airport Terminal HVAC control system.

Justification of this Decrease:
The AR Dept. of Aeronautics will provide and 80% cost reimbursement on the project. 20% local match is required on the project.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Building & grounds maint	5550	3960	5400	00	87,790	08074	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
State grants	5550	0955	6805	00	70,232	08074	1
Use of fund balance	5550	0955	4999	99	17,558	08074	1

Approval Signatures

Signature	Date
Requested By	2/20/09
Budget Manager	2-24-09
Department Director	2/20/09
Finance & Internal Services Director	2-24-09
Mayor	

Budget Office Use Only

Type: A B C D E

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

Fayetteville
ARKANSAS
AVIATION & ECONOMIC DEVELOPMENT
FAYETTEVILLE MUNICIPAL AIRPORT • DRAKE FIELD

February 20, 2009

Mr. John Knight, Director
Arkansas Department of Aeronautics
One Airport Drive, 3rd Floor
Little Rock, Arkansas 72202

RE: GRANT APPLICATION, Terminal HVAC Repair project

Dear Mr. Knight;

Enclosed please find two (2) copies of a grant application to Arkansas Department of Aeronautics for 80/20% match funding on a project to undertake Terminal Building HVAC Repairs at Drake Field.

Fayetteville Municipal Airport requests funding of the maximum amount of $70,232 in Arkansas Department of Aeronautics funding. The City of Fayetteville will match the balance of the project cost. The total project cost is estimated at $87,790.

Fayetteville Executive Airport respectfully requests your consideration of this grant application, and to be included on the agenda of the Aeronautics Commission board meeting in March 2009. Your assistance in this matter is greatly appreciated. Please contact me if you would like further information, or have any question concerning this application.

Sincerely,

Ray M. Boudreaux, Director
Aviation & Economic Development

RB:jn
Enclosures:\2\
Grant Application, 2 copies
Engineer's HVAC Assessment, Recommendations and Cost Estimate

State Airport Aid Application – Page 1

The City/~~County~~ of Fayetteville, herein called "Sponsor", hereby makes application to the Arkansas Department of Aeronautics for State funds pursuant to Act 733 of 1977, for the purpose of aiding in financing a project for the development of a municipal airport located in the city of Arkansas, Washington county.

Date of Request: February 20, 2009

Name of Airport: Fayetteville Municipal Airport / Drake Field (FYV)

Name and address of City/County Commission sponsoring request:
City of Fayetteville
113 W Mountain
Fayetteville AR 72701

Phone Number:
Fax Number:

Person to Contact about project:
Ray M. Boudreaux
4500 S School Ave. Ste F
Fayetteville AR 72701
Phone Number: 479-718-7642
Cell Number: 479-601-3520
Fax Number: 479-718-7646

Name and address of Engineering Firm (if applicable):
McClelland Consulting Engineers Inc.
PO Box 1229
Fayetteville AR 72702

Contact Person: Wayne Jones

Phone/Fax Number: 479-443-2377

Describe the work to be accomplished: Assessment and repair of deficiencies of function and condition of the Terminal Building HVAC system. Repairs to include: replace non-functioning pneumatic control system with electronic controls, and replace valves, VAV boxes, air-handler units controllers, dampers, sensors, actuators to facilitate automatic control system. Additional modifications to ductwork and vents.

State and Local Project Costs:
Please indicate:

50-50% Match
X 80-20% Match
90-10% Match
100%

Total Cost of Project	87,790
Local Share/Funds	17,558
Local Share/In-Kind	
State Share	70,232

Federal AIP Projects:
AIP Number:

95-5% Match
90-10% Match

Total Cost of Project:	
Federal Share:	
State Share:	
Local Share:	

State Airport Aid Application – Page 2

Provide the information listed below as it applies to your project:

Funding:

Source of Funds:

Federal Funding: N/A

State Funding: Arkansas Department of Aeronautics

Source of In-Kind Services: N/A

Estimated starting date of project: March 1, 2009

Estimated completion date of project: April 31, 2009

Project will be for: New Airport **X** Existing Airport

Is land to be leased or purchased? No

Description of land and cost per acre: N/A

Provide the Federal AIP Grant Number (if applicable): ______

State Legislators for your area:

State Senator: Sue Madison

State Representative: Uvalde Lindsey

State Airport Aid Application – Page 3

The sponsor agrees to furnish the Arkansas Department of Aeronautics a copy of the legal instrument affecting use of the property for an airport. In application for a new landing site or expansion of existing facility, the FAA Form 7480-1, *Notice of Landing Area Proposal*, must be approved by the FAA before review for grant can be made by the State. Applications for hangar construction or renovation funds must include a signed lease agreement. This agreement must be in compliance with all FAA grant assurances. The application must be based on bids and include a calculated return on investment.

No land, hangars, or buildings purchased with State Grant funds may be sold or disposed of without State Aeronautics Commission prior approval. All requests for sale or disposal of property will be considered on an individual case basis. No hangar (funded by a grant from the Department of Aeronautics) shall be used for non-aviation purposes without State Aeronautics Commission prior approval. All requests for non-aviation use will be considered on a case-by-case basis. Failure to receive prior approval from A.D.A. concerning land and/or building use could result in the commission requesting grant refund from the Sponsor.

No airport accepting State Grant funding may issue an Exclusive Rights lease.

All applications for navigational aids (such as NDB or ILS) must have FAA site approval before a state grant can be approved.

All Grant applications involving Federal Airport Improvement Program (AIP) funding must be accompanied by the approved FAA grant agreement with grant number assigned.

If this project is approved by the Arkansas Department of Aeronautics, and is accepted by the sponsor, it is agreed that all developments and construction shall meet standard FAA construction practices as outlined in the specifications of this agreement. Runways, Taxiways, Parking Ramps, etc. shall have a base and a thickness that will accommodate the weight of aircraft expected to operate at this airport.

All grant applicants (City and/or County) are totally responsible for compliance with all Federal, State, County, and City laws, Statutes, Ordinances, Rules, Regulations, and Executive Orders concerning contracts and purchases for which this grant is approved and issued.

It is understood and agreed that should the sponsor fail to start this project within three (3) months of the Arkansas Department of Aeronautics' date of acceptance, that this grant is null and void. It is also agreed that this project shall be completed within one year from the date of acceptance of this grant by the Arkansas Department of Aeronautics. Applications for extension will be entertained if circumstances beyond the sponsor's control occur.

Funds will be disbursed according to Department procedures and final inspection of completed project (See payment instruction page). *Funds are contingent upon the Department's biennium appropriation*.

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this 20th day of February, 2009.

City of Fayetteville
Name of Sponsor

Authorized Signature

Lioneld Jordan, Mayor
Title

INTRODUCTION

This report is offered to the Fayetteville Municipal Airport in response to their recent request for us to perform a survey of the existing facility temperature controls system located in the terminal building at Drake Field. The report contains observations of the existing conditions and installation as well as recommendations for the repair and/or replacement of this system and related equipment.

On November 14, 2008 Ben Dye and Shane Lanning met on site with Mr. Ray Boudreaux to review the existing conditions, control system and HVAC equipment within the facility.

The following report is a summary of the site visit and review of existing construction drawings for the original building and subsequent remodels of the building.

EXISTING CONDITIONS

The original terminal building was constructed in 1979. Building additions have occurred since that time and include new conference rooms, rest rooms, and what is now the Greenland Post Office. The facility is a single story structure consisting of approximately 27,400 square feet.

The existing HVAC system is a four-pipe chilled/hot water system with outdoor air-cooled chiller, indoor boilers and four indoor variable air volume (VAV) air handling units. The air handling units serve individual VAV boxes located above the ceiling throughout the existing building. Each VAV box contains a hot water coil for reheat.

The building control panels and all HVAC controllers are pneumatic. Control panels for the air handling units and chiller are all wall mounted in the existing mechanical rooms adjacent to the controlled units.

None of the pneumatic controllers are in operation at this time. All equipment is being controlled in the "hand" or manual mode.

OBSERVATION

Deficiencies related to both function and condition were found in all of the HVAC system control components.

Currently, the boilers, chiller and associated pumps are all controlled manually by maintenance personnel. This equipment does not operate via a control system. The units are only "on" if the equipment is placed into operation by airport personnel.

In addition to the pneumatic control system being disabled there are several controllers, control dampers and motorized valves that are broken or disengaged. It was noted that several mixing dampers for return/outside air have been disabled at the air handlers.

The air compressor system supplying compressed air to the pneumatic controls was turned "OFF". None of the pneumatic control system was in operation during the site visit. Ray mentioned the compressed air piping contained numerous leaks and that tenants complained of the hissing noise associated with those leaks. Therefore, airport maintenance personnel have discontinued use of the air compressor.

All of the existing air handling units are operating in the "hand" (manual control) mode. All of the supply air fans are "off" and the return air fans are "on". The chilled and hot water control valves are not being controlled. Currently, if building occupants request heating the associated boiler and pumps must be manually switched to "on" by maintenance personnel. Likewise, in a request for cooling the building chiller and associated pumps are switched to "on" by maintenance personnel. This is the typical control scheme for all building air handling units.

The VAV boxes serving the individual temperature control zones throughout the building are linked to an associated wall mounted thermostat within the zone. In all areas of the building these thermostats and boxes do not have control with the pneumatic control system "off". Again, the building only has the potential for heating and/or cooling if the pumps, boilers and chiller are manually switched "on". None of the thermostats can accomplish their intended temperature control function.

An electronic control system has been installed in the Post Office. This is a simple management system that monitors the four thermostats for four VAV boxes located above the ceiling serving the Post Office independent of the rest of the building. This control system is not linked to the central boilers, chiller or pumps. The thermostats in this area can enable the VAV boxes into heating or cooling modes. However, neither heating nor cooling will occur if the central boiler or chiller is "off".

Electronic thermostats have been installed in the restaurant kitchen. Like the Post Office, these thermostats can not be satisfied without the central equipment in operation. The thermostats can request heating and cooling but without interlocking these calls to the plant level equipment no real conditioning is able to occur.

DISCUSSION & RECOMMENDATIONS

The recent request by the Municipal Airport for inspection and reporting originally included the pneumatic control system. This control system was individually reviewed as requested but in light of the entire HVAC system conditions witnessed while performing the original scope of inspections we strongly recommend the Airport consider a comprehensive remodeling plan. Both from an equipment standpoint and considering the controls that enable/disable the individual units it is our opinion the majority of the system is in need of substantial repair/replacement.

The major equipment serving the building is operational. This includes the air handling units, boilers, pumps, chiller, and all VAV boxes. However, each major item is in need of a new controller, control dampers and valves.

All of the existing HVAC control system is outdated. Pneumatic control systems have not been specified in new building installations for a few decades. It will NOT benefit the Airport to repair this system. It will be increasingly hard to find qualified individuals to maintain this type of system and repair costs will rise as the system ages further.

The following items represent the scope of items included in our recommendations. Unless otherwise noted all items listed are recommended for demolition and replacement with new. The itemized items include contractor's mark-up, general conditions and overhead but do not include sales tax. For demolition and installation prices these include both electrical and mechanical work. Specific notes are also given below where further detail is required for special considerations related to individual units.

1. Recommend removing the existing pneumatic control system (air compressor, valves, controllers, actuators, thermostats, etc.) and associated piping throughout the building. Install new HVAC control system including: touchscreen control panel, software, programmable thermostats, actuators, dampers, valves, and all associated control cable.

1.1. Demolition:	$2,000
1.2. Control Panel & Software:	$19,500
1.3. Controllers, Sensors:	$9,500
1.4. Dampers, Actuators, Valves:	$7,500
1.5. Thermostats:	$2,900
1.6. Cable:	$2,500
1.7. Installation (Labor):	$21,000
1.8. General Conditions:	$6,490
1.9. Overhead & Profit:	$10,800
1.10. **TOTAL:**	**$82,190**

1.11. Note: This is an all inclusive price for replacing the entire control system throughout the entire building. The owner may consider staging the control system retrofit. The following prices include recommendations for staging the control replacement in order of recommendation.

2. Repair existing pneumatic control system for temporary control of existing equipment. Install new central control panel and control software.

2.1. Repair:	$5,000
2.2. Control Panel & Software:	$19,500
2.3. Installation:	$5,000
2.4. General Conditions:	$2,950
2.5. Overhead & Profit:	$3,245
2.6. **TOTAL:**	**$35,695**

3. Provide new controllers and sensors for boilers, chiller and pumps. Interlock with new HVAC control system.

3.1. Demolition:	$500
3.2. Controllers, Sensors:	$7,500
3.3. Cable:	$1,500
3.4. Installation:	$7,000
3.5. General Conditions:	$1,650
3.6. Overhead & Profit:	$1,815
3.7. **TOTAL:**	**$19,965**

3.8. Note: This will allow the boiler and chiller to be under control and operating at all times the individual VAV boxes with electric thermostat (Post Office) throughout the building call for heating or cooling. Hot or chilled water will be available to all water coils in the system without maintenance personnel intervention.

4. Interlock Post Office control panel and thermostats with central control system.

4.1. Cable:	$750
4.2. Equip/Materials:	$2,500
4.3. Installation:	$2,000
4.4. General Conditions:	$525
4.5. Overhead & Profit	$580

4.6. **TOTAL:** **$6,355**

5. Remove pneumatic controls from Air Handling Unit AHU-4 (Serving Post Office). Provide new controller and cabling for connection to new HVAC control System.

5.1. Demolition: $500
5.2. Controller: $2,500
5.3. Dampers, actuators, misc.: $3,500
5.4. Cable: $1,000
5.5. Installation: $1,750
5.6. General Conditions: $925
5.7. Overhead & Profit: $1,025
5.8. **TOTAL:** **$11,200**

6. Remove pneumatic controls from Air Handling Unit AHU-1 and associated VAV boxes. Provide new controller and cabling for connection to new HVAC control System.

6.1. Demolition: $500
6.2. Controller: $2,500
6.3. Dampers, actuators, misc.: $3,500
6.4. Cable: $1,000
6.5. Installation: $1,750
6.6. General Conditions: $925
6.7. Overhead & Profit: $1,025
6.8. **TOTAL:** **$11,200**

7. Remove pneumatic controls from Air Handling Unit AHU-2 and associated VAV boxes. Provide new controller and cabling for connection to new HVAC control System.

7.1. Demolition: $500
7.2. Controller: $2,500
7.3. Dampers, actuators, misc.: $3,500
7.4. Cable: $1,000
7.5. Installation: $1,750
7.6. General Conditions: $925
7.7. Overhead & Profit: $1,025
7.8. **TOTAL:** **$11,200**

8. Remove pneumatic controls from Air Handling Unit AHU-3 and associated VAV boxes. Provide new controller and cabling for connection to new HVAC control System.

8.1. Demolition: $500
8.2. Controller: $2,500
8.3. Dampers, actuators, misc.: $3,500
8.4. Cable: $1,000
8.5. Installation: $1,750
8.6. General Conditions: $925
8.7. Overhead & Profit: $1,025
8.8. **TOTAL:** **$11,200**

9. Total for Work (Items 2-8): $107,000

Note: There is a significant price increase for staging the building control systems work. This will be attributed to the General conditions of the individual projects. Staging and mobilizations costs, project supervision costs, equipment rental costs and repeat labor costs will all increase as the contractors start and stop work. Also, construction efficiency will decrease and completion schedules will increase due to changing contractors and familiarity with the project over several stages. Material costs will also increase as the project schedule is extended (copper cable prices rise on a weekly basis due to demand, and are projected to continue to rise for the foreseeable future).

CONCLUSION
The present pneumatic control system throughout the terminal building is obsolete. The current operating conditions in the building lead to inefficient operation and tenant discomfort. The entire system should be replaced as the operating budget allows.

In summary we offer the above replacement recommendations to address the already failed control system. We urge the Municipal Airport to consider a complete HVAC control remodel for this facility in light of the conditions discovered throughout the building. If comprehensive replacement cannot be immediately undertaken by the Airport we recommend that minimally a budget be established that allows for these replacements to occur within the next two years. We are available at your convenience to answer any questions or to review any further items. Should the Airport decide to move forward with any of the replacements mentioned in this report we are available to begin work on construction documents as soon as needed.

END OF REPORT

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/3/2009
City Council Meeting Date
Agenda Items Only

Don Marr		Administration
Submitted By	**Division**	**Department**

Action Required:

Approve a budget adjustment and resolution appropriating $38,500 to fund an Economic Development "Fayetteville Forward" Summit. Also authorize Mayor Jordan to execute a letter of agreement with the University of Arkansas Sam M. Walton College of Business Center for Management and Executive Education to provide services related to the summit.

		Economic Development
Cost of this request	Category / Project Budget	Program Category / Project Name
1010 6600 5315 00	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
08050-0901	$ -	General
Project Number	Remaining Balance	Fund Name

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

Don Marr — 2/13/2009
Department Director — Date

Previous Ordinance or Resolution # ______
Original Contract Date: ______
Original Contract Number: ______

2-13-09
City Attorney — Date

Paul A. Becker — 2-17-09
Finance and Internal Services Director — Date

Received in City Clerk's Office
ENTERED
2-13-09

Chief of Staff — Date

Received in Mayor's Office
ENTERED
2/17/09

Lioneld Jordan — 2/18/09
Mayor — Date

Comments:

RESOLUTION NO. ______

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT OF $38,500.00 TO FUND AN ECONOMIC DEVELOPMENT "FAYETTEVILLE FORWARD" SUMMIT AND TO APPROVE A LETTER AGREEMENT WITH THE UNIVERSITY OF ARKANSAS SAM M. WALTON COLLEGE OF BUSINESS TO FACILITATE THE "FAYETTEVILLE FORWARD" SUMMIT FOR $17,500.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment of $38,500.00 to fund an economic development "Fayetteville Forward" summit and to approve a letter agreement with the University of Arkansas Sam M. Walton College of Business to facilitate the "Fayetteville Forward" summit for $17,500.00.

PASSED and **APPROVED** this 17th day of February, 2009.

APPROVED: ATTEST:

By: ______________________________
LIONELD JORDAN, Mayor

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

Fayetteville
ARKANSAS

To: City Council

Thru: Mayor Lioneld Jordan
From: Don Marr
Date: February 13, 2009
RE: Approving a budget adjustment in the amount of $38,500.00 to fund an Economic Development "Fayetteville Forward" Summit and a Letter of Agreement with the University of Arkansas Sam M. Walton College of Business Center for Management and Executive Education.

Background

The City Council authorized a Letter of Agreement with the University of Arkansas Technology Development Foundation (UATDF) for a $75,000 cost-share in the preparation of Phase One of an Economic Development Strategic Plan on August 19, 2008. This request is to allow a budget adjustment to fund the next recommended step - a full citizen input and vetting of the prior study for development of an action plan.

During the August 19th meeting there was discussion about the importance of using local knowledge, resources and city staff to coordinate such projects, instead of bringing in outside consultants. Additionally, Mayor Jordan promised during his campaign for Mayor that he would work to establish a detailed economic development plan within the 1st quarter of his term, and the final recommendation forwarded by the Economic Development Sub-Committee of the Mayor's Transition Team recommended that Mayor Jordan hold an economic development summit in order to build upon the Eva Klein report and to gauge the public's reaction to the recommendations contained in that report. Since that time, Governor Mike Beebe and the Arkansas Economic Development Commission have released the state's Strategic Plan for Economic Development, which has as one of its principles meeting the special needs and taking advantage of the extraordinary assets of various areas of the state. It will be to our advantage to have our own economic development strategy and community vision that draws on these documents.

With the above ideas in mind, the City is coordinating a multi-day economic development summit called "Fayetteville Forward." The process being used for the summit - called Appreciative Inquiry - was recommended by Mayor Jordan's Transition Team because this process **results in actions to be taken and implementation steps outlined by the end of the summit** - **not to be developed months later** - and this process has been used at the University of Arkansas for various industries and governmental entities.

Discussion

The Fayetteville Forward summit is about more than economic development. It is an open, inclusive, participatory event that elicits the best ideas and heartfelt desires for the community, building on existing work, and connecting these efforts to create a compelling vision for the future of our community. The result of this summit will lay the foundation for economic development - moving the City of Fayetteville Forward for a sustainable future.

What makes Fayetteville Forward different from other participatory events?
The Fayetteville Forward (FF) summit does not seek to reinvent the wheel or duplicate previous work. Instead, the FF summit seeks to *build on and connect* previous work including City Plan 2025, the Eva Klein study, UACDC Light Rail study, Governor Beebe's Strategic Plan for Economic Development, and others. It will be open to every resident of our community. Participants in the summit will **create action steps through collaborative exercises so that implementation of an economic development plan can begin immediately. The end product will be a detailed economic development plan and time line which can be utilized through 2012.**

A professional facilitator with experience in the recommended process leads the Mayor to consider the Letter of Agreement with the University of Arkansas Sam M. Walton College of Business Center for Management and Executive Education as a continuation of partnership efforts with the University.

City staff will coordinate the summit, including all logistics and publicity, and will continue to work in partnership with the University of Arkansas in designing the summit agenda and related activities. The cost for internal project management will be a less than if outside consultants were hired to manage the project.

A budget adjustment (Exhibit A), the Letter of Agreement with the University of Arkansas Sam M. Walton College of Business Center for Management and Executive Education (Exhibit B), a Fayetteville Forward Summit overview (Exhibit C), and proposed budget (Exhibit D) are attached for your review.

Recommendation

Approve a budget adjustment in the amount of $38,500.00 ($35,000.00 with a $3,500.00 contingency) to fund an Economic Development "Fayetteville Forward" Summit and authorize the Mayor to execute a Letter of Agreement with the University of Arkansas Sam M. Walton College of Business Center for Management and Executive Education for summit related services.

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department / Division / Program	Date Requested	Adjustment Number
2009	Department: General Government Division: Miscellaneous Program: Miscellaneous	2/13/2009	

Project or Item Added/Increased:
$38,500 in the Economic Development Funds capital project.

Project or Item Deleted/Reduced:
$38,500 from the Designated Unreserved Fund Balance account earmarked for Economic Development (Wilson Springs).

Justification of this Increase:
The funding is for the development of a Economic Development forum.

Justification of this Decrease:
Currently the Economic Development Fund has $1,072,790.66.

Increase Budget

Account Name	Account Number				Amount	Project Number	
Contract Services	1010	6600	5315	00	38,500	08050	0901

Decrease Budget

Account Name	Account Number				Amount	Project Number	
Use Of Designated Fnd Bal	1010	0001	4999	98	38,500	08050	0901

Approval Signatures

Signature	Date
Requested By	2-18-09
Budget Director	2-13-09
Department Director	2-18-09
Paul A. Becker Finance Director	2-17-09
Mayor	2/18/09

Budget & Research Use Only

Type: A B C D E

General Ledger Date ______

Approval Date ______ Initial ______ Date

Posted to General Ledger ______ Initial ______ Date

Posted to Project Accounting ______ Initial ______ Date

CC Agenda Request **Exhibit D** 02/13/2009

Fayetteville Forward

Proposed Budget - February 13, 2009

Item	$ Amount	NOTES
Summit Facilitation & Event Materials	17,500	Facilitator Agreement w/ UA CMED
Room Rental		
UACEd	2,200	Friday 4/3 & Saturday 4/4
Town Center	1,500	Tuesday 3/31 & Thursday 4/2
Summit - Lunch	5,000	Friday 4/3 & Saturday 4/4
Summit - Breakfast & Snacks	2,500	beverages & snacks for daily events
Evening Social - Apr 3 (Friday)	3,000	at FPL - hors d'oeuvre & beverages
Evening Discover/Dream Phase - Mar 31	1,000	Tuesday
Evening Discover/Dream Phase - Apr 2	1,000	Thursday
Advertising		
Utility Bill Inserts	3,750	
PSA provided to other stations	50	for disc & tapes provided to other stations
Flyers/Postcards/ Handouts	1,000	
Total	38,500	

In-House Items
- Project Planning & Coordination
- Publicity & Advertising Design Work
- Event Website Design & Maintainence
- Public Service Announcement Production
- Event Taping

JMcQuade
2/13/09

Exhibit C

Fayetteville Forward

The **Fayetteville Forward** summit is about more than economic development. It is an open, inclusive, participatory event that elicits the best ideas and heartfelt desires for the community, building on existing work, and connecting these efforts to create a compelling vision for the future of our community. The result of this summit will lay the foundation for economic development - moving the City of Fayetteville Forward for a sustainable future.

What makes Fayetteville Forward different from other participatory events?
The Fayetteville Forward (FF) summit does not seek to reinvent the wheel or duplicate previous work. Instead, the FF summit seeks to *build on and connect* previous work including City Plan 2025, the Eva Klein study, UACDC Light Rail study, and others. Participants in the summit will ***create action steps through collaborative exercises so that implementation can begin immediately. The end product will be a detailed economic development plan and time line through 2012.***

How will we get from here to there...and beyond?
Through a two phase process - Phase 1 - Discover and Dream, and Phase 2 - Design and Deploy.

Discover: A community must understand what makes it strong if it is to participate effectively in decisions that affect local livelihoods. The Discover phase seeks to generate stories, to enrich the images and inner dialogue among stakeholders, and to bring the positive core more fully into focus.

The results of Discovery include:
- The formation of new relationships and alliances, that bridge across traditional barriers.
- City-wide sharing and learning from stories of best practices, innovations and exemplary actions.
- Greatly enhanced city knowledge and collective wisdom.

Dream: The Dream phase is an energizing exploration of "what might be" - a time for people to explore their hopes and dreams for their community. It is a time for groups of people to engage in thinking big, thinking out of the box, and thinking beyond the limitations of the past.

The intent of the Dream phase is to identify and spread generative, affirmative, and hopeful images of the future. Collaborative discussions of stakeholders explore:
- Creative images of the organization's most positive potentials.
- Innovative strategic visions.
- An elevated sense of purpose.

Design: With a positive vision in place and a recognition of the strengths the community can bring to bear to achieve that vision and make it a reality, it is time to begin the design phase. What must the community do to achieve the vision? Are there initiatives that need to be launched? Are there priorities that emerge in terms of funding? Is the infrastructure in place? What needs to be created?

Deploy: In this phase, *goals and time lines* are attached to the vision and the design. Who will be responsible for specific action steps. *This is where the rubber meets the road so to speak.* What are the priorities of the community? What are the metrics for success?

What can we expect to achieve at the Fayetteville Forward Summit?
- **A compelling vision.**
- **Alignment of key stakeholders around the vision.**
- **A set of initiatives designed to support the vision.**
- **Action items.**

Moving Fayetteville Forward

Fayetteville Forward - Economic Development Summit
Summit Events

Phase 1 **Discovering the Dream**

There are 3 opportunities for participation in Phase 1 of the summit. Citizens can chose a session that works with their schedule.

Tuesday - March 31, 2009	**6:00 p.m. - 9:00 p.m.**	**Town Center**
Thursday - April 2, 2009	**6:00 p.m. - 9:00 p.m.**	**Town Center**
Friday - April 3, 2009	**9:00 a.m. - 4:00 p.m.**	**UA Global Campus**

Phase 2 **Design and Deploy**

Saturday - April 4, 2009	**8:00 a.m. - 5:00 p.m.**	**UA Global Campus**

Fayetteville Forward Social Friday, April 3, 2009 6:00 p.m. - 8:00 p.m.
Hosted by the Fayetteville Public Library

To register or for more information about the Fayetteville Forward Summit go to the event web site at:
http://fayettevilleforward.accessfayetteville.org

Steering Committee Members

Meetings

Fri. - Feb. 20	3:30 p.m. - 5:00 p.m.	Room 219, City Hall
Wed. Mar. 4	3:30 p.m. - 5:00 p.m.	FPL - Walker Room
Wed. Mar. 25	3:30 p.m. - 5:00 p.m.	FPL - Walker Room

Summit Events are listed above. Some Steering Committee members will need to be at each Phase 1 event and all will need to be present at the Phase 2 event.

Responsibilities: Steering Committee members will be responsible for assisting in defining the goal and areas of focus for the summit. They will perform interviews and recruit committed summit participants.

Thank you for committing to be a member of the Fayetteville Forward Steering Committee. Your participation is greatly appreciated.

University of Arkansas Sam M. Walton College of Business

10 February 2009

City of Fayetteville
Mayor Lioneld Jordan

This document is to serve as a letter of agreement between the City of Fayetteville and the University of Arkansas Sam M. Walton College of Business Center for Management and Executive Education (Exec Ed), with regard to retaining Exec Ed to provide services for the Fayetteville Forward Summit. Please sign and return one copy of this letter if it does indeed serve as an appropriate statement of the arrangement between us.

This agreement contains five parts:

1. Summit definition and schedule
2. Nature of City of Fayetteville and ExecEd collaboration
3. Program Logistics and Arrangements
4. Commercial and Preparatory issues
5. Intellectual Property

1. Workshop Definition and Schedule

ExecEd is retained to provide facilitation for the Fayetteville Forward Summit on April 2 and 3, 2009. Additional dates can be added for the same dollar amount per date if agreed upon by both parties.

Facilitation will be conducted by Bliss Browne, Imagine Chicago, Chicago, IL, pre-approved by the Center for Applied Sustainability and the City of Fayetteville in prior conversation.

2. Nature of City of Fayetteville and Exec Ed Work

Exec Ed will assist in summit design and development of summit materials and provide facilitation through the preparation and delivery of all lectures, provision of instructional and case materials used, as well as relevant review and summary.

3. Program Logistics and Arrangements

The City of Fayetteville will be responsible for:

- Facility rental
- Meals/Breaks
- Promotion of the event
- Event registration

Exec Ed will be responsible for:

- Contracting facilitator and facilitator travel
- Materials for the event
- Assistance in Summit design and delivery

4. Commercial and Preparatory Issues

For the above-described work, the City of Fayetteville agrees to compensate Exec Ed in the amount of $17,500 for Fayetteville Forward Summit. .

Included in the $17,500 fee:
- Summit facilitation
- Summit materials
- Summit documentation and article reprint permissions
- Assistance in Summit design and delivery

Workshop Cancellation

Should the City of Fayetteville cancel the program within 14 days or less of the scheduled date, the City of Fayetteville shall pay Exec Ed for professional development costs incurred in preparation for the course delivery and any out-of-pocket costs (travel) incurred after due efforts to obtain reimbursement. Appropriate paperwork and receipts shall support all expenses presented for payment.

The payment of the professional fee plus reimbursement for out-of-pocket expenses shall be made to Exec Ed within 30 calendar days of the end of each course, upon receipt of detailed payment request from Exec Ed.

5. Intellectual Property

The City of Fayetteville and Walton College agree that all rights, title and interest to the course materials, including rights to any trademarks, patents or copyrights, shall vest jointly in the City of Fayetteville and Walton College. The Parties agree not to disclose the course materials to any third parties without the prior written consent of the other Party. Walton College agrees that it will not use the course materials developed for the City of Fayetteville for any purpose other than those set forth in this Agreement and will not disclose information, concepts, ideas or other material whatsoever disclosed to it by the City of Fayetteville. Furthermore, all material provided to Walton College by the City of Fayetteville will be maintained by Walton College in complete confidence and be used solely for the purpose of creating course materials for the benefit of the City of Fayetteville. Notwithstanding the foregoing, the City of Fayetteville acknowledges that Walton College may use generic or pre-existing intellectual property not obtained from or specifically developed for the City of Fayetteville for use in developing the course materials, and that Walton College retains all rights for future use and development of such generic or pre-existing intellectual property.

6. Indemnity & Insurance

Under Arkansas law, the University of Arkansas may not enter into a covenant or agreement to hold a party harmless or to indemnify a party from prospective damages. However, with respect to loss, expense, damage, liability, claims or demands, either at law or in equity, for actual or alleged personal injuries or property damage arising under the Agreement by the University and its employees, agents, or subcontractors, University agrees with the City of Fayetteville that: (1) it will cooperate with the City of Fayetteville in the defense of any action or claim brought against the City of Fayetteville seeking the foregoing damages or relief; (2) it will in good faith cooperate with the City of Fayetteville should the city of Fayetteville present any claims or the foregoing nature against the University to the Claims Commission of the State of Arkansas; (3) it will not take any action to frustrate or delay the prompt hearing on claims of the foregoing nature by the Claims Commission and will make reasonable efforts to expedite hearing; provided, however, University reserves its right to assert in good faith all claims and defenses available to it in any proceeding in the Claims Commission or other appropriate forum.

By affixing their signatures as provided below, the City of Fayetteville indicate their acceptance of the terms of this agreement.

Date: 12 February 2009	Date:
By: Theres W. Stiefer	By:
Theres W. Stiefer	Name
Director, Executive Education	Title
Sam M. Walton College of Business	Organization

ORDINANCE NO. _______

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CODE OF FAYETTEVILLE TO AMEND CHAPTER 161: ZONING DISTRICTS IN ORDER TO AMEND AND UNIFY BUILDING SETBACK AND BUILDING HEIGHT REGULATIONS IN RESIDENTIAL SINGLE-FAMILY, MULTI-FAMILY AND RESIDENTIAL-OFFICE ZONING DISTRICTS.

WHEREAS, the City of Fayetteville has adopted Urban Residential Design Standards that requires buildings to front city streets and locate parking behind the structure; and

WHEREAS, the Zoning Regulations in Chapter 161 dictate building placement and structure heights; and

WHEREAS, the City of Fayetteville recognizes that the Zoning Regulations, Design Guidelines and methods of measuring building placement and height should be consistent;

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

Section 1. That Chapter 161: Zoning Regulations is amended by repealing and replacing specific sections, a copy of which marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this the ____ day of ____, 2009.

APPROVED:

By: ______________________________
LIONELD JORDAN, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

AGENDA REQUEST

FOR: COUNCIL MEETING OF MARCH 3, 2009

FROM: ALDERMAN BOBBY FERRELL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §117.47 **Advertising** Of The Fayetteville Code

APPROVED FOR AGENDA:

Bobby Ferrell
Bobby Ferrell
Alderman

2/24/09
Date

Kit Williams
City Attorney (as to form)

2-17-09
Date

ORDINANCE NO. ______

AN ORDINANCE TO AMEND §117.47 **ADVERTISING** OF THE FAYETTEVILLE CODE

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

<u>Section 1</u>: That the City Council of the City of Fayetteville, Arkansas hereby repeals §117.47 **Advertising** subsection (A) in its entirety and enacts an amended subsection (A) as follows:

> "(A) Subject to the restrictions provided herein, it shall be lawful for any person owning or operating a taxicab, bus, van, or motor vehicle for hire to permit advertising matter to be affixed or installed in or on such taxicab, bus, van, or motor vehicle for hire. The advertising shall not in any way obstruct the vision of the driver of the vehicle. Advertising on a taxicab shall be limited to one sign located on the rear or roof of the vehicle which sign shall not exceed nine square feet in area. Advertising on a bus or van shall be limited to one sign on each side of the vehicle and one sign on the rear of the vehicle, none of which signs shall exceed 12 square feet in area."

PASSED and **APPROVED** this 17th day of February, 2009.

APPROVED: ATTEST:

By: ______________________________
LIONELD JORDAN, Mayor

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

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE **LEGAL DEPARTMENT**

TO: **Lioneld Jordan**, Mayor
City Council

FROM: **Kit Williams**, City Attorney

DATE: **February 26, 2009**

RE: **Taxicab and bus signs**

I have not been very comfortable with the allowance of any signs on "a taxicab, bus, van or motor vehicle for hire" that advertise for other businesses. These would certainly be deemed "offsite signs" which are otherwise prohibited throughout Fayetteville by our sign ordinance. Other cities which have sought to allow some offsite signs while banning others such as billboards have sometimes been sued by billboard companies or law firms which specialize in billboard suits. These suits have been expensive and time consuming to defend, but fortunately usually result in a victory for a city willing to invest in its ordinance's defense.

Los Angeles adopted its Sign Ordinance on April 30, 2002, supported by the same purposes of the Fayetteville Sign Ordinance passed decades earlier: traffic safety and aesthetics. In eight early appeals to the Arkansas Supreme Court and a more recent appeal to the Eighth Circuit Court of Appeals, our Sign Ordinance (with some necessary amendments) has been held constitutional.

The Los Angeles ordinance was challenged by a billboard company, Metro Lights, which installed several billboards (offsite signs) in violation of the Sign Ordinance. The Federal District Court struck down the L.A. Sign Ordinance on grounds that the city had allowed too many exemptions for off site signs at transit stops and on busses which undermined the City's grounds of aesthetics and traffic safety.

> "(T)he Supreme Court has held that a regulation can be unconstitutional if it 'in effect restricts too little speech because its exemptions … diminish the credibility of the government's rationale for restricting speech in the first place.' City of Ladue v. Gilleo, 512 U.S. 43, 50-51, 52 (1994)." Metro Lights v. City of Los Angeles, Case No. 07-55179, page 46 (January 6, 2009, 9th Cir.)

Fortunately, the Ninth Circuit Court of Appeals reversed the decision in favor of the billboard company and held Los Angeles' Sign Ordinance did past constitutional muster.

> "It is well-established that traffic safety and aesthetics constitute substantial government interests." Id. at 45

The Ninth Circuit held that the unconstitutionally under-inclusive argument of Metro Light failed because the ban against offsite signs (even with its exemptions) still advanced "traffic and aesthetics more than a ban on none." Id. at 51. **Thus, the current exemptions to our Sign Ordinance are probably okay.**

As City Attorney, I am charged with the defense of the constitutionality and legality of all city ordinances. None has been attached in Court more than our Sign Ordinance. Therefore, I remain concerned about anything that could weaken the constitutional and legal support for the Sign Ordinance which certainly includes too many exemptions to its most basic prohibition against offsite signage.

In 2004, the City Council followed the request of our Chief Administrative Officer, Hugh Earnest, and Alderman Reynolds to allow some advertising on taxicabs and buses partly in support of ORT's continuing financial needs. Now Alderman Ferrell has proposed a change requested by a taxicab company to move its signage from the rear, trunk area of the cab to its roof. The rear area is viewable only by traffic or pedestrians behind the taxicab and so would have no adverse affect on traffic safety or aesthetics for oncoming or cross traffic. Moving the sign area to the roof and allowing a triangle-shaped sign would make the signs visible, and thus potentially distracting from traffic safety concentration for drivers approaching from the front or side streets. Signs on the roofs would also be much more visible to all and thus a detriment to the aesthetics we enjoy because of our Sign Ordinance. This sign might also interfere with the ordinance requirement that "every taxicab shall have affixed to its roof an illuminated sign bearing either the word 'taxicab' or 'taxi'". §117.42 of the Fayetteville Code.

Rather than expanding the exemptions to our Sign Ordinance, I would propose at least a minor tightening by removing "van or motor vehicle for hire" from §117.47 from permission to use an offsite sign. Vans are not defined by our ordinance while "taxicabs" and "limousine service" are. "Motor vehicle for hire" is also not defined by our ordinance. The lack of specific definition could lead to claims that rental vehicles or temporary, casual and unregulated "motor vehicles for hire" should be allowed to display offsite signs on their vehicles.

Thus, I suggest that §117.47 **Advertising** be amended to remove "van or motor vehicle for hire" from this section regardless whether or not you decide to allow roof mounted offsite signs for taxis. I also would like to tighten the provision about buses to specifically limit the exemption to Ozark Regional Transit which was the reason this exemption was passed. Below is what I would propose to tighten up the exemptions in this section.

MORE RESTRICTIVE §117.47 ADVERTISING

"(A) Subject to the restrictions provided herein, it shall be lawful for a person or business owning or operating a taxicab and for Ozark Regional Transit operating its busses to permit advertising material to be affixed or installed on such taxicab or bus. The advertising matter shall not in any way obstruct the vision of the driver of the vehicle nor be illuminated. Advertising on a taxicab shall be limited to one sign located on the rear (or roof)* of the vehicle and shall not exceed nine square feet in area. Advertising on an Ozark Regional Transit bus shall be limited to one sign on each side of the bus and one sign on the rear. No such signs on a bus shall exceed twelve square feet."

By narrowing these exemptions to the sign ordinance, we would be strengthening its constitutionality by further promoting the accepted public policy supports for the ordinance: traffic safety and aesthetics.

* pending City Council decision

117.47 Advertising

(A) Subject to the restrictions provided herein, it shall be lawful for any person owning or operating a taxicab, bus, van, or motor vehicle for hire to permit advertising matter to be affixed or installed in or on such taxicab, bus, van, or motor vehicle for hire. The advertising shall not in any way obstruct the vision of the driver of the vehicle. Advertising on a taxicab shall be limited to one sign located on the rear of the vehicle which sign shall not exceed nine square feet in area. Advertising on a bus or van shall be limited to one sign on each side of the vehicle and one sign on the rear of the vehicle, none of which signs shall exceed 12 square feet in area.

(B) It shall be unlawful for any person to display on any taxicab, bus, van, or motor vehicle for hire any advertisement of tobacco products, alcoholic beverages, x-rated motion pictures, or any advertisement that is false, misleading, or deceptive.

(Code 1965, §20-33.10; Ord. No. 1910, 4-3-73; Ord. No. 2750, 8-18-81; Code 1991, §117.47; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.48 Enforcement

The police department possesses the authority under existing law to issue citations as appropriate.

(Code 1965, §20-33.11; Ord. No. 1910, 4-3-73; Code 1991, §117.48; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.49 Meter Rates Established

(A) It shall be unlawful for any person, owning, operating, driving, or in charge of any taxicab for hire in the city to drive or operate such taxicab, or to use or advertise in connection therewith the word "taxi," "taxicab," or "cab" or in soliciting trade from the public to represent or exhibit such vehicle as a "taxi," "taxicab," or "cab" unless such vehicle is equipped with an approved fare meter according to the provisions of this chapter. An approved fare meter is a meter that registers accumulating fare charge with each amount being visible to passenger(s).

(B) Taxi services provided to patrons utilizing City issued taxi coupons shall be based on a zone rate system with the initial meter charge, charge per mile and additional person charge incorporated into a flat rate per zone. The Zone Rate shall be used exclusively by all taxicabs excluding waiting time except as provided in subsection (D) below. The ceiling rates shall apply to all taxicabs operating in the city. The initial zone rates are set out as follows:

Ceiling rate, no more than a rate of:

(a) Travel within One Zone $8.00

(b) Travel incorporating Two Zones $12.00

(c) No charge for additional person shall be charged.

(d) Waiting time ceiling rate, not to exceed $10.00 per hour.

(C) Taxi companies shall utilize the zone of the trip origination and zone of the trip destination for purposes of valuation for the trip.

(D) A taxicab operator may make special contractual arrangements in advance with persons at fares either higher or lower than those set forth by this article, but such contract must be in writing and a copy thereof filed with the City Clerk.

(Ord. 4751, 9-06-05; Ord 4777, 10-04-05)

117.50-117.59 Reserved

ARTICLE V
LIMOUSINE SERVICE

117.60 Definition

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Limousine service. Transportation service over the streets of the city, in a type of automobile commonly referred to as a limousine. This definition expressly excludes taxicabs.

(Code 1965, §20-34; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.60; Ord. No 4623, 10-05-04; Ord. 4661, 12-21-04)

117.61 License Required; Fee

It is hereby declared to be a privilege for any person to furnish limousine service, and no person shall engage in such undertaking without first paying to the city an annual license fee of $100.00 for each limousine used on the streets of the city, for the privilege of engaging in such business, and obtaining a Certificate of Public Convenience and Necessity. The fee shall be paid on or before January 1st of each year.

(Code 1965, §20-35; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.61; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

Aldermen

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

City of Fayetteville Arkansas
City Council Meeting Minutes
February 17, 2009

A meeting of the Fayetteville City Council was held on February 17, 2009 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

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

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan asked for a report on the Ice Storm and the clean-up efforts.

David Jurgens, Water and Wastewater Director gave a brief report on the RFP process and the clean-up efforts.

Don Marr, Chief of Staff gave a report of the amount of debris that has been picked up thus far and the approximate amount left to pick up.

Alderman Lewis: There has been a lot of extra staff time and I am wondering does FEMA include that in their calculations?

Don Marr: There are very detailed guidelines about staff reimbursement in terms of administrative costs. It is not all covered but some of it will be.

Alderman Ferrell: In my four years of service I have worked on several RFP's and this one we have had more response to than any one we have ever had. Because of our need to move on this so that we do everything right for FEMA I was asked to mention that if we are successful tomorrow we might ask to call a Special City Council meeting tomorrow evening or Thursday morning. He thanked the City staff for all their hard work.

Alderman Cook: What is the status on the cash flow situation?

Paul Becker, Finance and Internal Services Director: We don't know how long it is going to take for Federal money to turn around. We feel it will be three weeks to a month. As far as the State FEMA, they could have a longer time period. We will have to ask you to appropriate the funds for the project and then I will ask for a method to handle the cash flow. I anticipate that we could come up with funds of about $5 million if we needed to.

Alderman Cook: So if we hit that $15 million mark we are going to have the cash.

Paul Becker: I would have to go back to the drawing board and possibly ask for more cash to be advanced from the General Fund but I feel that $5 million should be able to accommodate us.

Presentations, Reports and Discussion Items:

Alderman Cook read the listing of all the current Board and Committee vacancies.

Quarterly Report of Financial Condition of the City

Sondra Smith, City Clerk/Treasurer presented the City Council with the quarterly financial report of the City. A copy of the report was placed in the City Council's mailboxes.

Paul Becker: We will have a surplus of over $500,000 in the General Fund this year. $200,000 of that is because of excess revenue and we will lapse approximately $300,000 worth of expenditures. He listed the details within the report.

Mayor Jordan: Give us the report on the sales tax.

Paul Becker: The City's one penny is down .8% compared to last year. The County is down .5%. That puts us about 2.8% under budget. This is the first month against this budget which is about $70,000 below what expectations were.

Alderman Cook: So in the two county areas was the sales tax revenue down if you combine the two counties?

Paul Becker: The combined two county areas the sales tax revenue was down compared to last year.

Alderman Ferrell: I just wanted to comment and say that despite the down side in January, I was happy that we started with the $500,000 extra in the General Fund.

Agenda Additions: None

Consent:

Approval of the February 3, 2009 City Council meeting minutes.

Approved

Bid # 08-16 Kinco Constructors, LLC: A resolution approving Change Order # 10 under Bid # 08-16 with Kinco Constructors, LLC in the amount of $123,051.00 for the construction of Wilson Park Bridge and Trail Connection; and approving a 10% project contingency in the amount of $12,305.00.

Resolution 36-09 as Recorded in the office of the City Clerk.

Fire Department Donations: A resolution approving a budget adjustment for the Fayetteville Fire Department in the amount of $950.00 to recognize donation revenues from local businesses to fund fire employee service awards.

Resolution 37-09 as Recorded in the office of the City Clerk.

McGoodwin, Williams & Yates, Inc. Amendment No. 1: A resolution approving Amendment No. 1 to the contract with McGoodwin, Williams & Yates, Inc. in the amount of $63,800.00 to update the Water Transmission and Distribution System Model and Master Plan; approving a contingency in the amount of $5,347.00; and approving a budget adjustment in the amount of $50,000.00.

Resolution 38-09 as Recorded in the office of the City Clerk.

McGoodwin, Williams & Yates, Inc. Amendment No. 3: A resolution approving Amendment No. 3 to the contract with McGoodwin, Williams & Yates, Inc. reducing the contract amount by $947,298.00 for design and construction phase services of the West Side Wastewater Treatment Plant, Broyles Road and the Mitigation Wetlands of the Wastewater System Improvement Project (WSIP).

Resolution 39-09 as Recorded in the office of the City Clerk.

RJN Group Amendment No. 5: A resolution approving Amendment No. 5 to the engineering contract with RJN Group in the amount of $597,704.00 for WSIP West Side Collection System design and construction phase services.

Resolution 40-09 as Recorded in the office of the City Clerk.

Amend City Council Rules of Order and Procedure: A resolution to amend the City Council Rules of Order and Procedure to add a new section concerning orientation of new alderman.

Resolution 41-09 as Recorded in the office of the City Clerk.

Alderman Gray moved to approve the consent agenda. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

<u>Unfinished Business:</u>

Villas at Stonebridge Appeal: An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2170, Villas at Stonebridge, located south of Highway 16 East and east of Goff Farm Road; containing approximately 53.03 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. *(This ordinance was left on the First Reading at the December 2, 2008 City Council meeting. This ordinance was left on the Second Reading at the December 16, 2008 City Council meeting. This ordinance was left on the Second Reading at the January 6, 2009 City Council meeting and then tabled to the February 3, 2009 City Council Meeting.)*

This ordinance was left on the Second Reading at the February 3, 2009 City Council meeting and then tabled to the February 17, 2009 City Council Meeting.

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

Assistant City Attorney David Whitaker read the ordinance.

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

Alderman Thiel: I think it was you that mentioned the possibility of another condition of approval would be that the developer would do improvements on Dead Horse Mountain Road a little farther south. Is that something that staff has discussed with the applicants?

Jeremy Pate: Not any further than what the conditions are currently. Right now the conditions state that for Dead Horse Mountain Road, prior to the final plat of Phase III, the applicant shall overlay and widen Dead Horse Mountain road from the north property line to the south property line which does include some intervening property.

Alderman Thiel: Phase I would have the least impact on traffic and that is their plan to do the single family lots first?

Jeremy Pate: Yes, the initial phase would actually provide two points of access to Dead Horse Mountain Road but it would be the northern access and the southern access. It would be a full street that would be constructed all the way through the project to provide those accesses.

Alderman Thiel: I would like to ask the applicant a question. One of our concerns was some of these other projects surrounding this that haven't been built out yet. I guess I just want some assurances that at least the beginning of this project will get started. Do you feel confident that that is going to happen?

Todd Jacobs, Architect for the Project**:** It's a large project by City of Fayetteville standards; it's a traditional neighborhood project so it has a lot more infrastructure than your typical subdivision. We have five phases over seven years. This is the last undeveloped piece of land in that area to be on a golf course. We feel confident that this is a good area so it is not going to happen over night and we are looking at a year before dirt can be turned.

Alderman Thiel: I do like the project and the fact that it does have such a diverse amount of housing for a golf course which you don't always see.

Alderman Lewis: I am wondering about the impact on the water system. Do we have lift stations out there?

David Jurgens: Yes, on the piece mil basis with each development that is going in the improvements have gone into meet the water supply. The one development that is up high on the hilltop will require an elevated tank if and when that would come in the future but otherwise we have adequate water supply there.

Alderman Lewis: Tell me more about the situation with the bridge. I am excited about the design of this but I am really concerned about the connectivity. If there is a problem with the bridge that seems like it would be a real issue.

Jeremy Pate: The Council approved the bridge construction in the last couple of months. It is a cost share and is anticipated to be constructed with construction hopefully beginning in the next few months. This bridge would simply replace at the same elevation as the bridge is currently. Your point about the access to the project is exactly what staff had a concern about. The concern was the location and access. There was very little available for connectivity with this project. As for the bridge there are conditions of approval related to fees to be paid by the developer for the bridge and those would likely never be paid because the bridge will be constructed before they ever get to this point.

Alderman Lewis: What are the plans for road improvement?

Jeremy Pate: The applicant would be required to put a turn lane at the main entrance and then by Phase III they would overlay and widen to a certain section the frontage between their two entrances. North of that there are no planned improvements at this time.

Alderman Thiel: You do understand there is another way out to Highway 16? Whenever that bridge is out people have to go out Goff Farm Road. There are actually three ways into this.

Alderman Ferrell: I think the availability of an affordable place on a golf course lends itself to the lifestyle of Fayetteville and it's wonderful. In reading through the Planning Commission notes the vote on it was 3-4 and there were two commissioners absent at the meeting. Although I understand other peoples concerns I think this will definitely be an asset.

Alderman Lewis confirmed that area that was going to be the golf course on the map.

Todd Jacobs pointed out where the golf course was in fact located. He stated our houses abut the golf course. He pointed out where the single family lots were located.

Alderman Lewis: Can you tell me about your stormwater plans?

Todd Jacobs: This is mostly public infrastructure going in. Most of our stormwater would be along the golf course mostly on the homeowners in forms of rain gardens and cisterns because we don't have a lot of area to work with. We will be making the ponds larger and looking at LID features within the actual homeowner's property for our LID stormwater for this project.

Alderman Petty: I think this is a little ahead of it's time. This would be a great thing to bring forward and to approve when the area and infrastructure around there has been more developed. I don't think I can support it for those reasons.

Todd Jacobs spoke on the design and stated the design itself is really good and is what the City of Fayetteville is looking for. He went on to speak on the policy issues and the infrastructure. He also referenced various slides in his presentation which explained the project in more detail.

Alderman Lucas: The trail goes up to Town Bridge Creek.

Todd Jacobs: It actually goes a little farther now.

Alderman Lucas: Will it go up to Highway 16?

Todd Jacobs pointed out on the map where the trail will go.

Alderman Lucas: It's like they could almost go to the commercial area there.

Todd Jacobs: Right, eventually this will get you to Walker Park and that will be the main connection. Between what is completed and what we will build that will be a pretty good section of filling in the pieces.

He continued with his slide presentation which explained the project.

I think staff and I agree that this is a good development and with that we looked at doing the phasing and the infrastructure to allow the project and infrastructure to work side by side which would allow the infrastructure to catch up and the phasing to come versus trying to do this project all at once.

Alderman Petty: Maybe I have underestimated how quickly that area is changing. Can you explain some of the research you have done on how the population is expanding in that area of town?

Todd Jacobs: We looked at Stonebridge Villa Golf Course and house sales have been in the average of 30-40 per year. This has been one of the strongest housing areas selling in Fayetteville because people like the area. Elkins is starting to do its own retail within its own city and we feel that it will hopefully move to this project because it will be closer to town. We also looked at the traffic numbers and I am sure they are probably looking for property for a Neighborhood Market in this area.

Alderman Lewis: Are there bus routes or other options to ensure that a bus route would reach out to this development?

Todd Jacobs: I think that is a little optimistic. There will probably never be a bus service out there if we continue to build RSF-4 subdivisions. There is just not enough density to support it. There might be a bus stop at Highway 16 and Dead Horse Mountain Road but that would be the most likely spot for a bus service.

Hank Broyles, a developer for this project stated after the vote by the Planning Commission I spoke to Sean Trumbo who said that if he would have been there he would have voted for it. He went on to list the price ranges of the housing within the project.

Alderman Gray: I do feel like it is time for us to build this development. I like it a lot and I think that we have not approved anything similar to this in this part of town nor have we approved any that have the wide variety of cost of the living situations that Hank was just talking about. We need to look at the property that is left and keep in mind that something is going in on that property. I would much rather have a beautifully planned development like this that offers the golf course to folks who want that and they don’t have to buy a half million dollar house in order to be on the golf course. I feel that it is time for Fayetteville to approve this development and I will be supporting it.

Alderman Thiel: I think it is important to note that bond money has been approved to go out to this intersection on Huntsville and in the next phase of our bonding we are going to be looking at going farther out each time. There is a lot of development out there already and we have not had any objections from anyone that lives out there. I support this project. It just makes sense.

Alderman Rhoads: I agree with Alderman Gray and Thiel but the thing that has the most impact upon my thought process is that we keep looking for and asking people to bring forward affordable housing and there is a lot of affordable homes in here and it’s a very nice place to live. That just weighs heavily on my decision.

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

Ordinance 5220 as Recorded in the office of the City Clerk

New Business:

CUP 08-3158 Wilkins Appeal: An appeal of Conditional Use Permit 08-3158 (Wilkins) which was granted at the January 12, 2009 Planning Commission meeting.

Jeremy Pate gave a brief description of the appeal. The Planning Commission voted to approve this with a vote of 7-1 and staff also recommended approval of this conditional use permit for a tattoo business. We felt this would be a use that is compatible with this neighborhood. I want to mention that the name of the business should not be considered as part of your consideration for this application because it is protected by free speech rights.

Alderman Lucas: The original reason you looked at this was because of the sign?

Jeremy Pate: We got a call on the sign.

Alderman Lucas: What was decided about the sign?

Jeremy Pate: There was not a permit issued for the sign.

Alderman Lucas: What was the sign?

Jeremy Pate: The original complaint was a small sign that they would sit out on the property. We investigated and informed the applicant and then went through our normal research process.

Alderman Lucas: Would the sign on the side of the building be approved?

Jeremy Pate: It would likely. Subject to the conditional use permit process we will not issue a Certificate of Zoning Compliance unless that sign is permitted and approved by our office.

Alderman Rhoads: What is the procedure that this appeal comes before us?

Jeremy Pate explained the appeal process.

Alderman Rhoads: Does that mean the Alderman want the appeal to go one way or another or does it mean they have appealed because someone has asked them and they just want to bring it forward?

Jeremy Pate: Most Aldermen are simply appealing to get it before the full Council for discussion. It does not mean they support or do not support the Planning Commission decision.

Alderman Lucas: I was called about that and I felt like the two Aldermen that are in the ward thought it was worth while to bring forward and I had calls from people concerned about it and I thought it should be brought forward to discuss at the Council level.

Alderman Thiel: I want you to explain to me again why tattoo parlors weren't included in the Downtown General and only included as a conditional use.

Jeremy Pate: When we did the Downtown Master Plan we did not go down to the detail of looking at each and every use within each use unit. We have 42 use units that are identified in our Unified Development Code. We looked at our established use units and if we felt that the use unit was a fit in Downtown General we would include it as a use by right. If there were potentially objectionable uses within that use unit we might include it as a conditional use.

Alderman Thiel: So you didn't include anything in Use Unit 17 then.

Jeremy Pate: It's all a conditional use permit, anything in Use Unit 17 is a conditional use.

Alderman Thiel: To respond to Robert, what really struck me in the minutes was there is actually a new owner of the property that was being used which is a separate building aside from this that is being rented. They objected to this and they felt like it would not compliment what they are doing to their new business. That made it incompatible with improvements and the neighborhood as to what they wanted. That really factored in to whether or not this was something we should automatically approve at this time.

Alderman Lewis: I am wondering about some comments about the landscaping and code compliance with the building itself. Is the business responsible for that and are those two connected? Can the City ask the business to be responsible for those things or is that a separate issue?

Jeremy Pate: The City can require that as long as it meets the threshold. In this particular case though there is no expansion and the improvements are well below our threshold so the City doesn't have the right to require any of those improvements.

Alderman Lewis: That is what I am struggling with the most. The whole look of the place needs help. Can that be a part of the conditions of this?

Jeremy Pate: It really cannot be a part of the conditions of this but what I would recommend is that we attack the ordinance. If the ordinance is not meeting what we as a city feel is proper then that is where we look at it.

Alderman Ferrell: I think that until that ordinance is amended that would be a different situation. It would be inconsistent to me not to support this regardless of my personal feelings against the establishment.

Alan Ostner, resident of 312 South Block spoke against the business. He stated to say this is an art issue completely misses the point. This puts us to the side that live nearby it and so I would ask to make it a neighborhood issue. He went on to speak on use units. He stated this is incompatible for our neighborhood. He expressed his personal issues with the compatibility.

Alderman Ferrell: You have not spoken with this business person?

Alan Ostner: We have spoken a little bit.

Alderman Ferrell: Have you asked about changing the conditions with the owner?

Alan Ostner: Yes. I said it here and he came and acknowledged that he heard it so yes.

Joanne Southern, a resident of 104 West 5th Street and the Vice President of the Jennings Plus Neighborhood Association spoke in favor of the business. She asked where all the controversy was when "Extreme Novelty Shop" was in this location. She spoke on the fact that this does not affect property values. She stated this needs more thought and more information presented.

J.R. Ball, owner of the property adjacent to the property stated I am here to appeal the decision of allowing Low Life Tattoo Shop to operate in its current location. He stated the key to all of this is public perception. Our neighborhood perceives Low Life Tattoos as not compatible with our neighborhood and I hope you find it not compatible with your vision of this valuable part of our city.

Alderman Ferrell: Was the tattoo parlor there before you bought your property?

J.R. Ball: Yes it was.

Collin Wilkins, Owner of Low Life Tattoo addressed some of the concerns that had been mentioned. He explained how he obtained the signatures for his petition. He gave a description of his business and stated to say that I am not compatible with this area is very wrong.

Alderman Thiel: How long is your lease with the owner of this property?

Collin Wilkins: Five years.

Alderman Thiel: That is if you can operate as a tattoo parlor or can you get out of that if you can't?

Collin Wilkins: I am probably going to be in a bind if you all shut me down because I am not sure I can get out of the lease.

Alderman Thiel: Were you under the impression whenever you went into that lease that you could have a tattoo parlor there?

Collin Wilkins: Yes ma'am. I specifically asked her what it was zoned and she said it was C-2 and that is what I went with. I did not know about the new zoning. I have complied fully with everything that has been asked of me.

Alderman Thiel: What kind of issue would that get us into? Would he have recourse if we voted this down because he rented this on a premise that he could use it for this?

Assistant City Attorney David Whitaker: I won't characterize it as odds of success but of course he has recourse no matter what occurs. I am not going to comment on his relationship with his landlord.

Alderman Thiel: That is a very long lease.

Collin Wilkins: That was to help me with the rent. I am very fortunate at this location to have a low overhead where I can make it though this year pretty easy.

Alderman Thiel: If you are successful do you see yourself making improvements to the building and the parking lot of your business?

Collin Wilkins: I am not opposed to it but right now I do not have the funds to do that.

Alderman Gray: What kind of hours do you have now? I read something about your hours being cut. Is that right?

Collin Wilkins: No ma'am. I lost my other artist who was running it during the day time. Basically I get off work at the restaurant and get there around 5:30 p.m. I will be opening at noon until 9:00 p.m.

Alderman Gray: Then until 11:00 p.m. on the weekends.

Collin Wilkins: Yes ma'am. That is basically the standard in all the shops around here.

Alderman Lewis: Are you willing to work with the Neighborhood Association?

Collin Wilkins: Yes I am very willing to work with them. No one has ever come to my shop and talked to me. I have went out and talked to everybody. I think that shows a part of my willingness to get out there and talk to the people one on one and educate them on some of the issues. I hope you all look at this with an open mind and let me continue to run my business.

Rebecca Latourette, property owner at 205 West South Street stated I will be a good neighbor if this goes his way but I would like the City Council to know that people are putting a tremendous amount of money into the neighborhood in a downed economic time. In two years you are going to see a huge difference. She went on to speak on the property values of that area.

Alderman Ferrell: She just said that she would like to be a good neighbor and I think that is the best policy.

Alderman Rhoads: What is the Council supposed to be evaluating in this appeal?

Assistant City Attorney David Whitaker: You have to use your own best judgment of what this word means to you, compatibility not only with adjacent properties but overall with the zoning district in which the conditional use is sought.

Alderman Rhoads: In some of the minutes of the prior Planning Commission meetings one of the Fayetteville Citizens stated to grant a new conditional use permit there needs to be a compelling reason for the business.

Assistant City Attorney David Whitaker: That is overstating the standard. That term compelling in the law has real meaning and there is no such standard in a conditional use.

Alderman Thiel: It's not so much the business as it is the lack of improvements to the building. I think it is more of the cosmetics and the fact that someone is improving a building next to this one. If we do this conditional use it is not just with this applicant right?

Assistant City Attorney David Whitaker: It is just this person.

Alderman Thiel: So that will not automatically remain a tattoo parlor.

Jeremy Pate: A conditional use permit is very specific to the application that has been submitted.

Alderman Cook: We can't hold Mr. Wilkins to that standard; it is the owner of the building. If there is not enough improvement on this building based on this business to warrant that then if we want to change that we need a new ordinance. I am supportive of the neighborhood but I feel that this business, as low impact as it is, it is not going to affect the neighborhood in the long run. If it is the building and the improvements I think that is another issue we should tackle in a different way.

Alderman Gray: We don't have any assurance that the building is going to look any better if we move the tattoo shop out. It sounds like to me that the three things that Mr. Ostner has asked, Mr. Wilkins is perfectly willing to try to make that happen. I will be supporting allowing Mr. Wilkins to continue his shop.

Alderman Petty: I don't think this will affect the neighborhood either. We have seen no data to back up the claim that property values would be affected negatively and I don't think we should make our decisions based on theory but instead on data. The fact that the parlor was operating prior to the purchase of the adjacent building and the decision to make an investment in that building nullifies any claim of incompatibility between those two businesses. I will also be rejecting the appeal.

Alderman Lucas: I am not opposed to a tattoo parlor but we did have a Charrettee and we did change all these zonings. It is Downtown General and these people have invested in this area with confidence that this is the Downtown General. I feel we need to support these people in their efforts. It seems to me if this was compatible then it would be in the zoning by right instead of having to be a conditional use. Maybe this shows that we need a business license so we can track these things. I am going to support the neighborhood because this is what we voted on.

Alderman Ferrell: If we need to change our ordinances then let's change them.

Alderman Lewis: I am supportive of the neighborhoods efforts and I think they deserve attention. He is willing to improve it in his capacity. I don't believe we have a place to deny their business because I think it is compatible.

Alderman Rhoads: I am going to vote against the appeal because I do think it is compatible.

Alderman Thiel: I don't think I have really heard an overwhelming response from the neighborhood one way or the other.

Alderman Gray: I think if the neighborhood was strongly against it they would be here.

Upon roll call the appeal was denied 7-1. Alderman Lucas voting no.

Resolution 42-09 as Recorded in the office of the City Clerk

Bid # 09-12 LaRue Contractor, Inc.: A resolution awarding Bid # 09-12 and approving a contract with LaRue Contractor, Inc. in the amount of $947,628.99 for construction of Mount Sequoyah water and sewer improvements; and approving a project contingency in the amount of $50,000.00.

David Jurgens gave a brief description of the contract. He stated they were not recommending going with the lowest bidder. He stated the lower bidders had no prior work experience similar to this project. He stated we feel it is in our constituent's best interest that we insure the contractor has adequate experience to be able to execute this project.

Alderman Cook: I agree with staff's assessment on that. We are all familiar with Mount Sequoyah and it is going to take a talented person to pull this off. I agree that we should be looking for a contractor that has some experience on that and it is still well below the engineering estimate and we should move on it.

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

Resolution 43-09 as Recorded in the office of the City Clerk.

Pending State Legislation: A resolution to express the City Council's opposition to any proposed state law that would constitute an unfunded mandate upon city taxpayers or would remove discretionary power of the City Council to control its budgetary expenses.

Mayor Jordan: This is something I had staff to draw up. We had some concerns about some legislation which is what we call a shell bill and we don't exactly know what all is in it. We met with pensioners on Wednesday for about five hours and at the end of the day they had some concerns about cutting their benefits. There is talk that they would like to merge with LOPFI and if that occurs it would cost the City $1.7 million per year to fund that for fifteen years.

Paul Becker: This is a resolution of intent to the General Assembly requesting that they do not add any unfunded mandates to the City and to prevent them from taking away the Council's discretionary power to determine whether or not to send the old pension plans down state.

Mayor Jordan: So basically what I am asking the Council to do is support this resolution that we can contact legislators with our opposition to that.

Alderman Lucas: The pensioners then did not agree to reduce.

Mayor Jordan: They are looking into merging the plan and they did talk about reducing but have not decided to do that.

Alderman Lucas: They are getting 100% or better?

Mayor Jordan: 90% is the lowest and it goes up from there.

City Clerk Sondra Smith: On the Firemen's Pension the percentage is 90% but they enacted a 3% COLA for three years which puts them at a higher level or close to 100% of the ending benefit.

Alderman Lucas: That was done this week?

City Clerk Sondra Smith: No, that was done previously. The 3% temporary COLA is over with. They wanted to reapply for that and continue the COLA. There was a study done and the actuary said they could not even sustain a 1% temporary COLA at this time because of the plans shape.

Alderman Lucas: Does this go to all the legislators?

Paul Becker: Normally just to our legislators. The Municipal League is aware of the shell bills but this would just go to our legislators I believe.

Mayor Jordan: You might tell the Council the losses that they have incurred over the last year in retirements.

Paul Becker: Last year alone they have lost in excess of $2 million in each plan. The investment losses alone in the Police Pension Plan were $2.1 million and $1.6 million in the Fire Pension Plan.

Alderman Lewis: Can you remind me of the timeline on this? If this passes what is the next step? When does it go to our legislators and then what happens.

Paul Becker: I would assume it would go to the legislators and alert them to this particular legislation and what the City's official position on it is.

Alderman Lewis: Because of that is the City sending a representative to lobby this topic or act in that role?

Paul Becker: At this time no.

Alderman Cook: If it doesn't roll into LOPFI what happens? If they continue to lose money and can't even maintain their benefits what happens?

Mayor Jordan: They go down. From the graph that we saw given to us by the actuary it just shows the pension plan nose diving.

Alderman Cook: Is there any governing body that could force that action where it doesn't go down?

Paul Becker: The Council would have to intervene and that would be your decision. The graphs that we did see said that the Fire Pension even under the best of circumstances was going to be in trouble within a nine year period. The Police Pension could possibly squeak by but the Fire Pension would have a problem within 10 years.

Don Marr: I just want to remind the Council that the reason that this is the approach is that when we are having dialogue as staff with legislators that represent us we are asked is this the official position of the City Council. You are the only body who can make that policy decision. So even though we might be advocating on your behalf it requires a resolution from you. This is being done so that we can give guiding principals and philosophies about your positions as it relates to this specific area.

Alderman Lucas moved to approve the resolution. Alderman Thiel seconded the motion.

Mayor Jordan: We will keep you posted on how this is going because this is a serious situation for the pensioners and the City, if one of those state laws are passed then it will become our issue.

Alderman Cook: Another thing that concerns me is that if we do get to the point where we do see failure and it does fall back on us that is going to be a difficult situation.

Mayor Jordan: To me it is a no win situation but my job is to protect the citizens.

Assistant City Attorney David Whitaker: The gist of this resolution is saying yes we know those issues are out there but we think the best legislative model is that this City Council decide what is the best way to handle that.

Mayor Jordan: Another thing that is in this resolution is if they do pass something like that they are to provide the funding for us to be able to do that. We are trying to protect everyone, the pensioners and the City all at the same time.

City Clerk Sondra Smith: At the meeting last week there was some strong feelings to do a benefit decrease but one of the problems was we had the actuary there and the Executive Director of PRB there and he said we are in new ground charting new waters and he did not feel like we could do a benefit decrease. He recommended that we get with our legal counsel and get an opinion before we did something like that. Otherwise there would have been a motion last week to decrease benefits. I do not feel like it needs to go to LOPFI at the current benefit level.

Upon roll call the resolution passed unanimously.

Resolution 44-09 as Recorded in the office of the City Clerk.

The meeting adjourned at 8:50 PM

Lioneld Jordan, Mayor	**Sondra E. Smith, City Clerk/Treasurer**

Agenda Session

Fayetteville
ARKANSAS

Building Services

To: Mayor, Lioneld Jordan &
City Council

From: Building Services Director, Lynn Hyke *Lynn Hyke*

Date: February 24, 2009

Re: District Court and Prosecutor Facility

Kinco
10/14/08
Updated 2/24/09
Courts Building - Demolition & Construction
Project 04008

Original Bid	**3,727,000.00**
Value Engineering deducts from bid	(354,500.00)
Net	3,372,500.00
Contingency	**300,000.00**
Furniture	150,000.00
	450,000.00

Contract plus contingency & furniture	3,822,500.00

Budget remaining	(3,841,384.41)

Under budget	(18,884.41)

Items remove from bid, City will complete	
(will use contingency)	**$80,000**
Phones/Data lines (approximately $50,000)	
Landscaping (approximately $20,000.00)	
Moving & Start -up (approximately $10,000.00)	

Additional Expenses Non-contract		
Shred Max	2,500.00	11/17/2008
CO to Wilson Estes contract	5,200.00	12/16/2008
AT&T to move Police Building phone system	8,646.99	12/19/2008
Southern Reprographics	66.64	12/22/2008
Telecommunications (phone wiring)	7,129.51	2/2/2009
IT Cabling	1,748.22	1/23/2009
Multi-craft (generator exhaust system)	2,438.00	1/19/09
JA Riggs (generator startup & testing)	1,200.00	approximate
AR Western Gas (move low pressure line)	7,500.00	estimate
Additional Expense Non-contract	**36,429.36**	2/20/2009
Kinco Constructors, LLC		
300' AT&T conduit work Chamber Commerce	9,123.00	2/20/2009
Generator relocation work	2,885.00	2/20/2009
Alternate wood panel system deduct		pending
Roofing membrane (addendum # 4)	5,264.00	2/20/2009
Delete louver	(855.00)	2/20/2009
Unsuitable soils under slab w/ 18 days delays	20,392.00	2/20/2009
Flowable fill for east footers	5,822	2/20/2009
Claim for utility lost days w/ 25 days delays	12,500.00	2/20/2009
Total CO #1 to Kinco Constructors, LLC	**$55,131.00**	
Total	**$91,560.36**	

Contingency	$300,000.00
Items Removed from Bid	(80,000.00)
Additional Expense Non-contract	(36,429.36)
CO # 1 to Kinco Constructors, LLC	(55,131.00)
Remaining Contingency	**$128,439.64**

RESOLUTION NO. ______

A RESOLUTION AUTHORIZING THE FAYETTEVILLE EXECUTIVE AIRPORT STAFF TO APPLY FOR AND ACCEPT AN 80/20 GRANT IN THE ESTIMATED AMOUNT OF $87,790.00 FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS TO FUND THE TERMINAL BUILDING HVAC REPAIR PROJECT; 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 Executive Airport staff to apply for and accept an 80/20 grant in the estimated amount of $$87,790.00 from the Arkansas Department of Aeronautics to fund the Terminal Building HVAC Repair Project.

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

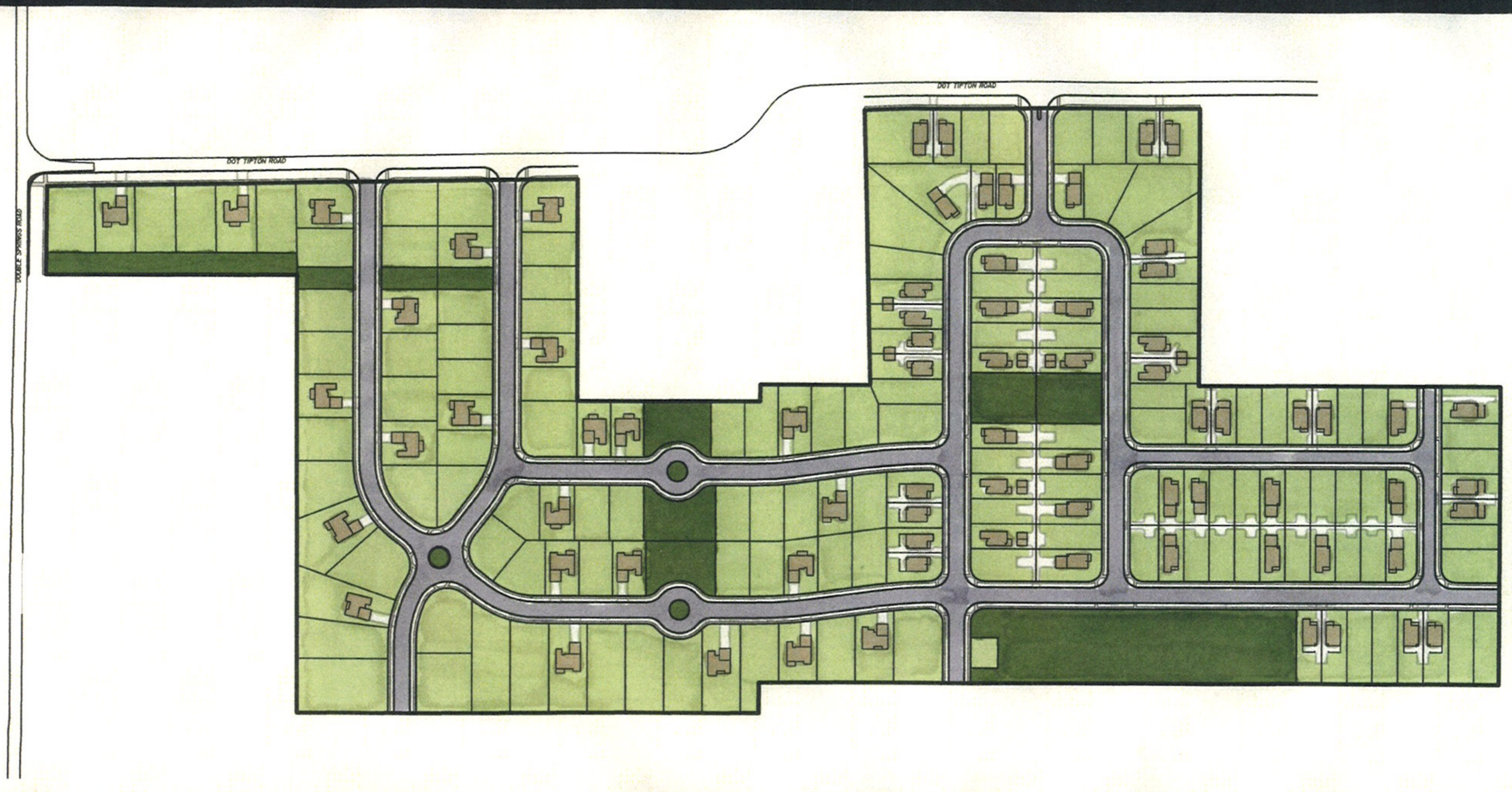
PASSED and **APPROVED** this 3rd day of March, 2009.

APPROVED: ATTEST:

By: ______________________________
LIONELD JORDAN, Mayor

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

AMBERWOOD PLACE
ORIGINAL PZD



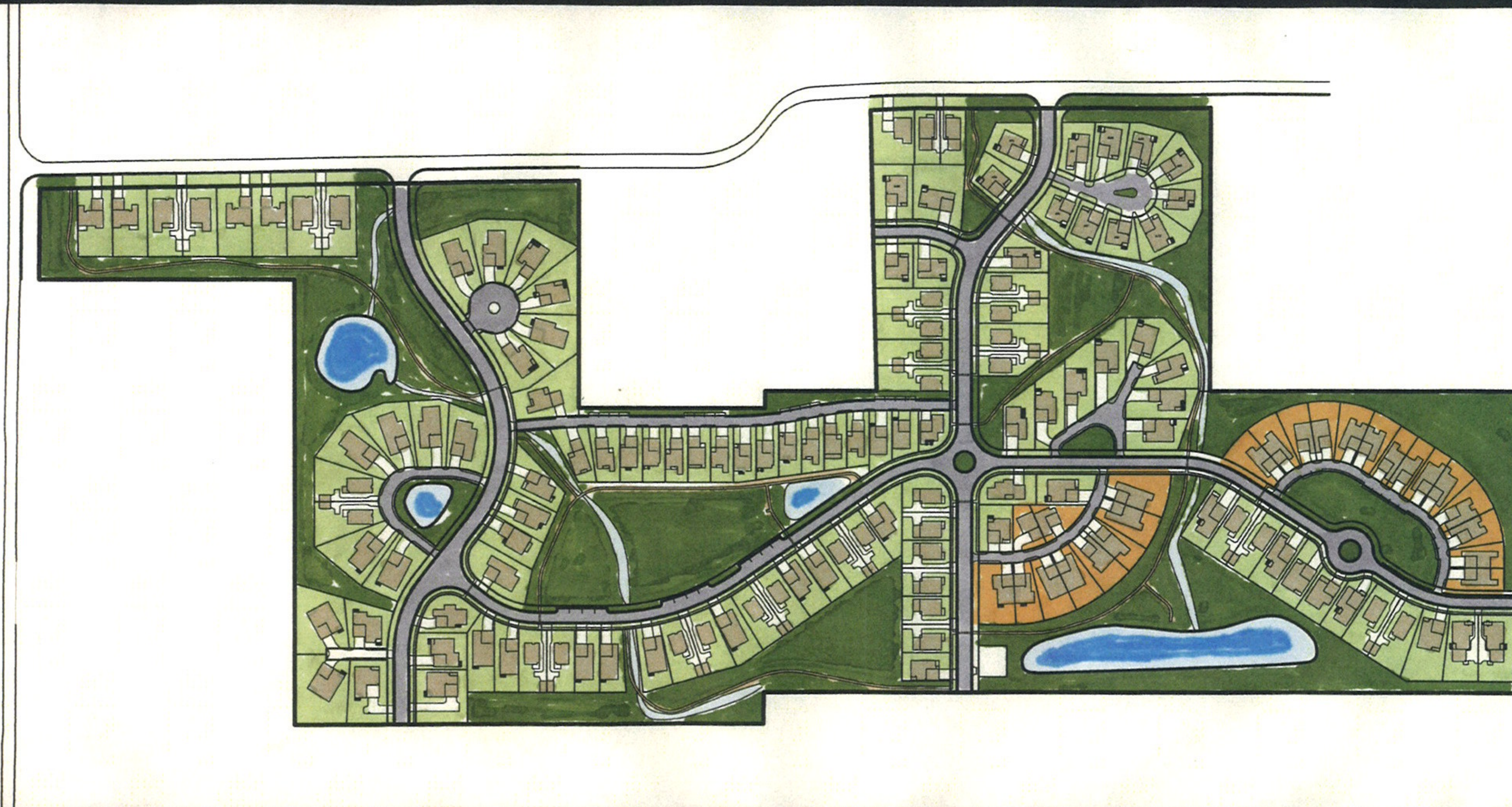
LAND USE TABLE					
SYMBOL	LAND USE	UNITS	ACRES	UNITS/ACRE	% OF TOAL LAND (40 AC)
SF	SINGLE FAMILY	182	28	6.50	70.0
GS	GREEN SPACE	3.63			9.0

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS
124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

SCALE: NTS	DATE REVISED	CHECKED BY:	DRAWN BY: JLJ
DATE: 3/3/09		DLJ	J:\SUBD\2005064

AMBERWOOD PLACE
ORIGINAL CONCEPT DRAWING
1/1

AMBERWOOD PLACE



LAND USE TABLE					
SYMBOL	LAND USE	UNITS	ACRES	UNITS/ACRE	% OF TOAL LAND (40 AC)
SF	SINGLE FAMILY	124	16.94	7.32	42.35
MF	MULTI FAMILY	24	2.59	9.26	6.48
GS	GREEN SPACE	14.0			35.0

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS
124 WEST SUNBRIDGE, SUITE 5• FAYETTEVILLE, ARKANSAS 72703• (479) 442-9127• FAX (479) 582-4807

SCALE: NTS	DATE REVISED	CHECKED BY:	DRAWN BY: JLJ
DATE: 3/3/09		DLJ	J:\SUBD\2005064

AMBERWOOD PLACE
CONCEPT DRAWING

1/1

Mayor Lioneld Jordan

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 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
March 3, 2009

A meeting of the Fayetteville City Council will be held on March 3, 2009 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. Courthouse Progress Report given by Lynn Hyke

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the February 17, 2009 City Council meeting minutes.

2. **Bid # 09-19 Sweetser Construction:** A resolution awarding Bid # 09-19 to Sweetser Construction and approving the purchase of curb and gutter construction services utilized by various divisions of the City of Fayetteville in the estimated amount of $229,825.00.

3. **Bid # 09-20 ABC Central Block, Inc.:** A resolution awarding Bid # 09-20 to ABC Central Block, Inc. and approving the purchase of bricks utilized by various divisions of the City of Fayetteville in the estimated amount of $20,075.00.

4. **Residential Energy Efficiency Program Participating Home Sign:** A resolution to approve a Residential Energy Efficiency Program Participating Home Sign pursuant to § 174.03 (F) of Chapter 174: Signs of the Unified Development Code.

5. **Arkansas Historic Rehabilitation Tax Credit:** A resolution to support the establishment of an Arkansas Historic Rehabilitation Tax Credit.

6. **Fayetteville District Court:** A resolution approving a budget adjustment for the Fayetteville District Court in the amount of $10,000.00 to recognize revenue from the Court Automation Fund for the purchase of laptops, printer and DVD player.

7. **Fayetteville Executive Airport DBE Program Revision:** A resolution to accept and approve the updated Fayetteville Executive Airport Disadvantaged Business Enterprise (DBE) Program revision and participation goal for FY2009; and authorizing the Mayor to sign the required objectives/policy statement.

B. Unfinished Business:

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

   This ordinance was left on the Second Reading at the November 6, 2008 City Council meeting and Tabled Indefinitely.

2. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. (*This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting. This ordinance failed at the December 2, 2008 City Council meeting. This ordinance was Re-considered at the December 16, 2008 City Council meeting and then Tabled to the February 3, 2009 City Council meeting.)*

   This ordinance was Tabled at the February 3, 2009 City Council meeting to the March 3, 2009 City Council meeting.

C. New Business:

1. **2009 Washington County Animal Sheltering Services:** A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2009.

2. **RZN 08-3189 (First Baptist Church):** An ordinance rezoning that property described in rezoning petition RZN 08-3189, for approximately 4.08 acres, located at 20 Dickson Street from C-PZD 05-1704 First Baptist Church to MSC, Main Street Center.

3. **RZN 08-3190 (Lolley):** An ordinance rezoning that property described in rezoning petition RZN 08-3190, for approximately 1.67 acres, located at 5, 8, 12, and 20 South Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.

4. **VAC 09-3197 (Butterfield Trail Village):** An ordinance approving VAC 09-3197 submitted by McClelland Consulting Engineers for property located at 1923 Joyce Boulevard to vacate a portion of a utility easement, a total of 0.05 acres.

5. **ADM 09-3198 Amend Chapter 161:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to Amend Chapter 161: Zoning Districts in order to amend and unify building setback and building height regulations in residential single-family and multi-family zoning districts.

6. **ADM 09-3205 Amend Chapter 164:** An ordinance amending the Unified Development Code by adding subsection 164.11 (B): Side Setbacks, to include bulk and area requirements for zero lot line and common wall development.

7. **ADM 09-3206 Amend Chapter 162:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 162: Use Units in order to add a use unit description for accessory dwelling units.

Announcements:

1. **City Council Tour: March 2, 2009**

Adjournment:

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

March 3, 2009
City Council Meeting Date
Agenda Items Only

Terry Gulley	Transportation	Operations
Submitted By	**Division**	**Department**

Action Required:

A resolution awarding Bid 09-19 for and approving the purchase of curb and gutter construction services utilized by various divisions of the City of Fayetteville in the estimated amount of $229,825.00.

$ 229,825.00	$ 2,136,900.00	In-House Pavement Improvements
Cost of this request	Category / Project Budget	Program Category / Project Name
4470-9470-5315.00	$ 64,630.02	Transportation Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02052 / 1	$ 2,072,269.98	Sales Tax Capital Improvements
Project Number	Remaining Balance	Fund Name

Budgeted Item X **Budget Adjustment Attached**

Department Director — Date

City Attorney — Date 2/13/09

Paul A. Becker
Finance and Internal Service Director — Date 2-13-09

Mayor — Date 2/13/09

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office: 2-12-09 ENTERED

Received in Mayor's Office: ENTERED 2/13/09

Comments:

Fayetteville
ARKANSAS

City Council Agenda Item

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Terry Gulley, Transportation Manager

Date: March 3, 2009

Subject: A resolution awarding Bid 09-19 for and approving the purchase of curb and gutter construction services utilized by various divisions of the City of Fayetteville.

Recommendation: Staff recommends a resolution awarding Bid 09-19 for and approving the purchase of curb and gutter construction services, utilized by various divisions of the City of Fayetteville, in the estimated amount of $229,825.00.

Background: The purchase of curb and gutter construction services is necessary to maintain the City's current infrastructure and to implement the Capital Improvement Program projects outlined in the 2009 Annual Budget & Work Program and five-year Capital Improvement Program plan.

Discussion: Sealed formal bids for curb and gutter were publicly read and the results are attached to this memo.

Bid 09-19: Staff recommends awarding the curb and gutter construction bid to Sweetser Construction.

Budget Impact: Funds for the acquisition of these materials and services have been budgeted in the In-House Pavement Improvements capital project. Sufficient funding is available for the 2009 purchases.

Attached: Bid 09-19, Curb and Gutter

RESOLUTION NO. ______

A RESOLUTION AWARDING BID #09-19 TO SWEETSER CONSTRUCTION AND APPROVING THE PURCHASE OF CURB AND GUTTER CONSTRUCTION SERVICES UTILIZED BY VARIOUS DIVISIONS OF THE CITY OF FAYETTEVILLE IN THE ESTIMATED AMOUNT OF $229,825.00.

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 #09-19 to Sweetser Construction and approves the purchase of curb and gutter construction services utilized by various divisions of the City of Fayetteville in the estimated amount of $229,825.00.

PASSED and **APPROVED** this 3rd day of March, 2009.

APPROVED: ATTEST:

By: ______________________________ By: ______________________________

LIONELD JORDAN, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

A. 2
Bid # 09-19
Sweetser Construction
Page 4 of 4

Fayetteville
ARKANSAS

BID: 09-19
DATE: 2/11/09
2:00 PM
CITY OF FAYETTEVILLE

Bid 09-19, Curb and Gutter Re-Bid

SECTION A: BULK MATERIAL ITEMS FOR PURCHASE			Benchmark Construction of NWA		Concrete Services of NWA, Inc.		Fochtman Enterprises, Inc.		Seven Valley's Concrete, LLC		Sweetser Construction, Inc.		Tomlinson Asphalt Co., Inc.	
Item #	Description	Estimated Quantity	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	Hand Formed "Type A" Curb and Gutter (per attached specifications) - Contractor supplies form work, concrete materials, labor to place and finish, saw cutting, and joint sealing.	10,000 estimated qty	$10.50 Per linear foot	$105,000.00	$12.50 Per linear foot	$125,000.00	$13.00 Per linear foot	$130,000.00	$10.50 Per linear foot	$105,000.00	$9.00 Per linear foot	$90,000.00	$11.20 Per linear foot	$112,000.00
2	Hand Formed "Type D" Curb and Gutter (per attached specifications) - Contractor supplies form work, concrete materials, labor to place and finish, saw cutting, and joint sealing.	1,000 estimated qty	$12.25 Per linear foot	$12,250.00	$13.00 Per linear foot	$13,000.00	$15.00 Per linear foot	$15,000.00	$12.00 Per linear foot	$12,000.00	$10.00 Per linear foot	$10,000.00	$11.20 Per linear foot	$11,200.00
3	Flatwork - 4" Thick (Sidewalk, Driveway Approaches, Access Ramps) - Contractor supplies form work, concrete materials, labor to place and finish, saw cutting, and joint sealing.	10,000 estimated qty	$3.40 Per square foot	$34,000.00	$3.00 Per square foot	$30,000.00	$4.00 Per square foot	$40,000.00	$3.75 Per square foot	$37,500.00	$3.25 Per square foot	$32,500.00	$3.00 Per square foot	$30,000.00
4	Flatwork - 6" Thick (Sidewalk, Driveway Approaches, Access Ramps) - Contractor supplies form work, concrete materials, labor to place and finish, saw cutting, and joint sealing.	10,000 estimated qty	$4.65 Per square foot	$46,500.00	$3.75 Per square foot	$37,500.00	$5.00 Per square foot	$50,000.00	$4.65 Per square foot	$46,500.00	$4.00 Per square foot	$40,000.00	$3.75 Per square foot	$37,500.00
	TOTAL BASE BID - SECTION A:			$197,750.00		$205,500.00		$235,000.00		$201,000.00		$172,500.00		$190,700.00
	SECTION B: ADDITIONAL BULK MATERIAL ITEMS FOR PURCHASE													
1	Hand Formed "Type A" Curb and Gutter (per attached specifications) - City provides form work. Contractor supplies concrete material, labor to place and finish, saw cutting, and joint sealing.	500 estimated qty	$11.25 Per linear foot	$5,625.00	$10.00 Per linear foot	$5,000.00	$5.00 Per linear foot	$2,500.00	$9.00 Per linear foot	$4,500.00	$8.75 Per linear foot	$4,375.00	$10.50 Per linear foot	$5,250.00
2	Hand Formed "Type A" Curb and Gutter (per attached specifications) - City provides form work and concrete materials. Contractor supplies labor to place and finish only.	500 estimated qty	$7.70 Per linear foot	$3,850.00	$5.00 Per linear foot	$2,500.00	$3.00 Per linear foot	$1,500.00	$6.00 Per linear foot	$3,000.00	$5.75 Per linear foot	$2,875.00	$7.50 Per linear foot	$3,750.00
3	Hand Formed "Type D" Curb and Gutter (per attached specifications) - City provides form work. Contractor supplies concrete material, labor to place and finish, saw cutting, and joint sealing.	500 estimated qty	$11.25 Per linear foot	$5,625.00	$10.00 Per linear foot	$5,000.00	$6.00 Per linear foot	$3,000.00	$10.50 Per linear foot	$5,250.00	$9.75 Per linear foot	$4,875.00	$10.50 Per linear foot	$5,250.00
4	Hand Formed "Type D" Curb and Gutter (per attached specifications) - City provides form work and concrete materials. Contractor supplies labor to place and finish only.	500 estimated qty	$8.70 Per linear foot	$4,350.00	$5.00 Per linear foot	$2,500.00	$3.00 Per linear foot	$1,500.00	$7.50 Per linear foot	$3,750.00	$7.00 Per linear foot	$3,500.00	$7.50 Per linear foot	$3,750.00
5	Flatwork - 4" Thick (Sidewalk, Driveway Approaches, Access Ramps) - City provides form work. Contractor supplies concrete material, labor to place and finish, saw cutting, and joint sealing.	3,000 estimated qty	$3.65 Per square foot	$10,950.00	$2.75 Per square foot	$8,250.00	$3.00 Per square foot	$9,000.00	$3.00 Per square foot	$9,000.00	$3.00 Per square foot	$9,000.00	$2.70 Per square foot	$8,100.00
6	Flatwork - 6" Thick (Sidewalk, Driveway Approaches, Access Ramps) - City provides form work. Contractor supplies concrete material, labor to place and finish, saw cutting, and joint sealing.	3,000 estimated qty	$4.55 Per square foot	$13,650.00	$3.50 Per square foot	$10,500.00	$4.00 Per square foot	$12,000.00	$3.75 Per square foot	$11,250.00	$3.75 Per square foot	$11,250.00	$3.40 Per square foot	$10,200.00
7	Flatwork 4" - 6" Thick (Sidewalk, Driveway Approaches, Access Ramps) - City provides form work and concrete materials. Contractor supplies labor to place and finish only.	3,000 estimated qty	$2.70 Per square foot	$8,100.00	$1.00 Per square foot	$3,000.00	$3.00 Per square foot	$9,000.00	$2.85 Per square foot	$8,550.00	$2.75 Per square foot	$8,250.00	$2.00 Per square foot	$6,000.00
8	Street Repair - 8" Thick - Contractor supplies form work, concrete materials, labor to place and finish, saw cutting, and joint sealing.	2,000 estimated qty	$5.90 Per square foot	$11,800.00	$4.50 Per square foot	$9,000.00	$7.00 Per square foot	$14,000.00	$5.25 Per square foot	$10,500.00	$6.60 Per square foot	$13,200.00	$9.00 Per square foot	$18,000.00
	TOTAL BASE BID - SECTION B:			$63,950.00		$45,750.00		$52,500.00		$55,800.00		$57,325.00		$60,300.00

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

CERTIFIED: A Foren 2/12/09

A. FOREN PURCH AGENT WITNESS DATE

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

March 3, 2009
City Council Meeting Date
Agenda Items Only

Terry Gulley	Transportation	Operations
Submitted By	**Division**	**Department**

Action Required:

A resolution awarding Bid 09-20 for and approving the purchase of bricks utilized by various divisions of the City of Fayetteville in the estimated amount of $20,075.00.

$ 20,075.00	$ 19,138,800.00	Transportation Bond Street Improvements
Cost of this request	Category / Project Budget	Program Category / Project Name
4520.9520.5809.00	$ 4,029,840.62	Transportation Improvements
Account Number	Funds Used to Date	Program / Project Category Name
06035 / 1900	$ 15,108,959.38	Sales Tax 2006A Construction Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item X

Budget Adjustment Attached

Department Director — Date

City Attorney — Date 2/13/09

Finance and Internal Service Director — Date 2-13-09

Mayor — Date 2/13/09

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office 2-12-09 ENTERED

Received in Mayor's Office ENTERED 2/13/09

Comments:

Fayetteville
ARKANSAS

City Council Agenda Item

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Terry Gulley, Transportation Manager

Date: March 3, 2009

Subject: A resolution awarding Bid 09-20 for and approving the purchase of bricks utilized by various divisions of the City of Fayetteville.

Recommendation: Staff recommends a resolution awarding Bid 09-20 for and approving the purchase of bricks, utilized by various divisions of the City of Fayetteville, in the estimated amount of $20,075.00.

Background: The purchase of bricks is necessary to maintain the City's current infrastructure and to implement the Capital Improvement Program projects outlined in the 2009 Annual Budget & Work Program and five-year Capital Improvement Program plan.

Discussion: Sealed formal bids for bricks were publicly read and the results are attached to this memo.

Bid 09-20: Staff recommends awarding the bid for bricks to ABC Central Block.

Budget Impact: Funds for the acquisition of these materials have been budgeted in the Transportation Bond Street Improvements project. Sufficient funding is available for the 2009 purchases.

Attached: Bid 09-20, Bricks

RESOLUTION NO. ______

A RESOLUTION AWARDING BID #09-20 TO ABC CENTRAL BLOCK, INC. AND APPROVING THE PURCHASE OF BRICKS UTILIZED BY VARIOUS DIVISIONS OF THE CITY OF FAYETTEVILLE IN THE ESTIMATED AMOUNT OF $20,075.00.

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 #09-20 to ABC Central Block, Inc. and approves the purchase of bricks utilized by various divisions of the City of Fayetteville in the estimated amount of $20,075.00.

PASSED and **APPROVED** this 3rd day of March, 2009.

APPROVED:

By: ______________________________
LIONELD JORDAN, Mayor

ATTEST:

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

BID: 09-20
DATE: 2/11/09
2:00 PM
CITY OF FAYETTEVILLE

Fayetteville ARKANSAS

Bid 09-20, Bricks

Item	Description	Est Qty (Each)	ABC Central Block Co.	
			Brick	Extended Price
1	4" x 8" 60 mm Concrete Bricks (Color Antique Red)	25,000	$0.62	$15,500.00
2	4" x 8" 60 mm Concrete Detectable Warning Brick Pavers (Color Antique Red)	2,500	$1.15	$2,875.00
	Total Bid Price=			$18,375.00

← prior to tax

Bid award is contingent upon vendor meeting minimum specifications and formal authorization by Cit

CERTIFIED: A. Foren 2/11/09

A. FOREN PURCH AGENT **WITNESS** **DATE**

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/?/2009
City Council Meeting Date
Agenda Items Only

Steve Cattaneo	Building Safety	Operations
Submitted By	**Division**	**Department**

Action Required:

Council action approving a resolution allowing a sign announcing participation in the Fayetteville Residential Energy Efficiency Program - per Ch. 174.3 (F): *Traffic signs, etc.* of the Unified Development Code.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Signature	Date
Department Director	2/12/09
City Attorney	2-13-09
Paula Becker — Finance and Internal Services Director	2-17-09
Chief of Staff	2/12/09
Mayor	2/16/09

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office — ENTERED 2-12-09

Received in Mayor's Office — ENTERED 2/17/09

Comments:

RESOLUTION NO. ______

A RESOLUTION TO APPROVE A RESIDENTIAL ENERGY EFFICIENCY PROGRAM PARTICIPATING HOME SIGN PURSUANT TO §174.03 (F) OF CHAPTER 174: **SIGNS** OF THE UNIFIED DEVELOPMENT CODE

WHEREAS, the City of Fayetteville desires to promote sustainability and energy efficiency in home construction; and

WHEREAS, the City Council passed Resolution No. 206-08 to accept a $2,500.00 grant from the Arkansas Energy Office to promote participation in the Residential Energy Efficiency Program; and

WHEREAS, 100 signs promoting the Residential Energy Efficiency Program and advising potential buyers that the home includes energy efficient methods and features were purchased with the grant; and

WHEREAS, the City Council has determined that this 18"x24" municipal, non-advertising sign is appropriate to be placed on the lot where the builder is participating in the Residential Energy Efficiency Program.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the 18"x24" municipal, non-advertising sign (a reduced size, paper example of which is attached as Exhibit "A") as exempt pursuant to §174.03 (F) under the following conditions:

1. The home builder must be participating in the Residential Energy Efficiency Program in the home construction on that lot.

2. One of these signs may be placed (minimum 10 feet set back from street right-of-way) on the lot at the beginning of the house construction through the initial sale of a residence. The sign must be removed and returned to the City within 72 hours following the closing of the sale of the house.

3. The sign may not be illuminated and must be supported by a wire stand.

4. This municipal sign shall be in addition to any other signs the landowner may have the right to display.

PASSED and **APPROVED** this 17th day of February, 2009.

APPROVED:

By: ______________________________
LIONELD JORDAN, Mayor

ATTEST:

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

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Lioneld Jordan, Mayor
Don Marr, Chief of Staff

From: Steve Cattaneo, Building Safety Director

Date: February 11, 2009

Subject: Resolution approving signs for the Fayetteville Residential Energy Efficiency Program per Ch. 174.3 (F): *Traffic signs, etc.* of the Unified Development Code

---

RECOMMENDATION

Staff recommends approval of a resolution to approve one sign per home announcing participation in the Residential Energy Efficiency Program. The sign is 18" x 24"; nonilluminated and supported by a wire stand. It must be set back a minimum of 10 feet from the street and must be removed within 72 hours following the close (sale) of the property on which it is located. These signs were purchased using grant money from the Arkansas Energy Office for the purpose of promoting participation in the program.

BACKGROUND

The City Council accepted the $2500 grant from the Arkansas Energy Office in Nov. 2008 for the purpose of promoting participation in the Residential Energy Efficiency Program. (Resolution No. 206-08) The ad-hoc committee that developed the program recommended yard signs as one of the accolades to builders who choose to participate. The committee approved the design of these signs to be distributed by the Building Safety Division. 100 signs were purchased which are expected to last 1-2 years. There is no additional funding in place for more signs although we may seek another grant at a later date as the need arises. Builders are being asked to return the signs so they may be reused or recycled.

DISCUSSION

Staff was made aware by the Planning Division that the signs may be in violation of the Sign Ordinance. The intent of this resolution is to clairify that the City Council approves the use of these signs during construction and up until the home is sold. The limitations on the placement and usage of these signs are similar to what is permitted for real estate signs.

BUDGET IMPACT

None.

CHAPTER 174: SIGNS

174.01 General Regulations

(A) *Permit required.* It shall be unlawful for any person to erect, repair, alter, relocate or keep within the city any sign or other advertising structure except as exempted herein without first obtaining a sign permit from the Zoning and Development Administrator or designee.

(B) *Illuminated signs.* All illuminated signs shall, in addition, be subject to the provisions of the electrical code, and the permit fees required thereunder.

(C) *Fees.* Every applicant, before being granted a permit hereunder, shall pay to the Zoning and Development Administrator's Office the permit fee set forth in Chapter 159.

(D) *Maintenance of premises.* All freestanding signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary, and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.

(Code 1965, §§17B-3(a), (c), (e), 4(b); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76; Ord. No. 2790, 1-18-82; Code 1991, §§158.05, 158.20, 158.22, 158.24, 158.38; Ord. No.3925, §4, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4972, 1-16-07)

174.02 Permit Application/Issuance

(A) *Application.* Applications for initial sign permits shall be made upon forms provided by the Zoning and Development Administrator and shall contain or have attached thereto the following information:

(1) *Applicant identification.* Name, address and telephone number of the applicant.

(2) *Location.* Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.

(3) *Position.* Position of the sign or other advertising structure in relation to nearby buildings or structures.

(4) *Blueprints/drawings.* Two blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.

(5) *Person erecting structure.* Name of person, firm, corporation, or association erecting structure.

(6) *Consent of owner.* Written consent of the owner of the building, structure, or land to which or on which the structure is to be erected.

(7) *Electrical permit.* Any electrical permit required and issued for said sign. Application requesting electrical permit for proposed sign must accompany sign application.

(8) *Full Compliance With Applicable Code Provisions.* If the proposed sign is subject to the provisions of the Commercial Design Standards (§166.14), Design Overlay District (§161.21), Certificate of Zoning Compliance or other code provisions, the applicant must show full compliance with all applicable code provisions, including necessary approvals by responsible bodies such as the Planning Commission.

(B) *Issuance of sign permit.* It shall be the duty of the Zoning and Development Administrator or designee, upon the filing of an application for an erection permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear that the proposed structure and sign are in full compliance with all the requirements of this chapter and all other laws and ordinances of the city, he shall within five business days issue the sign permit. If the Zoning and Development Administrator or designee fails to reject a completed sign application (that purports to show full compliance with all code requirements) within ten business days of its submission by written explanation of why such application fails to meet all code requirements, the sign application shall be deemed approved and a sign permit shall be immediately issued to the applicant. If the work authorized under a sign permit has not been completed within six (6) months after date of issuance, the said permit shall become null and void.

(C) *Appeals of Sign Permit Denials.* All decisions and interpretations of the Zoning and Development Administrator under this Chapter shall be considered final administrative actions for the purpose of the appeals set forth at § 155.01.

(Ord. No. 1965, §17B 3(b), (d); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76; Code 1991, §§158.21; 158.23; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4652, 12-07-04; Ord. 4972, 1-16-07)

174.03 Exemptions

Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with certain applicable provisions of this chapter. The exemptions shall apply to the requirement for a sign permit. No sign permit shall be required for the erection of the following signs which are hereby authorized to be erected in compliance with the listed conditions:

(A) *Professional name plates.* Professional name plates erected flat on walls of building and not exceeding four (4) square feet of display surface area.

(B) *Building construction signs.* One on-site building construction sign on each construction site in any zoning district, provided that maximum display surface area shall be eight (8) square feet or less in R zoning districts: 32 square feet or less in other zoning districts.

(C) *Real estate signs.* On a lot in any district, there may be erected one on-site unanimated real estate sign while the lot is for sale. Provided further, such signs shall be limited to wall signs, freestanding signs or platform signs; and freestanding signs or platform signs shall be set back a minimum of 10 feet from the street. Real Estate signs shall be removed within 72 hours following the closing (sale) of the property on which it is located. The permitted illumination and maximum display surface area for a real estate sign shall be as follows:

District	Permitted Illumination	Area (Sq. Ft.)
RA	Nonilluminated	32
R, R-O	Nonilluminated	8
P-1, C and I	Illuminated	32

(D) *Home occupation signs.* Home occupation signs erected flat against the wall and not exceeding three (3) square feet.

(E) *Memorial signs, name signs.* Memorial signs or tables, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

(F) *Traffic signs, etc.* Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary, emergency or nonadvertising signs as may be approved by the City Council.

(G) *Posting bills, repainting signs.* Posting of bills on signs, repainting of signs, or the changing of letters or numbers on signs designed for changeable lettering or numbering which were legally erected and maintained for such purposes.

(H) *Non-Commercial Signs.* Non-Commercial signs that do not advertise a product or service for profit or for a business purpose, do not propose a commercial transaction nor relate primarily to economic interests are permitted to be placed on private property in any zoned district subject to the following conditions:

(1) *Districts where signs not otherwise permitted.* In districts where signs are not otherwise permitted, one political or religious non-commercial sign may be erected subject to the same limitations of real estate signs.

(2) *Districts where signs are permitted.* In districts where signs are otherwise permitted, non-commercial signs may be placed over or substituted for the permitted commercial sign.

(3) All districts. In addition to the noncommercial sign allowed above, sixty (60) days prior to a general or primary election, a property owner may display one political sign (not to exceed eight square feet) for each candidate, referendum or initiative issue the property owner wishes to support. All such signs, except those relating to a candidate in a run-off election, shall be removed within three (3) days of the general or primary election. All remaining political signs except the sign allowed in subsection (1) shall be removed within three (3) days of the run-off election.

(I) *Time and temperature displays.* Time and temperature displays without advertising matter, may change their illuminated time and temperature displays as often as reasonably necessary to provide accurate and convenient information to observers without being considered to be in violation of §174.08 B. Fluctuating Illumination.

(J) *Banners.* Public event, special sales event, and election campaign banners (not to exceed 3' x 30') and large election campaign signs (not to exceed 32 square feet) may be installed under the following terms and conditions:

(1) *Election campaign banners and large signs.*

(a) *Residential zones including Neighborhood Conservation, R-O, R-A and R-PZD.* In addition to the non-commercial sign allowed in subsection (H), the owner of a residentially zoned parcel may install one large election campaign sign of up to 32 square feet no more than sixty days prior to (and to be removed within three days following) the election to which the sign applies.

Fayetteville ARKANSAS

The City of Fayetteville, Arkansas

arkansas energy office

Residential Energy Efficiency Program

Participating Home

This home builder has chosen to include energy efficient construction methods and features in this new home to make it more efficient than presently required by the Arkansas Energy Code.

For More information go to: www.sustainability.accessfayetteville.org and check the features and anticipated score for this home.

This address is:____

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/3/2009
City Council Meeting Date
Agenda Items Only

Submitted By	Division	Department
Karen Minkel	Long Range Planning	Operations

Action Required:

Preservation Tax Credit: A resolution to endorse the 2009 Arkansas Historic Preservation Tax Credit.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — 2/13/09 Date

City Attorney — 2/17/09 Date

Finance and Internal Services Director — 2-17-09 Date

Chief of Staff — 2/13/09 Date

Mayor — 2/18/09 Date

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office — ENTERED 2-13-09 CW

Received in Mayor's Office — ENTERED 2/17/09 P.H.

Comments:

RESOLUTION NO. ________

A RESOLUTION TO SUPPORT THE ESTABLISHMENT OF AN ARKANSAS HISTORIC REHABILITATION TAX CREDIT

WHEREAS, there is a proposal to establish the Arkansas Historic Rehabilitation Tax Credit of 2009 before the Arkansas legislature; and

WHEREAS, it is in the best interest of the citizens and the City of Fayetteville, Arkansas to encourage preservation and use of historic and cultural places; and

WHEREAS, the 2009 Arkansas Historic Rehabilitation Tax Credit will create a 25% tax credit to an individual's or business' state income tax for qualified expenses related to the rehabilitation and reuse of a historic property.

WHEREAS, twenty-nine other states provide similar economic incentives in the form of tax credits for rehabilitation, including the neighboring states of Louisiana, Mississippi, Missouri, and Oklahoma; and

WHEREAS, these similar state tax credits have successfully spurred investment in older neighborhoods and historic downtowns in both urban and rural communities; and

WHEREAS, the state historic rehabilitation tax credit is a true economic stimulus tool with a proven track record of creating jobs and significantly increasing property values and the corresponding local and state tax revenue; and

WHEREAS, the Fayetteville Historic District Commission has endorsed the Historic Rehabilitation Tax Credit.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a resolution to support the 2009 Arkansas Historic Rehabilitation Tax Credit.

PASSED and **APPROVED** this 3rd day of March, 2009.

APPROVED: ATTEST:

By: ______________________________ By:______________________________________
LIONELD JORDAN, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

City Council Meeting of March 3, 2009
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Karen Minkel, Interim Director of Long Range Planning KM.

Date: February 13, 2009

Subject: Arkansas Historic Rehabilitation Tax Credit

RECOMMENDATION

Staff recommends approval of resolution endorsing the 2009 Arkansas Historic Rehabilitation Tax Credit..

BACKGROUND

The Arkansas Preservation Alliance is advocating for historic rehabilitation tax credit legislation, which is being sponsored by Representative Robert Moore. This legislation would allow credit on state income taxes equal to 25% of the total qualified rehabilitation expenses. This credit would be in addition to the federal tax credit of up to 20%. Twenty-nine states across the country, including Oklahoma, Missouri, Mississippi and Louisiana, have similar legislation.

This legislation would directly benefit Fayetteville by making all the city's commercial and residential National Register listings, State Register listings, and locally designated historic structures eligible for state funding for rehabilitation work. This additional funding creates a greater incentive for historic rehabilitation projects, which can revitalize neighborhoods, limit sprawl and encourage investment in Fayetteville's historic structures.

DISCUSSION

The Fayetteville Historic District Commission formally endorsed the proposed tax credit legislation on February 12, 2009 by a vote of 7-0-0 and encouraged the City Council to also endorse the legislation.

BUDGET IMPACT

None.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/3/2009
City Council Meeting Date
Agenda Items Only

Dena Stockalper	Administrative Services	District Court
Submitted By	**Division**	**Department**

Action Required:

A resolution approving a budget adjustment for the Fayetteville District Court in the amount of $10,000.00 to recognize revenue from Court Automation Fund for the purchase of lap-tops, printer and DVD player.

$ 10,000.00	$ 10,000.00	Court Automation
Cost of this request	Category / Project Budget	Program Category / Project Name
1010-0400-5210-00	none	Court Automation
Account Number	Funds Used to Date	Program / Project Category Name
09-011	$ 43,625.16	General Fund
Project Number	Remaining Balance	Fund Name

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

Department Director — Date: 2-13-09

Previous Ordinance or Resolution # ______

City Attorney — Date: 2/15/09

Original Contract Date: ______

Original Contract Number: ______

Paul A. Becker
Finance and Internal Services Director — Date: 2/17/09

Chief of Staff — Date: 2/18/09

Mayor — Date: 2/18/09

Received in City Clerk's Office: ENTERED 2-13-09

Received in Mayor's Office: ENTERED 2/13/09

Comments: Attached Act 1809 of 2001

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT FOR THE FAYETTEVILLE DISTRICT COURT IN THE AMOUNT OF $10,000.00 TO RECOGNIZE REVENUE FROM THE COURT AUTOMATION FUND FOR THE PURCHASE OF LAPTOPS, PRINTER AND DVD PLAYER.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment for the Fayetteville District Court in the amount of $10,000.00 to recognize revenue from the Court Automation Fund for the purchase of laptops, printer and DVD player.

PASSED and **APPROVED** this 3rd day of March, 2009.

APPROVED: ATTEST:

By: ______________________________
LIONELD JORDAN, Mayor

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

A. 6
Fayetteville District Court
Page 3 of 6

(2)(A) Prepare and file the appeal as one (1) case; and

(B) Charge only one (1) filing fee for the appeal.

SECTION *11*. Arkansas Code **16-10-602** is amended to read as follows:

16-10-602. Establishment of city and county shares.

(a) ~~(1)~~ Pursuant to §§ **16-10-307**(c) and **16-10-308**(c), each city and county may retain a portion of the uniform court costs and filing fees collected and deposited into the city or county administration of justice fund.

(b) ~~(2)~~ On or before the first day of October of each year, the Department of Finance and Administration shall certify in writing to each county and to each city which operates a municipal, city, or police court the amount of money which may be retained during each month of the following calendar year by the city or county.

~~(b) In case of a disagreement between the state and a city or county as to the appropriate amount of the city or county share, the Director of the Department of Finance and Administration is authorized to establish an administrative review process and, when necessary, adjust the city or county share upon a finding of gross inadequacy~~.

SECTION *12*. Arkansas Code **16-13-701** is amended to read as follows:

16-13-701. Scope.

(a) The procedures established by this subchapter shall apply to the assessment of all monetary fines, however designated, imposed by circuit courts, ~~and state division~~ municipal courts, district courts, city courts or police courts for criminal convictions, traffic convictions ~~and~~ ,civil violations, and juvenile delinquency adjudications ~~by chancery courts for civil violations exclusive of child support, and by juvenile courts for delinquency adjudications~~, and shall be utilized to obtain prompt and full payment of all such fines.

(b) For purposes of this subchapter, the term "fine" or "fines" means all monetary penalties imposed by the courts of this state, which include fines, court costs, restitution, probation fees, and public service work supervisory fees.

SECTION *13*. Arkansas Code **16-13-704** is amended to read as follows:

16-13-704. Installment payments.

(a)(1) If the court concludes that the defendant has the ability to pay the fine, but that requiring the defendant to make immediate payment in full would cause a severe and undue hardship for the defendant and the defendant's dependents, the court may authorize payment of the fine by means of installment payments in accordance with this subchapter.

(2)(A) When a court authorizes payment of a fine by means of installment payments, it shall issue, without a separate disclosure hearing, an order that the fine be paid in full by a date certain and that in default of payment the defendant must appear in court to explain the failure to pay.

(B) In fixing, the date of payment, the court shall issue an order which will complete payment of the fine as promptly as possible without creating a severe and undue hardship for the defendant and the defendant's dependents.

(b)(1) In addition to the fine and any other assessments authorized by this subchapter an installment fee of five dollars ($5.00) per month shall be assessed on each person who is authorized to pay ~~pays~~ a fine on an installment basis.

*(2) One-half (1/2) of the installment fee collected in circuit court shall be remitted monthly to the Department of Finance and Administration for deposit in the Judicial Fine Collection Enhancement Fund, as established by § **16-13-712**, and the other half of the installment fee shall be remitted monthly to the county treasurer to be deposited in a fund entitled the Court Automation Fund to be used solely for ~~the administration of justice~~ court related technology.*

*(3)(A) One-half (½) of the installment fee collected in municipal court, district court, city court or police court shall be remitted monthly to the Department of Finance and Administration for deposit in the Judicial Fine Collection Enhancement Fund as established by § **16-13-712**.*

(B) The other half of the installment fee shall be remitted monthly to the city treasurer to be deposited in a fund entitled the Court Automation Fund to be used solely for court related technology.

(C) In any municipal court or district court which is funded solely by the county, the other half of this fee shall be remitted monthly to the county treasurer to be deposited in the Municipal Court or District Court Automation Fund to be used solely for municipal court or district court related technology.

(c) Any defendant who has been authorized by the court to pay a fine by installments shall be considered to have irrevocably appointed the clerk of the court as his agent upon whom all papers affecting his liability may be served, and the clerk shall forthwith notify the defendant thereof by ordinary mail at his last known address.

(d) "Ability to pay" means that the resources of the defendant, including all available income and resources, are sufficient to pay the fine and provide the defendant and his dependents with a reasonable subsistence compatible with health and decency.

SECTION *14*. Arkansas Code **16-13-707** is amended to read as follows:

City of Fayetteville, Arkansas
Budget Adjustment Form

A. 6
~~Fayetteville District~~ Court
Page 5 of 6

Budget Year	Department: General Government Division: Fayetteville District Court Program: District Judge	Date Requested	Adjustment Number
2009		3/3/2009	

Project or Item Added/Increased:
$10,000 is requested in the Minor Equipment account.

Project or Item Deleted/Reduced:
$10,000 is being used from the Court Software Escrow - account.

Justification of this Increase:
To purchase lap top computers, a printer, and DVD player for use during court proceedings.

Justification of this Decrease:
Act 1809 of 2001, collection of 1/2 Automation fee to be deposited in a fund to be used solely for district court related technology.

Increase Budget

Account Name	Account Number				Amount	Project Number	
Minor Equipment	1010	0400	5210	00	10,000	09011	0901

Decrease Budget

Account Name	Account Number				Amount	Project Number	
Miscellaneous Revenue	1010	0001	4999	00	10,000	09011	0901

Approval Signatures

Requested By — Date: 2/12/09

Budget Director — Date: 2-26-09

Department Director — Date

Finance Director — Date: 2/26/09

Mayor — Date

Budget & Research Use Only

Type: A B C D E

General Ledger Date

Approval Date — Initial — Date

Posted to General Ledger — Initial — Date

Posted to Project Accounting — Initial — Date

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

3/3/2009
~~2/17/2009~~

City Council Meeting Date
Agenda Items Only

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

Action Required:

Action Required: A Resolution to accept and approve the Fayetteville Executive Airport Disadvantaged Business Enterprise (DBE) Program Revision and Participation Goal in 2009 for Airport Improvement Grant Project 3-05-0020-0037-2009.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Signature	Date
Department Director	1/22/09
City Attorney	1/29/09
Paul A. Becker — Finance and Internal Services Director	2-17-09
Chief of Staff	2/18/09
Lioneld Jordan — Mayor	2/18/09

Previous Ordinance or Resolution # 147-00, 150-01, 81-03, 97-04, 87-05, 202-05, 143-06, 154-07

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office — ENTERED 1-29-09

Received in Mayor's Office — ENTERED 1/29/09

Comments:

City Council Meeting February 17, 2009

Fayetteville
EXECUTIVE AIRPORT

Staff Review Memorandum

TO:	Lioneld Jordan, Mayor Fayetteville City Council members
THRU:	Ray M. Boudreaux, Director Fayetteville Executive Airport Advisory Board Staff Review Committee
FROM:	James L. Nicholson, Financial Coordinator / DBE Liaison
DATE:	January 22, 2009
SUBJECT:	Disadvantaged Business Enterprise (DBE) Program revision

Recommendation: Approve a Resolution and signature of the Mayor required to approve the Fayetteville Executive Airport Disadvantaged Business Enterprise (DBE) Program revision and 2009 DBE Participation Goal Update.

Background: On October 14, 2000, the Fayetteville City Council approved the Fayetteville Executive Airport's revised Disadvantaged Business Enterprise Program by resolution 147-00. The Airport's DBE Program is federally mandated under 49 CFR Part 26 for all Department of Transportation (DOT/FAA) grant recipients which anticipate receiving more than $250,000 in federal funds in the fiscal year.

The DBE Program assures that Minority & Women-owned businesses, and other economically disadvantaged small businesses have an equal opportunity, or "level playing field," in competing for Airport procurement contracts.

Discussion: The FAA SW Region Civil Rights Officer has requested that we revise and update our existing DBE program. The revision incorporates changes to some language in the Program narrative to reflect the most current 49 CFR Part 26 language, brings current some of the details of how the City administers its DBE Program, and adds supplementary documents and information in order provide a more comprehensive document for potential DBE participants, stakeholder organizations and the general public.

Included with the Program revision is the 2009 DBE Goal update, (Attachment D). The regulation requires that we circulate the Program Policy Statement and Annual Goal Update throughout the organization. The Policy Statement reflects our commitment to our DBE program, outlines its objectives, and outlines responsibilities for its implementation. The Policy Statement (pg 2 of the document), should be signed by the City's chief officer and submitted to the FAA.

Budget Considerations: No budget effect.

/jn
Attachment: Revised DBE Program

CITY OF FAYETTEVILLE
FAYETTEVILLE EXECUTIVE AIRPORT
1/23/09

DBE Program Revision packet

NOTE TO REVIEWERS,

Please do not be daunted by the weight and heft of the document. Several of the attachments comprise of a large list of contractors or a copy of the federal regulations that apply to this program. They are included by request of our FAA Civil rights officer and do not need to be reviewed except to be used as a reference to the regulation for example.

The first section of the document, from pg 2-14, is important to review. This is the City's "DBE Program" and includes all of the requirements and responsibilities which we are obligated to follow as a recipient of Dept of Transportation (DOT) grant funding for airport improvement projects.

PURCHASING: Please pay close attention to the section titled "Good Faith Efforts Procedures" beginning on pg 9. All DOT funded project bids will necessarily have to be reviewed by the airport prior to any award. The determination of a 'responsible' bidder, is significant and is contingent on whether the bidder includes the required DBE – related documents, and verification that any DBE subcontractors that the prime lists are certified DBE in Arkansas Unified DBE Program. Please call me with any questions you may have about this.

The next section to review closely is "Attachment D," the 2009 Participation Goal Update. This section illustrates the goal calculation process and rationale.

Thanks for your time and assistance.

RESOLUTION NO. ______

A RESOLUTION TO ACCEPT AND APPROVE THE UPDATED FAYETTEVILLE EXECUTIVE AIRPORT DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM REVISION AND PARTICIPATION GOAL FOR FY2009; AND AUTHORIZING THE MAYOR TO SIGN THE REQUIRED OBJECTIVES/POLICY STATEMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby accepts and approves the updated Fayetteville Executive Airport Disadvantaged Business Enterprise (DBE) Program revision and participation goal for FY2009.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to sign the required Objectives/Policy Statement.

PASSED and **APPROVED** this 17th day of February, 2009.

APPROVED: ATTEST:

By: ______________________________
LIONELD JORDAN, Mayor

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

Fayetteville
Executive Airport

Disadvantaged Business Enterprise Program
40 CFR Part 26

Issued October 17, 2000
Revised October 7, 2008

City of Fayetteville
DBE Program 49 CFR Part 26
Revised October 2008

01/22/09

POLICY STATEMENT

Section 26.1, 26.23 **Objectives/Policy Statement**

The City of Fayetteville, Fayetteville Executive Airport, has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Fayetteville has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City of Fayetteville has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City of Fayetteville to ensure that DBEs as defined in part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Airport Financial Coordinator has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Fayetteville in its financial assistance agreements with the Department of Transportation.

The Fayetteville Executive Airport has disseminated this policy statement to the City Administration, City Council and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.

Lioneld Jordan

Lioneld Jordan, Mayor

2/18/09

Date

Attest:

Sondra Smith, City Clerk

Date

City of Fayetteville
DBE Program 49 CFR Part 26
Revised October 2008

01/22/09

POLICY STATEMENT

Section 26.1, 26.23 **Objectives/Policy Statement**

The City of Fayetteville, Fayetteville Executive Airport, has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Fayetteville has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City of Fayetteville has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City of Fayetteville to ensure that DBEs as defined in part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Airport Financial Coordinator has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Fayetteville in its financial assistance agreements with the Department of Transportation.

The Fayetteville Executive Airport has disseminated this policy statement to the City Administration, City Council and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.

Lonell Jordan

Loneld Jordan, Mayor

2/18/09

Date

Attest:

Sondra Smith, City Clerk

Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

The objectives are found in the policy statement on the first page of this program.

Section 26.3 Applicability

The City of Fayetteville is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

The City of Fayetteville will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

The City of Fayetteville will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the City of Fayetteville will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

We will report DBE participation to DOT as follows:

We will submit annually the Uniform Report of DBE Awards or Commitments and Payment Form, as modified for use by FAA recipients. An example of the form used is included with "Attachment H", located at Appendix B of 49 CFR part 26, (pg 324).

Bidders List: 26.11(c)

The City of Fayetteville will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow the bidder list approach for use in calculating overall goals. The bidder list shall include the name, address, DBE / non-DBE status, age, and annual gross receipts of firms. A copy of the Bidders List Form is included as

We will collect this information in the following ways:

The list of all bidders for construction will utilize US Census data and the State of Arkansas Contractors Licensing Board list to determine the number of qualified, willing and able contractors.

Additionally, the City of Fayetteville compiles an e-mail bidder list through its web site: http://www.accessfayetteville.org/government/purchasing/index.cfm. The website list features automatic notification to bidders of upcoming opportunities to bid on City procurement contracts.

The list of DBE bidders will utilize the Arkansas Unified Disadvantaged Business Enterprise Directory. The directory is continuously updated and published monthly by the Arkansas Unified Certification Program.

Section 26.13 Federal Financial Assistance Agreement

City of Fayetteville has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a)

> City of Fayetteville shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of Fayetteville of its failure to carry out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

This language will appear in financial assistance agreements with sub-contractors.

Contract Assurance: 26.13b

We will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

> The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

[*Note: This language is used verbatim, as it is stated in 26.13(b)*]

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the City of Fayetteville has received a grant of $250,000 or more for airport planning or development, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this program.

Section 26.25 DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer:

James Nicholson, Airport Financial Coordinator, or his successors
4500 S. School Avenue Suite F
Fayetteville AR 72701
479-718-7642
479-718-7646 fax
jnicholson@ci.fayetteville.ar.us

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City of Fayetteville complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Mayor of the City of Fayetteville concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment "A" to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Analyzes City of Fayetteville's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Acts as liaison to the Uniform Certification Process in Arkansas. The Arkansas Unified DBE Certification Program certifies DBE's according to the criteria set by DOT.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Maintains the City of Fayetteville's updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the City of Fayetteville to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. We have made the following efforts to identify and use such institutions:

Consult the updated listing from the U.S. Federal Reserve of all minority-owned financial institutions in the U.S., sorted by state.

To date we have identified the following such Arkansas institutions:

College Station Community Federal Credit Union
Phillips County Self-help Credit Union

Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

Section 26.29 Prompt Payment Mechanisms

The City of Fayetteville will include the following clause in each DOT-assisted prime contract:

> The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the City of Fayetteville. The prime contractor agrees further to return retainage payment to each subcontractor no later than 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Fayetteville. This clause applies to both DBE and non-DBE subcontractors.

Before any written approval for delay or postponement for payment is issued, both the prime contractor and the subcontractor will be invited to discuss the disputed issues. The Airport will fully investigate our options with the City of Fayetteville's Legal Department and the Federal Aviation Administration in the most expeditious time possible before written approval for delay or postponement of payment is given.

Sanctions for Noncompliance:

In the event of the contractor's noncompliance with any terms of a DOT-assisted prime contract, the City of Fayetteville shall impose such Contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

1. Withholding of payments to the Contractor under the Contract until the Contractor complies, and/or;

2. Cancellation, termination, or suspension of the Contract in whole or in part.

Section 26.31 Directory

The City of Fayetteville maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The airport uses the Arkansas Unified Disadvantaged Business Enterprise Directory, published by the Arkansas Unified DBE Certification Program, as the airport's DBE directory. The directory is available to contractors and the public on request and a physical copy is maintained at the Fayetteville Executive Airport, Drake Field, located at 4500 S. School Ave., Suite F, Fayetteville, AR 72701 or by calling 479-718-7642. Copies may also be obtained by contacting the Arkansas Unified DBE Certification Program at 501-569-2259. An example of the Directory may be found in Attachment "B" to this program document.

Section 26.33 Overconcentration

City of Fayetteville has not identified that overconcentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

City of Fayetteville has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

The City of Fayetteville will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. Bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. Consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment "C" lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. Provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by:
    a. Verify with the DBE Contractor the dollar amount of the contract.
    b. Verify with the DBE Contractor the work timeframe.
    c. On-site observation of work in progress.
    d. Verify with the DBE Contractor the final dollar amount of the contracted work and timeliness of the final payment.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The City of Fayetteville does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals
A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment "D" to this program. This section of the program will be updated annually unless there are no DOT-funded projects exceeding $250,000 anticipated in the fiscal year. In accordance with Section 26.45(f) the City of Fayetteville will submit its overall goal to DOT on the date of submission as determined by the FAA.

In accordance with 26.45 (g)(1), before establishing the overall goal each year, City of Fayetteville will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations in order to solicit input from these entities in the preparation of the annual Overall Goal Update, and to obtain information concerning the availability of disadvantaged and nondisadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Fayetteville's efforts to establish a level playing field for the participation of DBEs. A current list of consulting organizations is included in "Attachment D."

Concurrently with this consultation, and on or about June 1, the City of Fayetteville will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Fayetteville Executive Airport, Drake Field, Airport Administration Office, for a period of 30 days following the date of the notice, and informing the public that the City of Fayetteville and DOT will accept comments on the goals for 45 days from the date of the notice. This timing will ensure that the public participation process is completed prior to August 1, the date of the DBE Goal update submission to the FAA.

The notice will be published in local, statewide, and minority-focus media, and disseminated by mail and/or electronic communication to those entities whose constituencies or members are likely to have a stake or interest. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The proposed overall goals document will be published to the City of Fayetteville's website for viewing or download. The website page will include or link to contact information and addresses to which comments may be sent.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment "E" to this program. This section of the program will be updated annually when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The City of Fayetteville will use contract goals to meet any portion of the overall goal. City of Fayetteville does not project being able to meet the overall goal using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

The City of Fayetteville will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

We will express our contract goals as a percentage of the federal share of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as a responsible bidder/offeror:

City of Fayetteville Purchasing Division, Purchasing Agent

The City of Fayetteville will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be submitted (26.53(b))

City of Fayetteville treats bidder/offers' compliance with good faith efforts requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative reconsideration (26.53(d))

Within five (5) days of being informed by City of Fayetteville that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration panel: The Airport Advisory Board, 4500 S School Avenue, Suite F, Fayetteville, AR 72701. The Airport Advisory Board is made up of non-city employee, City of Fayetteville residents who volunteer their time and expertise to the development of the Airport. A current list of Board members is included with "Attachment A." The reconsideration official(s) will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration panel to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The City of Fayetteville will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process cannot be administratively appealed to the Department of Transportation.

Good Faith Efforts when a DBE is replaced on a contract (26.53(f))

City of Fayetteville requires a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The City of Fayetteville requires the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the City of Fayetteville requires the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, the City's contracting officer will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification:

> The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the City of Fayetteville to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment "F"), to meet the contract goal for DBE participation in the performance of this contract.
>
> The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.

[*Note: When a contract goal is established pursuant to the City of Fayetteville's DBE program, the sample bid specification can be used to notify bidders/offerors of the requirements to make good faith efforts. The forms found at Attachment "G" can be used to collect information necessary to determine whether the bidder/offeror has satisfied these requirements. The sample specification is intended for use in both non-construction and construction contracts for which a contract goal has been established. Thus, it can be included in invitations for bid for construction, in requests for proposals for architectural/engineering and other professional services, and in other covered solicitation documents. A bid specification is required only when a contract goal is established.*]

Section 26.55 Counting DBE Participation

The City of Fayetteville will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. We will not count the participation of a DBE subcontract toward a Contractor's final compliance with it's DBE obligations on a Contract until the amount being counted has actually been paid to the DBE.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The City of Fayetteville uses the certification standards of Subpart D of Part 26, as employed by the Arkansas Unified DBE Certification Program, to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards.

For information about the certification process or to apply for certification, firms should contact: Unified DBE Certification Program; Natasha Halbert, DBE Program Specialist, 10324 Interstate 30, PO Box 2261, Little Rock, AR 72203-2261, 501-569-2259

The certification application forms and documentation requirements are found in Attachment "H" to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

City of Fayetteville is a member of the Arkansas Unified DBE Certification Program administered by the Arkansas State Highway and Transportation Department.

Information concerning the Unified Certification program is available from AHTD, 10324 Interstate 30, PO Box 2261, Little Rock, AR 72203-2261, 501-569-2259

Section 26.83 Procedures for Certification Decisions

Re-certifications 26.83(a) & (c)

The Arkansas Unified DBE Certification Program reviews the eligibility of firms that it has certified or reviewed previously and found eligible under part 26. The Arkansas Unified DBE Certification Program's policy is to re-certify eligible firms every three years.

"No Change" Affidavits and Notices of Change (26.83(j))

The Arkansas Unified DBE Certification Program requires all DBEs to report, in a signed affidavit, any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26, or of any material changes in the information provided with their application for certification.

The Arkansas Unified DBE Certification Program also requires all owners of all DBEs they have certified, to submit on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j).

> The Arkansas Unified DBE Certification Program uses a duplicate of the DBE applicant's original Affidavit of Certification for the purposes of the "No-change Affidavit" requirement. The DBE must submit a new Affidavit each year. A copy of the Affidavit used is contained in Attachment "G".

The Arkansas Unified DBE Certification Program requires DBEs to submit with this affidavit, documentation of the firm's size and gross receipts.

The Arkansas Unified DBE Certification Program notifies all currently certified DBE firms of these obligations annually. This notification informs DBEs that to submit the "no change" affidavit, their owners must swear or affirm that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

Section 26.85 Denials of Initial Requests for Certification

If the Arkansas Unified DBE Certification Program denies a firm's application or decertifies it, the firm may not reapply until twelve (12) months have passed.

Section 26.87 Removal of a DBE's Eligibility

In the event that the City of Fayetteville challenges a DBE's certification eligibility to the Arkansas Unified DBE Certification Program, and initiates a request to de-certify a DBE, such a removal action follows procedures consistent with 26.87. The procedure, as carried out by the Arkansas Unified DBE Certification Program, is set forth in detail in Attachment "H" to this program.

Section 26.89 Certification Appeals

Any firm or complainant may appeal the decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation
Departmental Office of Civil Rights
External Civil Rights Programs Division (S-33)
1200 New Jersey Ave., S.E.
Washington, DC 20590
Phone: (202) 366-4754
TTY: (202) 366-9696
Fax: (202) 366-5575

The City of Fayetteville will promptly implement the DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

The City of Fayetteville will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. The state of Arkansas has a comprehensive Freedom of Information Act (FOIA) which exempts "[f]iles which, if disclosed, would give *advantage to competitors or bidders*." 25-19-105 (b)(9)(a). Therefore, information related to any business entity's, planning, site location, expansion, operations, or product development/marketing will not be released without prior permission. Otherwise, all other documents related to offers, bids, and contracts are subject to the FOIA.

Notwithstanding any contrary provisions of state or local law, the City of Fayetteville will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

The City of Fayetteville will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City of Fayetteville or DOT. This reporting requirement also extends to any certified DBE subcontractor.

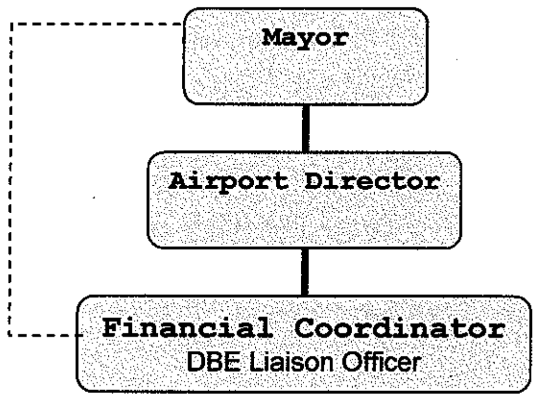
The City of Fayetteville will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

ATTACHMENTS

Attachment A	Organizational Chart List of Airport Advisory Board members
Attachment B	DBE Directory (example)
Attachment C	Monitoring and Enforcement Mechanisms
Attachment D	Overall Goal Calculation List of consulting organizations
Attachment E	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment F	Bidders List Form
Attachment G	Forms 1 & 2 for Demonstration of Good Faith Efforts
Attachment H	Arkansas Unified DBE Certification Program UCP Letter of Agreement Certification Application Form Procedures for Removal of DBE's Eligibility Affidavit of Certification / Annual Affidavit
Attachment I	Regulations: 49 CFR part 26

Attachment A

Organizational Chart



List of Airport Advisory Board members by position Attachment A (cont)

Bob Nickle, Chairman

Janice Stanesic, Vice Chair

David Hollman, Secretary

Otto Loewer, Member

Vaughn DeCoster, Member

Richard Greene, Member

Tim McCarley, Member

Attachment B

DBE Directory (example)

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

10/21/2008
City Council Meeting Date
Agenda Items Only

Jeremy Pate	Planning	Operations
Submitted By	**Division**	**Department**

Action Required:

RZN 08-3084: (Candlelight Place, 367): Submitted by Pat McGowan for property located at the southeast corner of Gregg Avenue and Ash Street. The property is zoned RSF-4, Residential Single-Family, 4 units per acre, and contains approximately 0.94 acres. The request is to rezone the subject property to RMF-24, Residential Multi-Family, 24 units per acre.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date: 9-30-08

City Attorney — Date: 10-1-08

Paul A. Becker
Finance and Internal Service Director — Date: 10-1-08

Dan Coody
Mayor — Date: 10/6/08

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office — ENTERED 10/1/08

Received in Mayor's Office — ENTERED 10/1/08

Comments:

Tabled Indefinitely 11/6/08
Tabled to 11/4/08 mtg 10/21/08
Left on first reading 10/21/08

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: September 29, 2008

Subject: Rezoning for Candlelight Place Apartments (RZN 08-3084)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning a portion of the subject property from RSF-4, Residential Single Family, 4 units/acre, to RMF-24, Residential Multi-Family, 24 units/acre located at the corner of Gregg Avenue and Ash Street.

BACKGROUND

The property, containing approximately 0.94 acres, is located at the corner of Gregg Avenue and Ash Street, just north of the Candlelight Place Apartments, and is currently undeveloped. At this location, Gregg Avenue (Minor Arterial) runs parallel with and adjacent to the east of the Frisco Railroad track, an active rail line, as shown on the attached aerial map. Surrounding land uses are mixed on both sides of the Railroad. To the east of Gregg Avenue and the Frisco Railroad track and the north of the site, properties consist of single- and multi-family zoning districts and land uses. To the west, properties consist of multi-family, heavy commercial, and light industrial zoning districts and land uses.

The applicant proposes to rezone the property from RSF-4 to RMF-24 to develop the site as an extension of the existing Candlelight Place Apartment development. Should the rezoning request be approved, the applicant would be required to submit a development request subject to the zoning and development requirements of the Unified Development Code, including Urban Residential Design Standards and Tree Preservation.

DISCUSSION

This item was heard at the regular Planning Commission meeting on September 22, 2008. The Planning Commission voted 7-0-0 to forward this rezoning request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 08-3084, FOR APPROXIMATELY 0.94 ACRES, LOCATED AT THE SOUTHEAST CORNER OF GREGG AVENUE AND ASH STREET FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE, TO RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE

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

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

> From RSF-4, Residential Single-Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and **APPROVED** this day of , 2008.

APPROVED: ATTEST:

By: ______________________________ By: ______________________________

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

EXHIBIT "A"

RZN08-3084	CANDLELIGHT PLACE
Close Up View	

Overview

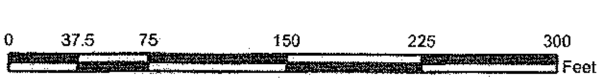


EXHIBIT "B"
RZN 08-3084

LOT FOUR (4) OF BLOCK TWELVE (12) OF VALLEY VIEW ACRES TO THE CITY OF FAYETTEVILLE, ARKANSAS.

Fayetteville
ARKANSAS

PC Meeting of September 22, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Dara Sanders, Current Planner
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~September 11, 2008~~ *Updated September 23, 2008*

RZN 08-3084: (CANDLELIGHT PLACE, 367): Submitted by PAT MCGOWAN for property located at the SE CORNER OF GREGG AVENUE AND ASH STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.94 acres. The request is to rezone the subject property to RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE.
Planner: Dara Sanders

BACKGROUND:

Property Description: The property, containing approximately 0.94 acres, is located at the corner of Gregg Avenue and Ash Street, just north of the Candlelight Place Apartments. The subject property is currently undeveloped.

At this location, Gregg Avenue (Minor Arterial) runs parallel with and adjacent to the east of the Frisco Railroad track, an active rail line, as shown on the attached aerial map. Surrounding land uses are mixed on both sides of the Railroad. To the east of Gregg Avenue and the Frisco Railroad track and the north of the site, properties consist of single- and multi-family zoning districts and land uses. To the west, properties consist of multi-family, heavy commercial, and light industrial zoning districts and land uses.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Heritage Townhouses	RMF-24, Residential Multi-Family, 24 units/acre
South	Candlelight Apartments	RMF-24, Residential Multi-Family, 24 units/acre
East	Single family houses	RSF-4, Residential Single-Family, 4 units/acre
West	Frisco Railroad, Industrial	I-1, Light Industrial

Proposal: The applicant proposes to rezone the property from RSF-4 to RMF-24 to develop the site as an extension of the existing Candlelight Place Apartment development, which was approved by the Planning Commission in 1993 and constructed in 2003. Should the rezoning request be approved, the applicant would be required to submit a development request subject to the zoning and development requirements of the Unified Development Code.

Public Comment: Staff has not received public comment.

Discussion: Staff finds in favor of the zoning request, finding that the proposed zoning would be compatible with adjacent zoning, existing and approved development, the future land use plan to provide a range of residential building types, and complies with many of the City's goals adopted by the City Council with City Plan 2025. Staff also finds that this undeveloped property, with frontage on a Minor Arterial street carrying high volume and relatively high speed traffic, is more appropriate to be used for a multi-family use instead of the currently designated single-family use. The properties directly to the north and south of the subject property are zoned RMF-24. Because of the property's location adjacent to Gregg Avenue and the Railroad and its proximity to non-residential services, staff finds it appropriate to extend the RMF-24 zoning district along Gregg Avenue and encouraging higher density development that could support a multi-modal transportation network.

Should the rezoning request be approved, the applicant will be required to submit a development request for the subject property. At the time of development, staff will likely recommend that additional curb cuts be prohibited to Gregg Avenue and that the subject property be accessed by the existing driveway for the Candlelight Place Apartments. Because a majority of the site is covered with tree canopy, staff will require at the time of development a detailed tree preservation plan listing the species, priority, and condition of all trees on the site and those to be preserved. A minimum of 20% is required in the RMF-24 district.

Only one use request for this neighborhood has been reviewed recently by the Planning Commission. In June of 2006, the Commission considered a conditional use permit (CUP 06-2091) for a property located at 227 West Miller Street (designated as a Collector), one block north of the subject property and one block east of Gregg Avenue, to allow for a two-family dwelling unit in the RSF-4 zoning district. The Planning Division received one letter of objection from two citizens, not adjacent property owners. Staff recommended approval of the request, finding that the two-family use established an appropriate transition between the multi-family development and the Minor Arterial (Gregg Avenue) to the west and the single-family neighborhood to the east. The request was approved with conditions by a vote of 5-4-0.

RECOMMENDATION:
Staff recommends forwarding the rezoning request to the City Council with a recommendation of approval based on findings stated herein.

PLANNING COMMISSION ACTION: Required YES
☐ Approved x Forwarded ☐ Denied
Motion: Anthes Second: Cabe Vote: 7-0-0

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied
Date:

INFRASTRUCTURE:

Streets: The site has access to Gregg Ave. and Ash St. Ash Street is a paved two lane city street of sufficient width. Gregg Ave. is a fully improved four lane city street. Street improvements will be evaluated with the proposed development.

Water: Public water is available to the property. There is an 8" main along Gregg Avenue and Ash Street. Water may need to be extended through the property at the time of development to provide domestic service and fire protection.

Sewer: Sanitary sewer is available to the site. There is a 6" public main along Ash Street. Sewer may need to be extended through the property at the time of development. The capacity of the existing main will need to be evaluated at the time of development.

Drainage: Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

Fire: This property will be covered by Engine 2 located at 708 N. Garland Avenue. It is 1.4 miles from the station with an anticipated response time of 3 minutes. The Fire Department anticipates that there will be 4 (3 EMS-1 Fire/other) calls for service, per year, once this development is completed and maximum build out has occurred. The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

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

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as* ***City Neighborhood Area.*** *Staff finds that extending the RMF-24, Residential Multi-Family, 24 units/acre zoning district along Gregg Avenue (Minor Arterial) is appropriate at this location as several properties, including the existing multi-family development to the south, currently exist along the east side of Gregg Avenue. With the incorporation of standard City ordinance requirements for multi-family developments including Urban Residential Design Standards, these uses would be compatible with the adjacent single family residences to the east of the subject property and would serve as a transition between the single-family neighborhood to the east and the Railroad and 4-lane street to the west.*

FINDINGS OF THE STAFF

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

Finding: **The property is designated as City Neighborhood Area in the City Plan 2025 Future Land Use Plan, which encourages a denser and primarily residential urban fabric with a range of residential building types, setbacks, and low-intensity nonresidential uses. The proposed RMF-24 zoning is consistent with the City's City Neighborhood Area land use designation to encourage a range of residential building types. Furthermore, the multi-family development would serve as a transition and buffer between the single-family neighborhood to the east and the Railroad, 4-lane street, and the light-industrial uses to the west.**

Staff finds the proposal to be consistent with several of the City Plan 2025 Goals adopted by the City Council. With Goal 1, the City of Fayetteville has established infill as our highest priority. Staff finds that the applicant's proposal to develop the subject property as an expansion of the Candlelight Place Apartments is an infill project, as the aerial map included in this staff report indicates that development has occurred around the vacant property.

Staff finds that the proposal complies with Goal 2 to discourage sprawl with compact and medium-density development that fronts onto a major transportation corridor and utilizes existing city infrastructure.

Staff finds that the proposal to increase the residential density along Gregg Avenue is consistent with Goal 4 to develop a multi-modal transportation network. Efficient transit depends upon nodes or concentrations of population and employment that can be served efficiently. Staff finds that the increase in residential density that is adjacent to an active Railroad and a Minor Arterial and has access to nearby non-residential services and employment opportunities is consistent with transit-oriented development.

Staff also finds that the proposal is consistent with Goal 6 to create attainable housing. Should the City Council approve the request to rezone the property, the applicant will be required to submit a development request for approval, at which time staff will review the proposal for compliance with the City's zoning and development regulations, specifically the City's Urban Residential Design Standards for multi-family developments.

Finally, staff finds that the proposal is consistent with land use and zoning plans. The properties directly to the north and south of the subject property are zoned RMF-24. Because of the property's location adjacent to Gregg Avenue and the Railroad and its proximity to non-residential services, staff finds it appropriate to extend the RMF-24 zoning district along Gregg Avenue and encouraging higher density development that could support a multi-modal transportation network.

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

rezoning is proposed.

Finding: **Staff finds the proposed zoning is justified and needed. As stated in Finding No. 1, the proposed use would serve as a buffer between the single-family neighborhood to the east and the Railroad, 4-lane street, and the light-industrial uses to the west. Staff also finds that this undeveloped property, with frontage on a Minor Arterial street carrying high volume and relatively high speed traffic, is more appropriate to be used for a multi-family use instead of the currently designated single-family use.**

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

Finding: **It is expected that a rezoning from RSF-4 to RMF-24 would create an increase in traffic compared with that allowed under the existing zoning. However, the property is in direct proximity to a Minor Arterial (Gregg Avenue), which is designed to accommodate a significant amount of traffic. Staff finds that the proposed zoning would not create or appreciably increase traffic danger and congestion. However, staff will review access to the property with the development of the site. Staff may not support an additional curb cut for the expansion of the Candlelight Place Apartments and will likely recommend that the development utilize the driveway from the existing complex onto Gregg Avenue.**

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

Finding: **Staff finds that the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property.**

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

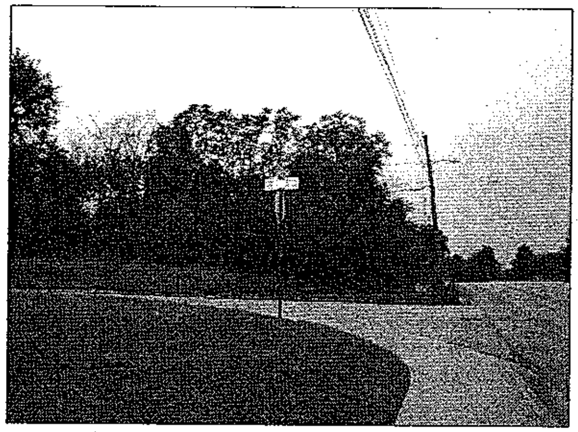
5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

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

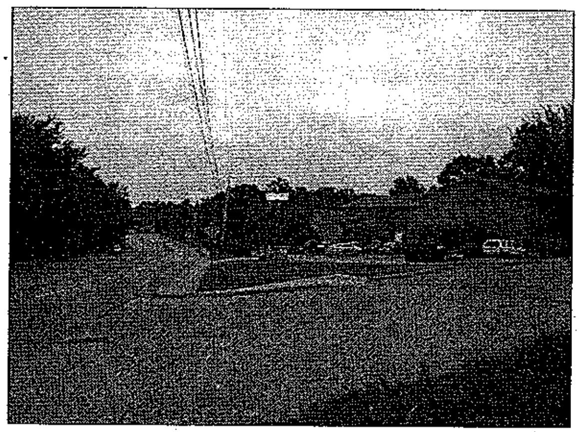
Finding: **Not applicable. Staff recommends in favor of the requested zoning.**

b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **Not applicable. Staff recommends in favor of the requested zoning.**



View from the north of the subject property



Multi-family development north of the subject property

Candlelight Place Apartments south of the subject property

Candlelight Place, LLC
4901 St. Andrews Way, C-51
Fort Smith, AR 72903

August 5, 2008

City of Fayetteville, Arkansas
Planning Division
125 W. Mountain
Fayetteville, AR 72701

RE: Rezoning Application

Dear City of Fayetteville, Arkansas, Planning Division:

Enclosed please find our Rezoning Application. The following is a reply to your application checklist.

1. A check for $325.00 is enclosed.

2. The legal description of the land is *Lot four (4) of block twelve (12) of Valley View Acres to the City of Fayetteville, Arkansas.* See Real Estate Parcel Information. A legal description will also be emailed to you.

3. Two sets of typed, mailing labels is enclosed.

4. A copy of the plat on record in the county assessor's office is enclosed.

5. The following is a written description of requests.
   a. The current owners of the property are George H. and Suzanne E. Niblock, who have executed an offer and acceptance with Candlelight Place, LLC.
   b. The reason for a zoning change is a proposal to add 24 units to expand our current project.
   c. The existing project is a 56 unit apartment project situated on 3.75 acres with a current zoning of MF24. The subject property, which we are seeking a zoning change, is .94 acres, which would be added to the existing project making it a total of 4.69 acres. The density of combining the 56 existing units with the 24 proposed units will result in 17 units per acre, which is significantly lower than 24. This site is bordered to the North by an existing apartment project on the north side of Ash. Duplexes on the east, Candlelight Apartments on the South and industrial railroad tracks to the West across Gregg Avenue. With reference to traffic, there will be no additional ingress or regress needed to serve the property. The grand exit will be served by the existing wide lanes serving Candlelight Place Apartments. The appearance will be garden style similar to Candlelight Place. No additional signage will be required.
   d. The existing water, which is a 6-inch line with fire hydrant on interior of Candlelight Place, will be extended to serve the new buildings. No new water taps will be required. Sewer and drainage will be connected to existing lines, which were installed by Candlelight Place, LLC.

6. The following is a written statement for specific findings for Planning Commission.
   a. The land use is compatible due to the fact that there are existing apartments to the North and South with industrial across Gregg. The direction back to the West has a series of duplexes, which due to orderly planning there is a good transition made to residential areas.
   b. The proposed zoning will permit a small addition of 24 units that are one bedroom, which of course would not require much more parking for 24 additional apartments.
   c. The proposed zoning would require additional parking for 24 apartments, but it is not seen as a problem for adequate flow of traffic or towards additional congestion.
   d. No adverse affects are anticipated for public service, such as schools and the existing water and sewer facilities, which were installed by Candlelight Place, LLC and are already on site. These are considered to be adequate to service the proposed addition.
   e. A change in land use on Gregg Avenue over the years lends itself for development other than single-family houses.

Please let us know if you need any other information and your consideration in this matter is appreciated.

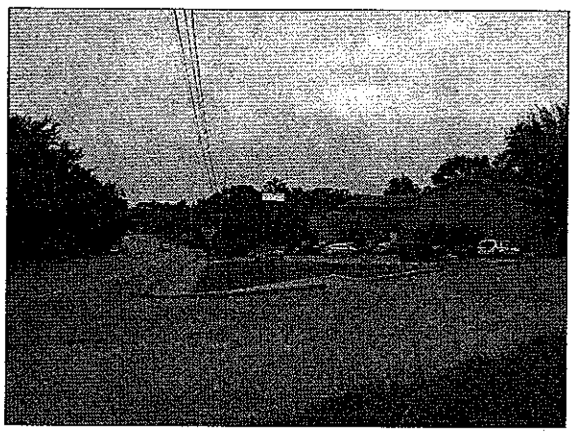
Sincerely,

Pat H. McGowan
Candlelight Place, LLC, Managing Member

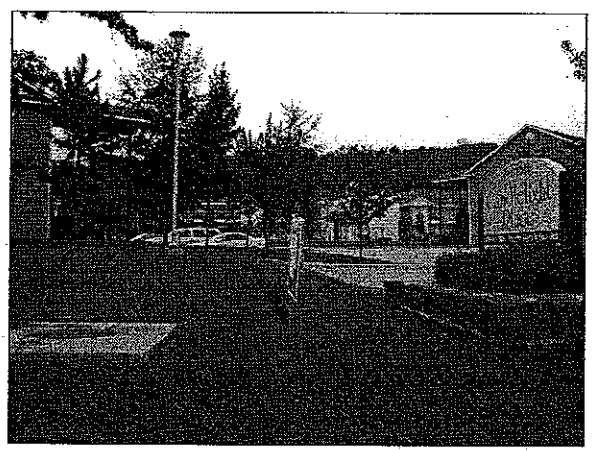
Enclosures

RZN 08-3084 (Candlelight Place)

View from the north of the subject property



Multi-family development north of the subject property



Candlelight Place Apartments south of the subject property

Engineering Division Comments

RZN 08-3084: (CANDLELIGHT PLACE, 367): Submitted by PAT MCGOWAN for property located at the SE CORNER OF GREGG AVENUE AND ASH STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximatel;y 0.94 acres. The request is to rezone the subject property to RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE. Planner: Dara Sanders

Public water is available to the property. There is an 8" main along Gregg Avenue and Ash Street. Water may need to be extended through the property at the time of development to provide domestic service and fire protection.

Sanitary sewer is available to the site. There is a 6" public main along Ash Street. Sewer may need to be extended through the property at the time of development. The capacity of the existing main will need to be evaluated at the time of development.

The site has access to Gregg Ave. and Ash St. Ash Street is an paved two lane city street of sufficient width. Gregg Ave. is a fully improved four lane city street. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

Department

303 W. Center St. Fayetteville AR. 72701

MEMO

To: **Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher**

From: Captain Mark Stevens

Date: September 5, 2008

Subject: September 5, 2008 Zoning Review

~~**R-PZD 08-3071: Planned Zoning District (BRIDGEDALE PLAZA, 569)**: Submitted by JORGENSEN & ASSOC for property located at THE SE CORNER OF HUNTSVILLE ROAD AND RIVERMEADOWS DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE AND R-A, RESIDENTIAL AGRICULTURAL and contains approximately 15.95 acres. The request is to review a zoning and land use only application for 113 residential units and 17,500 sq. ft. of non-residential space.~~

~~This property is covered by Ladder 3 located at 1050 S. Happy Hollow Rd.
It is 2.2 miles from the station with an anticipated response time of 5 minutes.
This development will have a call for service impact of 20 calls (13 EMS/ 7 other) per year once maximum build out has occurred. Construction typically takes 12-18 months on this type of development before maximum build out occurs.
Measured hydrant flow is 1560 gallons per minute in this area.~~

RZN 08-3084: (CANDLELIGHT PLACE, 367): Submitted by PAT MCGOWAN for property located at the SE CORNER OF GREGG AVENUE AND ASH STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.94 acres. The request is to rezone the subject property to RMF-24, RESIDENTIAL MULTI-FAMILY 24 UNITS PER ACRE.

This property is covered by Engine 2 located at 708 N. Garland Ave.
It is 1.4 miles from the station with an anticipated response time of 3 minutes
This development will have a call for service impact of 4 calls (3 EMS/ 1 other) once the project is completed
There is no measured hydrant flow in this area

Date 8/28/08

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

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed RZN 08-3084: (Candlelight Place, 367): Submitted by Pat McGowan for property located at the SE corner of Gregg Avenue and Ash Street would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 0.94 acres.

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

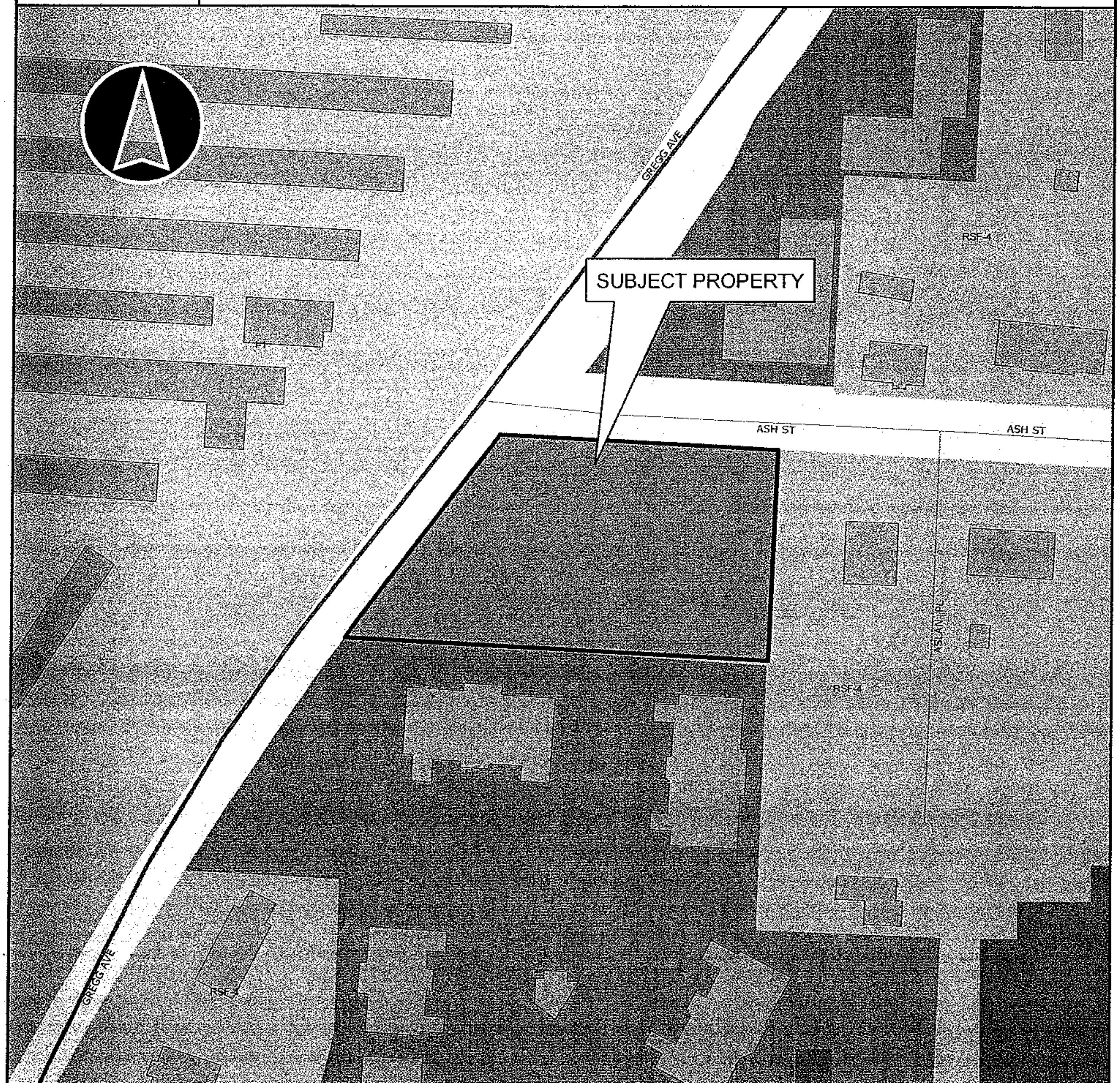
Sincerely,

Captain William Brown
Fayetteville Police Department

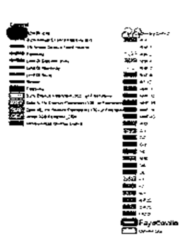
RZN08-3084

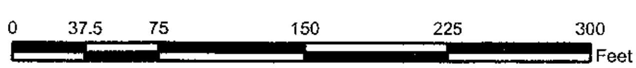
Close Up View

CANDLELIGHT PLACE



Overview

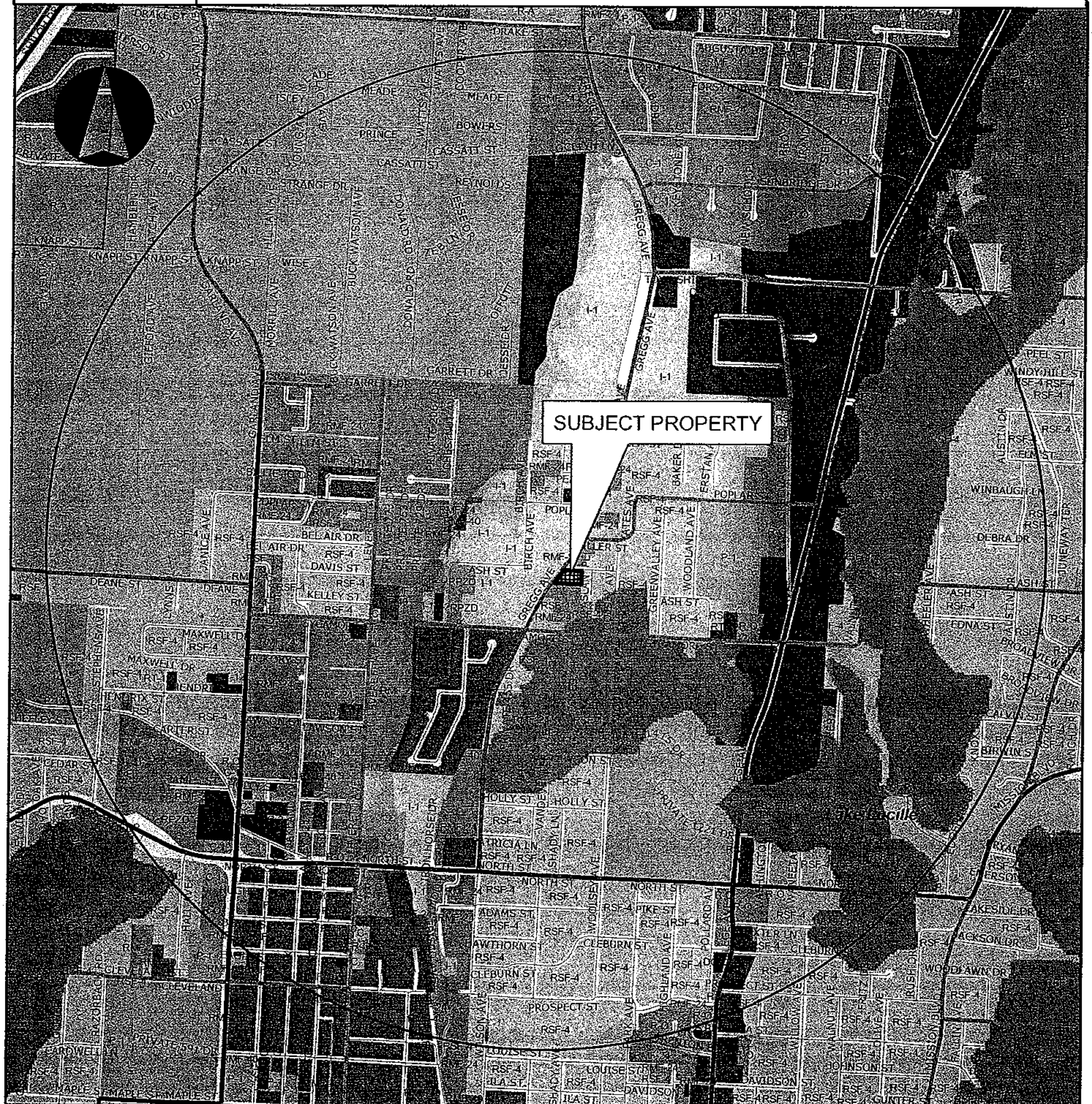




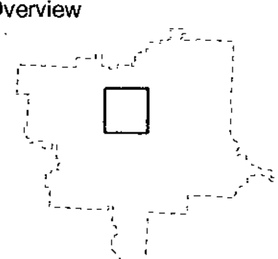
RZN08-3084

One Mile View

CANDLELIGHT PLACE



Overview



Legend

Subject Property

RZN08-3084

Boundary

Planning Area

Overlay District

Outside City

Legend

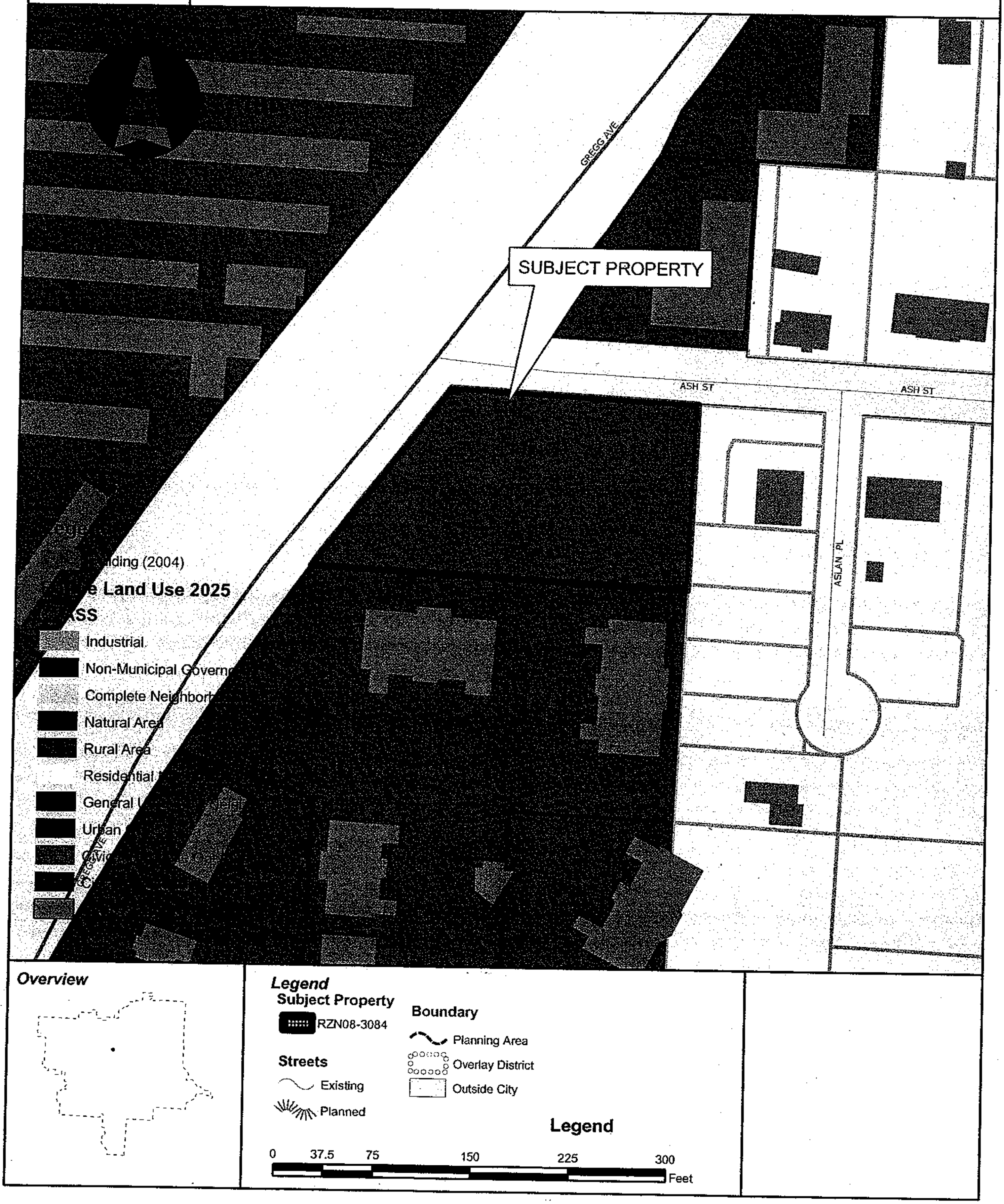
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

RZN08-3084

Future Land Use

CANDLELIGHT PLACE



From: Jeremy Pate
To: Sanders, Dara; Wood, Amber
Date: 11/3/2008 9:19 AM
Subject: Re: Fwd: Candlelight Place

Thanks, I'll let the Council know at the meeting on Thursday.

-Jeremy

>>> Dara Sanders 11/3/2008 9:14 AM >>>

Request to table indefinitely: RZN 08-3084

Dara Sanders
Planning Division
City of Fayetteville

>>> <Vlmcdaniel03@aol.com> 11/3/2008 9:11 AM >>>
Dara:

Please table our re-zoning meeting indefinitely.

Thanks,

Pat McGowan

B.6. – Candlelight Place

Amber Wood - RZN 08-3084 Candlelight Place

From: Amber Wood
To: Pate, Jeremy
Date: 12/17/2008 10:56 AM
Subject: RZN 08-3084 Candlelight Place
Attachments: 0576_001.pdf

Jeremy,

FYI
I just spoke to Pat McGowan and he stated he would like to have the attached item brought forward again at the March 3, 2009 City Council Meeting. He originally requested that this item be tabled indefinitely at the November 6, 2008 City Council Meeting. I have placed it on the March 3, 2009 Agenda under Unfinished Business. Is there anything else that I need to do? Just let me know.

Amber Wood, CMC
Deputy City Clerk

City of Fayetteville
City Clerk Division
Phone: (479) 575-8323
Fax: (479) 718-7695
awood@ci.fayetteville.ar.us

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807
DAVID L. JORGENSEN, P.E., P.L.S.

July 17, 2008

City of Fayetteville – City Council
113 W. Mountain Street
Fayetteville, AR 72701

RECEIVED
JUL 17 2008
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

RE: AMBERWOOD PLACE PZD

Dear Council Members,

On behalf of our client, JRJBCS, LLC, we would like to appeal the July 14, 2008 Planning Commission decision to deny R-PZD 08-2965. We are requesting that this item be put on the August 5, 2008 City Council Agenda.

Amberwood Place is being presented as a land use and zoning conceptual PZD. This project is located just south of Dot Tipton Road, east of Double Springs and west of 54th Street. This property was annexed into the city of Fayetteville last year, by the developer, with the encouragement of some the ward alderman who also had concerns and showed strong interest in the need for affordable housing in this area. This project has three planning areas as follows;

Planning Area #1: Single family, 102 units, 19.87 acres, 5.13 units/acre,
Planning Area #2: Single family, 41 units, 9.12 acres, 4.50 units/ acre
Planning Area #3: Single family, 39 units, 10.99 acres, 3.55 units/ acre
Total single family = 182 units on 39.98 acres; 4.55 units/acre

The current zoning is R-A and the surrounding zoning is RSF-1 and RSF-2 to the south with RSF-4 and RMF-6 due north..

This project was presented at the July 14, 2008 Planning Commission meeting and denied with only one vote for it. It seemed the Planning Commission in general liked the project layout and idea but were a little uneasy about the density and timing of the project. The general comments from the surrounding property owners that spoke at the meeting were about the side setbacks in planning area 3, which was simply a misprint in the PZD booklet, and the size of some of the homes in planning area 3. The developers are more than willing to work with the property owners on these issues and plan to be in contact with them before the August 5th meeting. The planning staff recommended denial of this project sighting that it doesn't meet all the goals of the City 2025 Plan. We however, feel that it does meet many of the goals and could be a very desirable and valuable project for this area now and in the future. We would like to stress that the developers build out date for this project could be up to 8 years with the first Planning Area being completed in the next 2-3 years. The driving force behind this project is creating attainable housing

Tabled to 12/2/08 mtg 10/21/08
Left on the second reading 10/7/08
Tabled to Oct. 1, 2008 meeting 9/16/08
Tabled to Sept. 16, 2008 mtg 9/2/08
Tabled to 3/3/09 mtg 2/3/09
FAILED 12/2/08

without losing focus on the City 2025 Plan and creating an isolated pocket of smaller homes.

Please contact us if you have any questions or would like more information regarding this project.

Sincerely,

Justin Lee Jorgensen, E.I.
Representative

Charlie Sloan
Developer/Owner

City Council Meeting of August 5, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: July 16, 2008

Subject: Residential Planned Zoning District for Amberwood Place (R-PZD 08-2965)

RECOMMENDATION

Planning Staff and Planning Commission recommend denial of an ordinance creating a Residential Planned Zoning District (R-PZD) for Amberwood Place, based on the findings that the proposed zoning is not consistent with the land use planning objectives, principles, and policies established by the City Council with the adoption of City Plan 2025 to make infill and revitalization our highest priority, and to discourage suburban sprawl; and finding that the proposed zoning is not compatible with surrounding existing agricultural and rural residential land uses and zoning.

BACKGROUND

The subject property, zoned R-A, Residential Agricultural, is located south and east of Double Springs Road on the south side of Dot Tipton Road. If City Council overturns the Planning Commission decision to deny, this action will establish a unique zoning district for a single-use project on approximately 39.98 acres. The proposal consists of 182 single family dwelling units and an overall density of 4.55 units/acre. The property is undeveloped agricultural pasture land, surrounded by rural residential and agricultural land uses. Dot Tipton Road, currently a partially paved/gravel road, provides access to the residences in this area, from Double Springs Road to 54th Avenue. Some infrastructure for the now-abandoned Windsor/Dunnerstock subdivision adjacent to the south has been installed, although this development has been abandoned for some time and the application is considered voided. Rezoning applications for this adjacent site to RSF-4 have been previously denied by the Planning Commission.

DISCUSSION

The Planning Commission voted 6-1-0 (Commissioner Kennedy voting 'No') to deny this request on July 14, 2008. The Planning Commission stated agreement with staff findings that the project does not comply with main goals and policies of City Plan 2025 to discourage suburban sprawl, and that the relatively high density proposed is not compatible with surrounding rural residential and agricultural land uses.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 08-2965, AMBERWOOD PLACE, LOCATED SOUTH AND EAST OF DOUBLE SPRINGS AND DOT TIPTON ROAD; CONTAINING APPROXIMATELY 39.98 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From R-A, Residential Agricultural to R-PZD 08-2965 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

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

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

PASSED and **APPROVED** this day of , 2008.

APPROVED: ATTEST:

By: ______________________________ By: ______________________________

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

EXHIBIT "A"

RPZD08-2965

Close Up View

AMBERWOOD PLACE

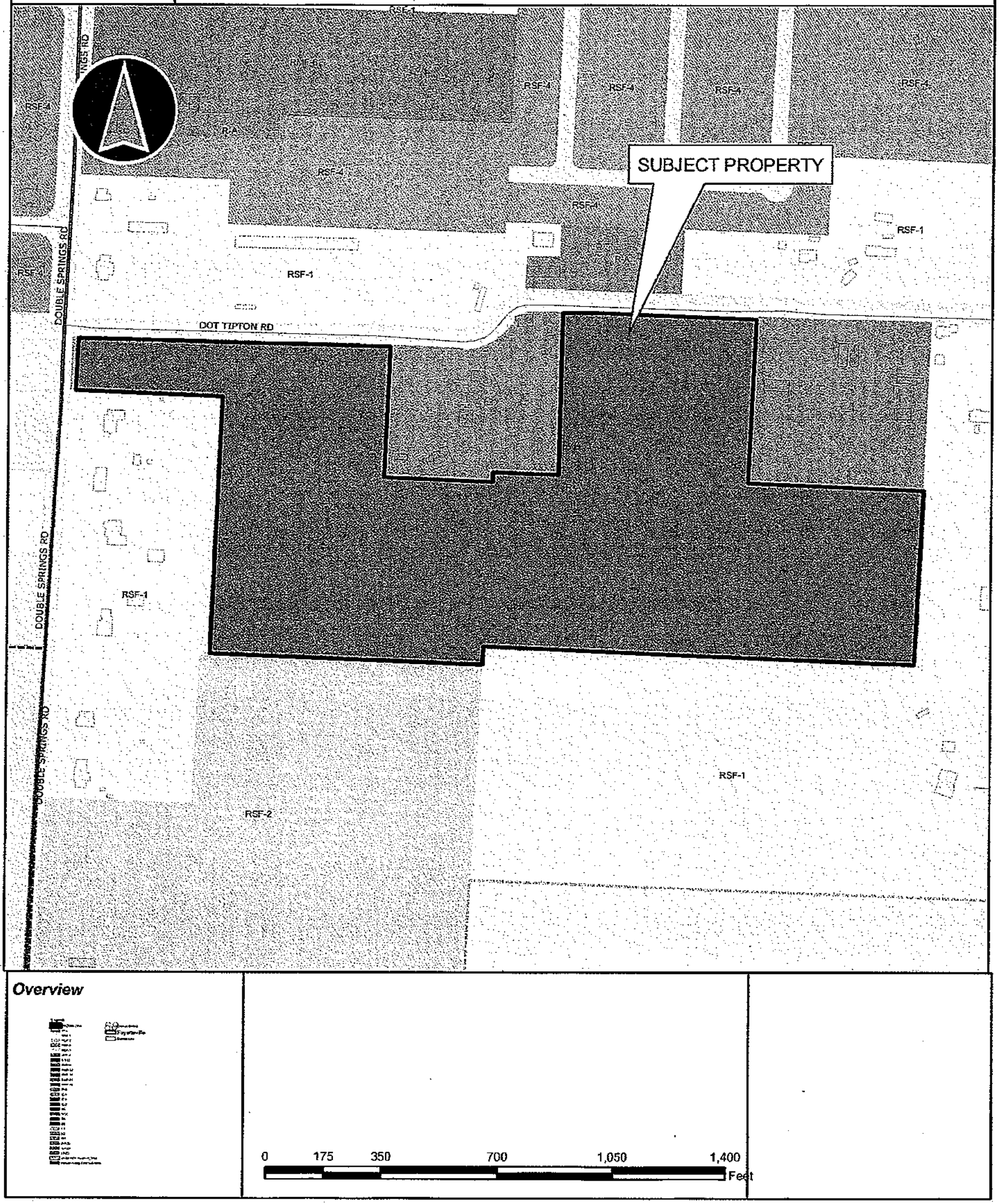


EXHIBIT "B"
R-PZD 08-2965

PART OF THE SE1/4 OF THE NE1/4 OF SECTION 15 AND PART OF THE SW1/4 OF THE NW1/4 OF SECTION 14 ALL IN T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF SAID SE1/4, NE1/4 THENCE S89°46'03"W 825.57 FEET, THENCE N00°01'18"W 788.63 FEET, THENCE S89°52'44"W 448.54 FEET, THENCE N00°29'58"E 159.86 FEET, THENCE N88°55'29"E 947.20 FEET, THENCE S00°02'16"E 401.26 FEET, THENCE N89°57'44"E 328.25 FEET, THENCE N00°15'06"E 30.31 FEET, THENCE N89°56'37"E 196.61 FEET, THENCE N01°15'52"W 496.68 FEET, THENCE N87°12'01"E 84.38 FEET, THENCE N89°42'27"E 514.78 FEET, THENCE S00°07'57"W 502.35 FEET, THENCE N89°53'47"E 537.01 FEET, THENCE S00°11'49"W 536.03 FEET, THENCE S89°54'10"W 1320.92 FEET, THENCE S00°28'05"W 55.08 FEET TO THE P.O.B.; CONTAINING 39.98 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

CONDITIONS OF APPROVAL:
R-PZD 08-2965

Conditions of Approval for R-PZD 08-2965 (Amberwood Place)

1. The applicant shall be responsible for the following street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*
   a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
   b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*

2. Determination of adequate connectivity. Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 3.5 acres of dedicated greenspace with several pedestrian trails to be constructed by the developer. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line.
   a. *To improve pedestrian connectivity and provide a more meaningful linkage of greenspace, staff recommends that the greenbelt be extended all the way to the southern property line to provide the opportunity for the greenbelt to be connected to the south.*
   b. *Staff recommends an additional street stub-out be provided to the west in the vicinity of lots 12/13, to break up the approximately 1,000-foot block length between the north and south property lines on the westernmost street and another in the vicinity of lots 78/79 to provide a neighborhood connection to the tract or Dot Tipton Road surrounded on three sides by the proposed development.*

3. This project is required to go through preliminary plat review and approval prior to construction.

4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.

5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

CONDITIONS OF APPROVAL:
R-PZD 08-2965

Project Phasing
Amberwood Place R-PZD

Phase	Planning Area	Milestone	Deadline
1	Planning Area 1 (first half)	Preliminary Plat Approval	within 1 year from CC approval
2	Planning Area 1 (second half)	Preliminary Plat Approval	within 3 years from CC approval
3	Planning Area 2	Preliminary Plat Approval	within 4 years from CC approval
4	Planning Area 3	Preliminary Plat Approval	within 6 years from CC approval

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.

7. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of building permit.

8. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.

11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.

12. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a percent minimum canopy of 25%.

14. Street trees shall be provided along public streets pursuant to city codes at the time of development.

15. As indicated in the PZD plats and booklets all lot owners will be required to plant two trees on their lot along the perimeter of the property.

16. The pedestrian trails and dedicated greenspace indicated in the PZD plats and booklets shall be constructed and landscaped by the developer and inspected prior to Final Plat approval for the lots surrounding the greenspace.

17. A landscape plan showing street tree plantings (including plantings in the traffic circles), the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

CONDITIONS OF APPROVAL:
R-PZD 08-2965

18. Plat/booklet revisions:

    a. Pg. 9. Remove reference to Lot 16 from (D).
    b. Pg. 9. Section D and E. Reduce to 7,000 sq. ft.
    c. Planning Areas 1-3. Staff recommends consistent maximum building area of 30% for all planning areas.
    d. Pg. 21. Item 17. PA #2. Change '100 SF' to '1,700 SF'

19. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
    - A full tree inventory of all significant trees;
    - Canopy calculations including existing canopy, preserved canopy and removed canopy;
    - A site analysis report; and
    - A survey of the location of significant trees and those directly affected by the development.

20. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.

21. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

22. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.

Standard Conditions of Approval:

23. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

24. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

25. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

26. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.

CONDITIONS OF APPROVAL:
R-PZD 08-2965

27. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.

28. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    c. Separate easement plat for this project that shall include the tree preservation area.
    d. Project Disk with all final revisions
    e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Fayetteville ARKANSAS

Planning Commission Meeting
July 14, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Andrew Garner, Senior Planner
	Matt Casey, Assistant City Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~July 7, 2008~~ *Updated July 16, 2008*

R-PZD 08-2965: (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units. Planner: Andrew Garner

Findings:

Property: The subject property contains 39.98 acres, located southeast of the intersection of Double Springs/Dot Tipton Roads. The property is undeveloped agricultural pasture land, surrounded by rural residential and agricultural land uses. Dot Tipton Road, currently a partially paved/gravel road, provides access to the residences in this area, from Double Springs Road to 54th Avenue. Some infrastructure for the now-abandoned Windsor/Dunnerstock subdivision adjacent to the south has been installed, although this development has been abandoned for some time and the application is considered voided. Rezoning applications for this adjacent site to RSF-4 have been previously denied by the Planning Commission. The immediately adjacent surrounding land use and zoning are listed in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Agricultural/rural residential	RSF-1; R-A
South	Agricultural/Dunnerstock Windsor Subdivision (not developed)	RSF-1; RSF-2
East	Agricultural/rural residential	RSF-1
West	Single family residential	Washington County Planning Area (1 unit/acre)

Proposal: The request is for rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with 182 detached single family dwellings in three planning areas. Planning Area 1 is on the east side of the property and has 102 lots that are approximately 45' x 100' with a density of 5.13 units/acre. Planning Area 2 is in the middle of the property and has 41 lots that are approximately 60' x 100' with a density of 4.50 units/acre.

Planning Area 3 is on the west side of the property and will have 39 lots that are approximately 70' wide with a density of 3.55 units/acre. The development proposes 3.5 acres of public pedestrian trails and greenspace throughout the development to be built by the developer. The overall proposed density for the project is 4.55 units/acre.

If the PZD is approved as proposed the project would be required to go through subdivision/preliminary plat approval prior to development.

Access: Three access points to the site are provided from Dot Tipton Road to the north. Two street stub-outs are provided to the south and a street stub-out is also provided to the east. Vehicular access to the 182 single family residences is provided as follows:

- 84 lots - front loaded individual curb cuts
- 54 lots - front loaded shared driveways
- 44 lots - rear loaded off of alleys

Adjacent Master Street Plan Streets: Double Springs Road (Minor Arterial), Dot Tipton Road (Local).

Right-of-way to be dedicated: 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.

Connectivity: Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is proposed to the existing rural residential lots to the west. These lots are approximately two acre in size. The project proposes internal pedestrian connectivity with sidewalks on both sides of the streets and pedestrian trails in approximately 3.5 acres of dedicated greenspace. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line. *A potential improvement for future pedestrian connectivity would be to extend the greenbelt all the way to the southern property line to provide the opportunity for a greenbelt linkage to the south. Potential improvements to street connectivity include additional street stub-outs to the west in the vicinity of lots 12-14, to break up the block length between the north and south property lines and allow connectivity for future infill to the west, and to the 'out-parcel' along Dot Tipton Road that is surrounded on three sides by the proposed development, near lots 78/79.*

Parking: Parking is provided in attached and detached garages for all of the single family homes. 138 homes will have front-loaded garages, and 44 of the homes will have alley-loaded garages. 98 homes will have garages in the rear of the homes, and 84 homes will have garages in the front of the homes.

Phasing: Four phases are planned for Amberwood Place over the next several years as listed below and provided in the PZD Booklet. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. A one-year extension may be permitted, subject to Planning Commission approval.

Project Phasing
Amberwood Place R-PZD

Phase	Planning Area	Milestone	Deadline
1	Planning Area 1 (first half)	Preliminary Plat Approval	within 1 year from CC approval
2	Planning Area 1 (second half)	Preliminary Plat Approval	within 3 years from CC approval
3	Planning Area 2	Preliminary Plat Approval	within 4 years from CC approval
4	Planning Area 3	Preliminary Plat Approval	within 6 years from CC approval

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

Water & Sewer: Water and sewer lines would be extended to serve the development.

Parks: The developer has met with City Parks staff and anticipates donating off-site land in lieu of payment of parks fees. This project will be required to go through Park Recreation Advisory Board prior to preliminary plat submittal.

Solid Waste Service: Solid waste service will be provided with standard curbside carts for each home as typical of single family residential development.

Tree Preservation: This development will be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development. Tree canopy minimum of 25% shall be required.

Public Comment: City staff has received a phone call from an adjacent property owner opposed to the project citing concerns that the proposed density is too high and is not compatible with surrounding farms and rural-residential uses. He also discussed concerns with runoff issues. Staff also received several public comments opposed to other RSF-4 rezoning in this immediate vicinity. The applicant has also presented the project at a Street Committee and Ward 4 meeting to area residents, most specifically to discuss cost-sharing the improvements to Dot Tipton Road.

Recommendation: Finding that the proposed rezoning and development approval does not meet most of the primary goals of the Planned Zoning District ordinance and policies adopted within the City Plan 2025 as noted herein, and primarily based on the compatibility/density of the development pattern in an area under-served by adequate infrastructure and service to support such a density, staff recommends denial of **R-PZD 08-2965.**

Should the Planning Commission forward this project to the City Council with a recommendation for approval, staff recommends the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street

improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*

a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*

2. Planning Commission determination of adequate connectivity. Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 3.5 acres of dedicated greenspace with several pedestrian trails to be constructed by the developer. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line.
   a. *To improve pedestrian connectivity and provide a more meaningful linkage of greenspace, staff recommends that the greenbelt be extended all the way to the southern property line to provide the opportunity for the greenbelt to be connected to the south.*
   b. *Staff recommends an additional street stub-out be provided to the west in the vicinity of lots 12/13, to break up the approximately 1,000-foot block length between the north and south property lines on the westernmost street and another in the vicinity of lots 78/79 to provide a neighborhood connection to the tract or Dot Tipton Road surrounded on three sides by the proposed development.*

3. This project is required to go through preliminary plat review and approval prior to construction.

4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.

5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

Project Phasing
Amberwood Place R-PZD

Phase	Planning Area	Milestone	Deadline
1	Planning Area 1 (first half)	Preliminary Plat Approval	within 1 year from CC approval
2	Planning Area 1 (second half)	Preliminary Plat Approval	within 3 years from CC approval
3	Planning Area 2	Preliminary Plat Approval	within 4 years from CC approval
4	Planning Area 3	Preliminary Plat Approval	within 6 years from CC approval

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.

7. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of building permit.

8. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.

11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.

12. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a percent minimum canopy of 25%.

14. Street trees shall be provided along public streets pursuant to city codes at the time of development.

15. As indicated in the PZD plats and booklets all lot owners will be required to plant two trees on their lot along the perimeter of the property.

16. The pedestrian trails and dedicated greenspace indicated in the PZD plats and booklets shall be constructed and landscaped by the developer and inspected prior to Final Plat approval for the lots surrounding the greenspace.

17. A landscape plan showing street tree plantings (including plantings in the traffic circles), the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

18. Plat/booklet revisions:

    a. Pg. 9. Remove reference to Lot 16 from (D).
    b. Pg. 9. Section D and E. Reduce to 7,000 sq. ft.
    c. Planning Areas 1-3. Staff recommends consistent maximum building area of 30% for all planning areas.
    d. Pg. 21. Item 17. PA #2. Change '100 SF' to '1,700 SF'

19. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
    - A full tree inventory of all significant trees;
    - Canopy calculations including existing canopy, preserved canopy and removed canopy;
    - A site analysis report; and
    - A survey of the location of significant trees and those directly affected by the development.

20. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.

21. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

22. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.

Standard Conditions of Approval:

23. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

24. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

25. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

26. Street lights shall be installed adjacent to all public and private streets (not alleys), with a

separation of no greater than 300 feet.

27. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.

28. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    c. Separate easement plat for this project that shall include the tree preservation area.
    d. Project Disk with all final revisions
    e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action:
☐ Tabled **☐ Forwarded to C.C. (recommendation for approval) X Denied**
Motion: Myres
Second: Graves
Vote: 6-1-0 (Kennedy voting 'No')
Meeting Date: July 14, 2008
Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature ______________________ Date ______________________

Findings associated with R-PZD 08-2965 (Amberwood Place at Fayetteville)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) *Approval or Rejection Criteria for Planned Zoning Districts*

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

(1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds that much of this application is in conflict with the criterion and policies established in City Plan 2025. The applicant conducted pre-application meetings with City Planning staff, who advised the applicant against a development of this type of density in this area at this time. Some of the issues discussed with the applicant in pre-application and at the technical plat review meetings included concerns that this development with a density 4.55 units/acre is not compatible with surrounding rural-residential/low density land uses. Staff also advised the applicant of the relatively recent zoning denial by the Planning Commission of adjacent property, to RSF-4. Staff has also discussed that this type of subdivision encourages suburban sprawl in an area without adequate infrastructure or non-residential services or employment centers in the vicinity. Traffic concerns already being discussed on surrounding roads, particularly Wedington, will likely be exacerbated, and the attainable housing element of the project is jeopardized due to the requirement of every resident to drive miles for any good or service.

Staff has concerns that this development does not meet several of the primary Goals of City Plan 2025, is incompatible with surrounding land uses as a re-zoning request, and is not served by adequate public services as discussed in the bulleted points below:

- **<u>Goal 1: Infill and revitalization highest priority</u>: This site is a green field development on the west side of Fayetteville, surrounded by large rural residential lots and agricultural land. The project is not considered infill or revitalization.**
- **<u>Goal 2: Discourage suburban sprawl:</u> As discussed in City Plan 2025, sprawl makes people solely dependent upon the automobile to get from here to there, increasing traffic congestion. Based on the input from the community throughout the planning process, it is apparent Fayetteville residents want to maintain a high quality of life and support increased growth in the center of the city, or assess where services are provided, and limit growth on the edges of the city. The proposed development, while using a higher density development pattern, is not near urban service centers, and is solely auto-dependent, thereby placing a greater burden on not only adjacent streets, but others in the area. Development at the proposed density in this area may be appropriate at a later date; however, at this time, it is not supported by adequate levels of infrastructure or services. Examples of density and lot size of this nature currently in the city are the Washington/Willow, Wilson Park, and Rupple Row neighborhoods, which contain high levels of connectivity and close proximity to**

high-capacity streets, commercial services and goods.

- **<u>Goal 3: Make traditional town form the standard:</u> This goal encourages a variety of uses, not just houses, to make a neighborhood. This goal encourages development with the provision of places to live and work in the same area with less daily vehicle trips on surrounding streets. While this development varies the size of lot/house, it does not contribute to or gain from a surrounding neighborhood of mixed uses at this time.**
- **<u>Goal 6: Creating attainable housing:</u> This plan aspires to this goal, which is a very positive aspect of this plan. However, attainable houses should not exist in isolation. Traditional, mixed-income neighborhoods should result in pedestrian-friendly environments, enabling households to save on transportation costs, which can affect their ability to obtain housing. By locating this project far from goods and services and the potential for jobs, additional burden, time, and expense is created for a future homebuyer to supply travel to and from the development for daily needs. Many case studies have proved that a mixed-use environment with these amenities is the only desirable and successful way to create attainable housing, as opposed to many failed projects that aspired to do so in single-use areas.**
- **<u>This area is planned for Residential Neighborhood Areas on City Plan 2025.</u> These areas are predominantly residential in land use, which is consistent with the uses proposed with Amberwood Place. This zone encourages traditional neighborhood development; developments should have a strong sense of connectivity where appropriate. New residential areas should be sited where they are accessible to roadways, alternative transportation nodes, community amenities, schools and infrastructure and retail goods and services. Staff has concerns that this development, while attempting to meet one of the City's goals to provide "attainable housing", is being located in an area that severely lacks infrastructure and services at a sufficient level to serve the future residents. There are no nearby services that can serve the planned neighborhood, thus requiring a greater density of residents to drive for common, daily needs.**
- **<u>Harmonious relationship/degree of compatibility with adjacent land uses.</u> Staff finds the surrounding land uses to be large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location, while perhaps desirable nearer to higher density areas with services and adequate infrastructure, is very much out of place with the surrounding rural character of the area.**
- **<u>Demands on public facilities</u>. The proposed density, at this time, will create a greater burden on existing infrastructure in the area; currently the site is accessed by way of gravel roads or recently paved county roads. Future residents will likely demand improvement of streets in the area by the City, at a level that is not viable at this time.**
- **<u>Permitted/Conditional Uses.</u> Staff finds the proposed single family residential land use is appropriate.**

In summary, staff finds the proposal does not meet the goals of the City's adopted Future Land Use Plan to a degree that is appropriate for a rezoning approval as proposed.

(2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: As discussed in Finding No. 1 above, the application has been reviewed and found to be inconsistent with several of the applicable City policies. The application has been submitted in accordance with all statutory provisions.

(3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer, in order to function at acceptable levels. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. The Fayetteville Police Department has stated that the development could increase traffic danger and congestion and would place an undesirable load on police services. As discussed in Finding No. 1 this site is accessed by way of gravel roads or recently paved county roads. This development proposes to contribute $150,000 for the City to pave Dot Tipton Road. In order for staff to find that the project would not adversely impact public facilities in the area, many more improvements than are recommended here would have to occur. However, staff does not find that this particular developer should bear the burden of all of those expenses, based on typical rational nexus calculations. This is ultimately one reason why staff has recommended denial of the application, finding that at this time, the project is not appropriate for the area.

(4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: As discussed in Finding No. 1, the surrounding land uses are large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location, while perhaps desirable nearer to higher density areas with services and adequate infrastructure, is very much out of place and thus incompatible with the surrounding rural character of the area.

(5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The 39.98-acre property is a generally level, undeveloped pasture with minimum tree canopy. The intended land use, while incompatible with surrounding land uses, could be suitable on the subject property at some time in the future, when adequate services have been extended and are available to this area.

(6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed development, which will allow for the construction of 182

dwelling units, will have a significant impact on surrounding infrastructure, all of which is substandard. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that while the surrounding roads would likely still be congested and inconvenient, the proposed development would not create a traffic danger. Staff does find that due to the number of units proposed in a low density agricultural/rural residential area, a burden on the existing road network would be created.

(7) Whether the planned development provides for unified development control under a unified plan;

FINDING:. The booklet and master development plans submitted provide for said unified development control.

(8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) *Development standards, conditions and review guidelines*

(1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. The Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments and design standards offered by the applicant. As discussed under Findings No. 1 and No. 4, staff finds that the proposal will not achieve a high level of compatibility with adjacent properties. Staff finds that the overall density of 4.55 units/acre is not appropriate when surrounded by rural-residential/agricultural land uses. Density within a project under a PZD is to be determined on the basis of the density of surrounding development, urban development goals, and the impact of a given density on the site and adjacent property. The City's urban development goals encourage a variety and mixture of densities within neighborhoods. However, the density of development must be supported with adequate infrastructure and services in order to create a viable, functioning neighborhood that contributes to the City as opposed to a separate "island" of development that is auto-

dependent for all goods and services. Staff finds this proposal to be located well away from supporting goods and services, and may adversely impact the character of surrounding low density residential and agricultural uses.

The site does not have any significant natural features to be incorporated into the subdivision, although approximately 3.5 acres of greenspace and pedestrian trails are provided. The developer also proposes to have all perimeter lots plant two trees in the backyard to help provide some vegetative screening around this subdivision.

(2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: No screening is proposed or required for this single family subdivision. Approximately 54% of the proposed lots (98 out of 182 lots) have garages at the rear of the homes to help create a pedestrian oriented streetscape and an attractive public realm. This development proposes 3.5 acres of landscaped greenspace and pedestrian trails and two trees planted in the backyard of each perimeter lot. A landscape plan showing street tree plantings, the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of two main public streets leading into the central portion of the project where the streets are slowed down by traffic circles and a north-south greenbelt crossing the streets. The lots in Planning Area 1 are accessed off of alleys or shared driveways with the garages in the rear of the homes. The lots in Planning Areas 2 and 3 are accessed directly off of the street with individual curb cuts and garages in the front of the homes. The street system provides a hierarchy of circulation that encourages an efficient flow of traffic. The external street system consists of two access roads, Double Springs Road, a minor arterial, and Dot Tipton Road, a local street, that is substandard and in need of improvements.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for the single family residential uses shall apply. Two garage parking spaces are provided for each home.

(5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The applicant proposes that each lot on the perimeter of the project plant two trees in the backyard of the homes. The project will comply with all open space requirements.

(6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of preliminary plat to ensure compliance. In general the Master Development Plan provides for sidewalks along public streets, and interior pedestrian trails in the designated greenspace lots.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided adjacent to all public streets at a separation of no greater than 300 feet.

(8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

(9) *Sewer*. As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii)All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

(ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.

(x) There shall be no minimum building setback requirement from a private street.

(xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The proposed project proposes public streets and alleys that comply with the adopted development standards.

(11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development to comply with Chapter 167 of the UDC. The site has little existing tree canopy which should be incorporated into the design as much as possible.

(13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Not applicable. All proposed structures are single-family residential.

(14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that_the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal does not meet some of the primary goals of the City Plan 2025, and the overall urban development goals of the City as discussed in Staff Finding No. 1. The proposed PZD provides a mix of lot and house sizes, rather than the typical RSF-4 single family lot size. The proposed development pattern is consistent with several of the goals of the PZD ordinance, Chapter 161, including providing a variety of housing types and providing usable and suitably located open space areas. However, an average density of 4.5 units/acre is not compatible with the surrounding rural residential/agricultural properties, with the lack of goods and services, schools or other amenities typically associated with urban development form. Development of surrounding properties, which could provide a higher level of compatibility with the Amberwood Place PZD, may require several years or even decades to occur. Furthermore, core public services, including schools, jobs and commercial services are not readily available to this area and are at least two miles away. Ultimately, the residents of the development will continue to be auto-dependent due to the current isolated location of the property.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 08-2965, with three (3) unique Planning Areas. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending denial of this application, finding the proposed PZD does not meets the intent of the PZD ordinance and City Plan 2025 as noted above. Staff finds that the higher density single family land uses within the development do not consider abutting parcels of land. A harmonious relationship with surrounding properties does not exist, and will result in land use incompatibility, traffic congestion and inconvenience for existing and future residents, and encourage suburban sprawl and leap-frog development.

(2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

(4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The residential uses on this property will be at least fifty-one percent of the gross floor area within the development.

(F) *Bulk and area regulations*

(1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

(a) The densities of surrounding development;

(b) the densities allowed under the current zoning;

(c) the urban development goals and other policies of the city's General Plan;

(d) the topography and character of the natural environment; and

(e) the impact of a given density on the specific site and adjacent properties.

FINDING: The subject property is adjacent to large undeveloped agricultural lands with sparsely located single-family homes. The property is zoned R-A, Residential Agricultural, which would permit one dwelling unit per two acres, resulting in a maximum of 20 dwelling units on 39.98 acres. The applicants are requesting 182 dwelling units, a density of approximately 4.5 units per acre. While this is not a normally high density in much of the developed City, and in general the City's development goals and policies do support the development pattern proposed by Amberwood Place in a designated Residential Neighborhood Area, the density of the development is not appropriate in the rural landscape that it is proposed. Staff has communicated to the applicant that this project may be appropriate in other Residential Neighborhood Areas that have an adequate level of services and infrastructure for development.

(2) *Lot area and setback requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

FINDING: Lot area minimums vary from 4,500 – 7,700 square feet, a little smaller than standard single family zoning districts; setbacks are not varied and are consistent with the RSF-8 zoning district setbacks. This project would provide for some variety in the size and mass of residential homes over this 39.98 acre subdivision with homes varying from 1,000 – 1,700 square feet. The structures are generally oriented to the street with 15-foot front setbacks, with the smaller lots in Planning Area 1 accessed off of either shared drives or alleys.

(3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

FINDING: Building heights proposed for this project are a maximum of 45-feet, consistent with the height requirements of the surrounding zoning.

(4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

FINDING: The proposed lot coverage varies from 25-30% compared with 40-50% lot coverage allowed under typical single family zoning. This indicates more greenspace on the lots than in a typical subdivision.

***Required Findings for Rezoning Request.**

FINDINGS OF THE STAFF

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

Finding: Please reference findings under compliance with Planned Zoning District ordinance and Future Land Use Plan. As discussed in these previous findings, this project can be characterized as suburban sprawl as it: 1) is located on the fringe of an urbanized area; 2) "leap frogs" over large, undeveloped properties; 3) is auto-dependent due to isolation from core public services; 4) and is developed before necessary infrastructure improvements are made. Ultimately, the development is inconsistent with land use planning principles and policies to a degree that would not support the rezoning.

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

Finding: The subject property is just within the limits of the City and is adjacent to large agricultural and rural residential properties. Rezoning the property for 182 residential dwellings is not justifiable or needed at this time. The development will "leap frog" over and around many acres of undeveloped farmland and low density rural residential land uses, and will exacerbate the traffic congestion in the area. Improvements to Dot Tipton and Double Springs roads will facilitate future development in the area, including agricultural and rural residential land in the vicinity. Currently though, the development is too early based on existing infrastructure and inconsistent with the goals and policies adopted by the City Council for rezoning applications.

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

Finding: Staff finds this proposal will likely increase traffic congestion and inconvenience, without several improvements to surrounding infrastructure. The Fayetteville

Police Department has commented that this project may create an appreciable increase in traffic danger and congestion, although a traffic study has not been completed. Overall, the area has a lack of infrastructure or services to serve a high density suburban development pattern, as proposed. With the minimum of improvements recommended by staff, an appreciable increase in traffic danger would not likely occur. This project is several miles away from public services and employment centers, and would therefore contribute to congestion on main arterials, particularly to Wedington Drive.

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

Finding: Staff finds that in evaluating this proposal, the population density would undoubtedly increase from that which currently exists to a great extent, and that the 182 residential units proposed would create additional demand on public services. The applicants have noted in the project booklet that water and sewer services are being constructed to serve the subject development. Therefore, an undesirable load on water and sewer services is not expected.

Engineering: **Public water is located adjacent to the site. There is an 8-inch water main along Double Springs Road and one located through this site.**

Sanitary sewer is available to the site. There is an 8-inch sewer main through the site as well as a newly installed lift station. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Dot Tipton Road and Double Springs Road. Dot Tipton is an unimproved two lane gravel city street, with pavement near the intersection of Double Springs Road. Street improvements including pavement, curb and gutter, storm sewer and sidewalks will be required along the project frontage including the gap of project frontage in the middle of the project along Dot Tipton. Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20-feet wide pavement width plus the appropriate shoulders from the project boundary east to 54th Street.

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

Police: **It is the opinion of the Fayetteville Police Department that this R-PZD <u>would</u> substantially alter the population density, and <u>would</u> create an appreciable or undesirable increase in the load on police services. This R-PZD <u>will possibly</u> create an appreciable increase in traffic danger and congestion.**

Fire: **This property will be covered by Engine 7 located at 835 North Rupple Road. It is 2.3 miles from the station with an anticipated response time of 7 minutes. The Fire Department anticipates 32 (20 EMS-12 Fire/other) calls for service each year once the development is completed and maximum build out has occurred. The Fire Department does not feel this development will affect calls for service or response time.**

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

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

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **As discussed in the findings throughout this report, staff recommends denial of the requested R-PZD 08-2965, finding the proposal inconsistent with several adopted goals and policies of the City Plan 2025; finding the project encourages suburban sprawl in an area without adequate public services and infrastructure and incompatible with surrounding agricultural and rural residential land uses.**

The City of Fayetteville Fire Department

303 W. Center St. Fayetteville, AR. 72701
Phone (479) 575-8365 Fax (479) 575-0471

To: **Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher**

Thru: **Chief Tony Johnson**
Assistant Chief Bud Thompson

From: **Captain Dale Riggins**

Date: **June 3, 2008**

Re: **April 9, 2008 Zoning Review**

PZD 08-2965: Planned Zoning District (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located at S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.
It is 2.3 miles from the station with an anticipated response time of 6.0 minutes to the beginning of the development and 7.0 minutes to the western edge..
The Fire Department anticipates 32 (20 EMS – 12 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 – 18 months, after the development is started, before maximum build-out occurs.
The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

RZN 08-2968: Rezoning (LAZENBY, 557): Submitted by DAVE JORGENSEN for property located at 3390 W. 6TH ST., NE CORNER OF HWY 62W & OLD FARMINGTON RD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.49 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.
It is 1.3 miles from the station with an anticipated response time of 4.0 minutes to the beginning of the development. We do not figure calls for service on this type of development but typically this will not affect our response times.

RZN 08-2971: Rezoning (WALKER PARK NEIGHBORHOOD): Submitted by THE CITY OF FAYETTEVILLE. THE SUBJECT PROPERTIES ARE ROUGHLY BOUNDED BY ARCHIBALD YELL BLVD., HUNTSVILLE RD., 15TH STREET AND S. SCHOOL AVE. The properties are zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE, C-2, THOROUGHFARE COMMERCIAL AND P-1, INSTITUTIONAL and contain approximately 303.45 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Commercial (128.19 acres), DG, Downtown General (107.41 acres), MSC, Main Street Center (19.94 acres) and P-1, Institutional (47.91 acres).
The fire department does not anticipate any additional calls for service or reduced response times on re-zoning these properties to the proposed re-zonings.

If you have any questions please feel free to contact me.

ENGINEERING COMMENTS

PZD 08-2965: Planned Zoning District (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located at S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units. Planner: Andrew Garner

Public water is available to the property. There is an 8" water main along Double Springs Rd; and one located running through this site.

Sanitary sewer is available to the site. There is an 8" sewer main through the site as well as a newly installed lift station. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Dot Tipton Rd. and Double Springs Rd.. Dot Tipton is currently an unimproved two lane gravel city street. Double Springs Rd. is currently an unimproved two lane paved city street. Street improvements including pavement, curb and gutter, storm sewer and sidewalks will be required along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton. Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement width plus the appropriate shoulders from the project boundary east to 54th Street.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

RZN 08-2968: Rezoning (LAZENBY, 557): Submitted by DAVE JORGENSEN for property located at 3390 W. 6TH ST., NE CORNER OF HWY 62W & OLD FARMINGTON RD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.49 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial. Planner: Dara Sanders

Public water is available to the property. There is an 8" water main along across Old Farmington Road on the west side of this property.

Sanitary sewer is available to the site. There is an 8" sewer main along the north property line of this parcel. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Old Farmington Rd. and Sixth Street. Sixth Street is currently an improved five lane paved state highway. Old Farmington Rd. is an unimproved two lane city street. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Date 4/7/08

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

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **PZD 08-2965: (Amberwood Place 474 / 475):** Submitted by **Dave Jorgensen** for **property located at S & E of Double Springs Road and Dot Tipton Road,** would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The **property contains approximately 39.98 acres.**

It is the opinion of the Fayetteville Police Department that this PZD will substantially alter the population density, and will possibly create an appreciable or undesirable increase in the load on police services. This PZD will possibly create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

PC Meeting of June 9, 2008

Fayetteville
ARKANSAS
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3472

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: June 3, 2008

ITEM #: C-PZD 08-2965-: Planned Zoning District (Amberwood Place)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
   - A full tree inventory of all significant trees;
   - Canopy calculations including existing canopy, preserved canopy and removed canopy;
   - A site analysis report; and
   - A survey of the location of significant trees and those directly affected by the development.
2. The site has little existing canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
3. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

LANDSCAPE REGULATIONS

1. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.

PC Meeting of July 14, 2008

Fayetteville ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3472

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: July 8, 2008

ITEM #: R-PZD 08-2965-: Planned Zoning District (Amberwood Place)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
   - A full tree inventory of all significant trees;
   - Canopy calculations including existing canopy, preserved canopy and removed canopy;
   - A site analysis report; and
   - A survey of the location of significant trees and those directly affected by the development.
2. The site has little existing canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
3. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

LANDSCAPE REGULATIONS

1. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.

PLANNING COMMISSION MEETING MINUTES
JULY 14, 2008

AMBERWOOD PLACE R-PZD 08-2965

R-PZD 08-2965: (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.

Andrew Garner, Senior Planner, gave the staff report, describing surrounding properties, which is surrounded by rural, residential, and agricultural land uses. Dot Tipton along northern border of site is a partially paved and gravel road. Infrastructure for a now-abandoned subdivision to the south has been installed, but the development has been abandoned for some time. There have been rezoning applications for an adjacent site to RSF-4, which have been previously denied by the Planning Commission. The applicant is proposing rezoning and land use approval for a RPZD with 182 SF dwellings, overall density is 4.55 du/acre, 3 planning areas consist of different densities. PA 1 on east side with 102 lots that are 45'x100', PA 2 in the middle with 60'x100' ft lots, PA 3 has 39 lots, 79 feet wide. Access proposed is at three points from Dot Tipton to the north, two street stub-outs are provided to the south, and a street stub-out is provided to the east. Staff recommends additional connectivity to the west. Staff has received public comment from adjacent property owners opposed to the project, citing concerns with density and property not being compatible with surrounding rural residential uses. Staff finds that much of the application is in conflict with the goals and policies established with City Plan 2025. In addition, staff finds that the proposed density of 4.55 units/acre is not compatible with surrounding rural residential and low-density zoning. Staff has concern that this subdivision encourages suburban sprawl in an area without adequate infrastructure. City Plan 2025 discourages growth on the edges of the City. Development may be appropriate at a later date, when infrastructure is available. Staff does not recommend the rezoning as proposed, but instead recommends denial of the application.

Justin Jorgensen, applicant, described project. In 2006, when this was annexed, developer Charlie Sloan was encouraged by City Council to build attainable housing in the area. The applicant has worked with Water and Sewer Department to install a new pump station west of the detention pond, along with new water line, so there is already water and sewer within the subdivision. Goal of project was attainable housing. The applicant also wanted to create a traditional town form by focusing on goals of City Plan 2025. He cannot say this is the best example of infill, but it is within 1.6 miles of school and Boys and Girls Club, ½ mile from RSF-4. In time, the development will fit in to where it is at. Probably is not the ideal project for City Plan 2025, but in time it will fit in.

Public Comment:

Dave Yeomans, neighbor, stated he lives in corner house, affected in two sides by the subdivision. Built home in 1991. Many nearby homeowners, including owners of two-acre tracts adjacent to Double Springs Rd., are frustrated by the notification procedures. There is a lot of opposition to this. Homeowners will not accept anything less than what is built in Silverthorne Subdivision – 100x100' lots, big houses. Have worked hard for a nice home, find myself fighting for that value. He does not have a problem with attainable housing, but this is not the area for it. He discussed concerns adjacent to property and a more ideal land-use arrangement for the area.

Maurice Rankin, neighbor, lives at 105 N. Double Springs Rd, directly across road from proposed development. She is concerned with Planning Area 3 on the property (west side). Cherishes the area for its view, but the proposal for 5' side setback allowances will destroy view of area – they will be looking at nothing but roofs and walls. City has received a number of awards, don't think any of them had to do with looking at roofs and houses, but instead involved the presence of greenspace.

No more public comment was received.

Commissioner Myres stated that a lot of what she likes about the site is the way it is laid out, but this density is not appropriate at this time and place. Stretching it a bit to consider it infill. Do not agree with this development and therefore will not support approval.

Commissioner Graves stated he will have to agree with Commissioner Myres. Typically he is supportive of development, voted in support of a number of the projects these developers have done on this side of the town, but I don't think I've seen any of them where it was proposed to drop something so dense in the middle of agricultural, one-acre, and two-acre property. May just be a matter of time when this is a typical zoning request, but it is not infill at this time since it is at the edge of the City, and surrounded by lower density property. Cannot support.

Commissioner Kennedy asked about building minimum differences throughout the phases of the development.

Jorgensen stated that PA 1 will be a 1200-1300 SF home, then moving up into PA 3 into 1700 SF homes

Commissioner Kennedy asked if 2400-2500 SF homes were completely out of the question.

Jorgensen stated that they were.

Commissioner Trumbo stated that the Planning Commission is seeing dense developments come through on the outskirts of town and are bringing up the word "sprawl" quite a bit, certainly wouldn't consider this project infill, but if we let it develop as RSF-4 or RSF-2, it will in turn down the road be all sprawl. I agree that at this time it is possibly too soon for this project, but I'm getting to the point where I need a better definition of sprawl just to clarify, if we are going to approve RSF-4 in 25 years it will be sprawl. Another issue is the traffic coming back east and west, other than Wedington, you're going to have to go to Farmington. There is Persimmon, but it is not developed all the way, it's a very small street. To have a lot more traffic on that road going to the school and the Boys and Girls club might be considered dangerous, and it might be too much traffic, so I would imagine most of these folks are going to come down Persimmon instead of going to Wedington. If Persimmon were built out to a wider degree I might be more in support of this project.

Commissioner Winston stated he would encourage more mixed use. One of the problems we're seeing is that it's all housing, with no infrastructure to support daily needs. There is a lot of potential for the site, and something creative can happen. Would like to see something with more mixed use.

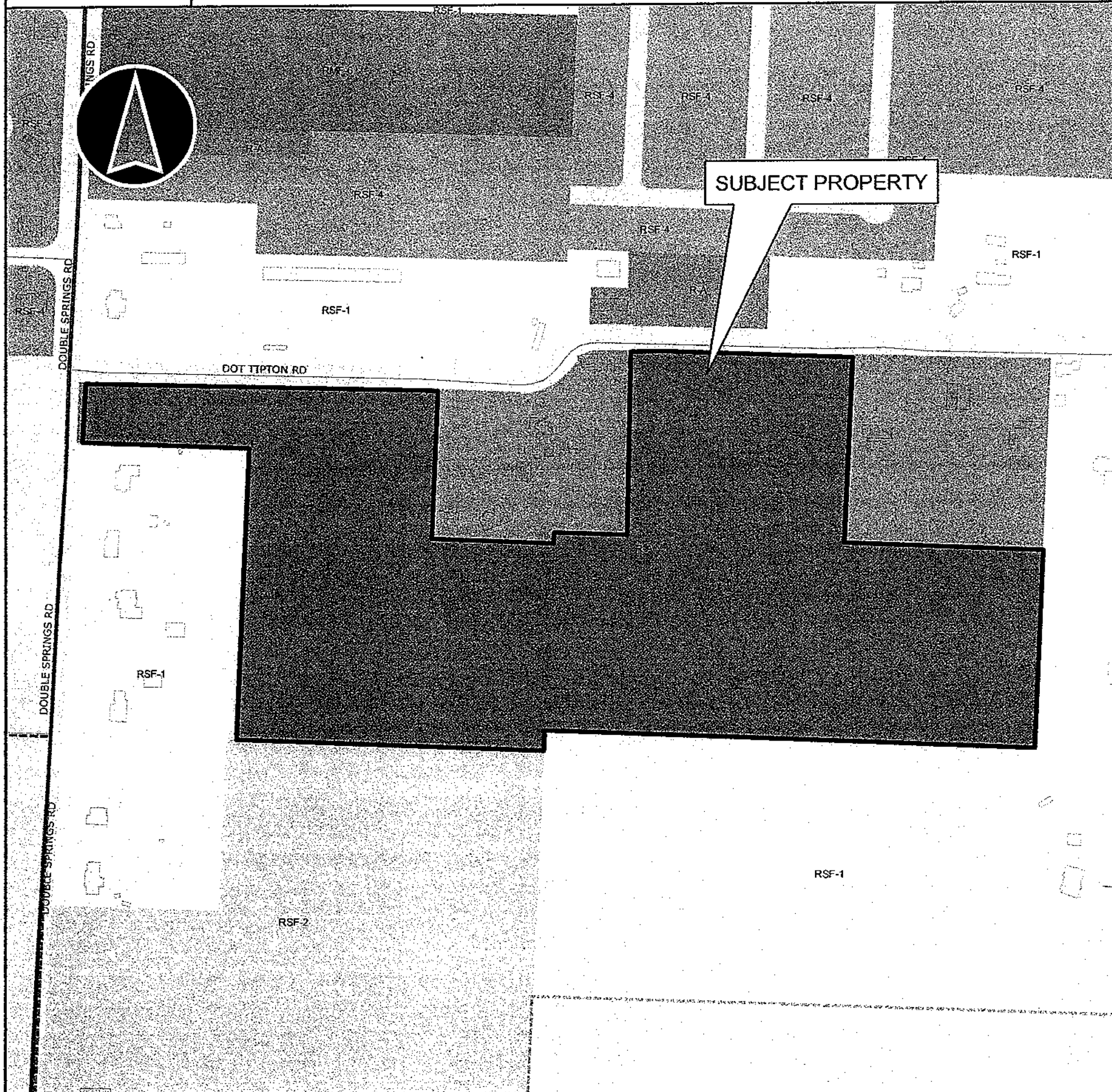
Motion:

Commissioner Myres made a motion to deny the request. **Commissioner Graves** seconded the motion. **Upon roll call the motion passed with a vote of 6-1-0, with Commissioner Kennedy voting no.**

RPZD08-2965

Close Up View

AMBERWOOD PLACE

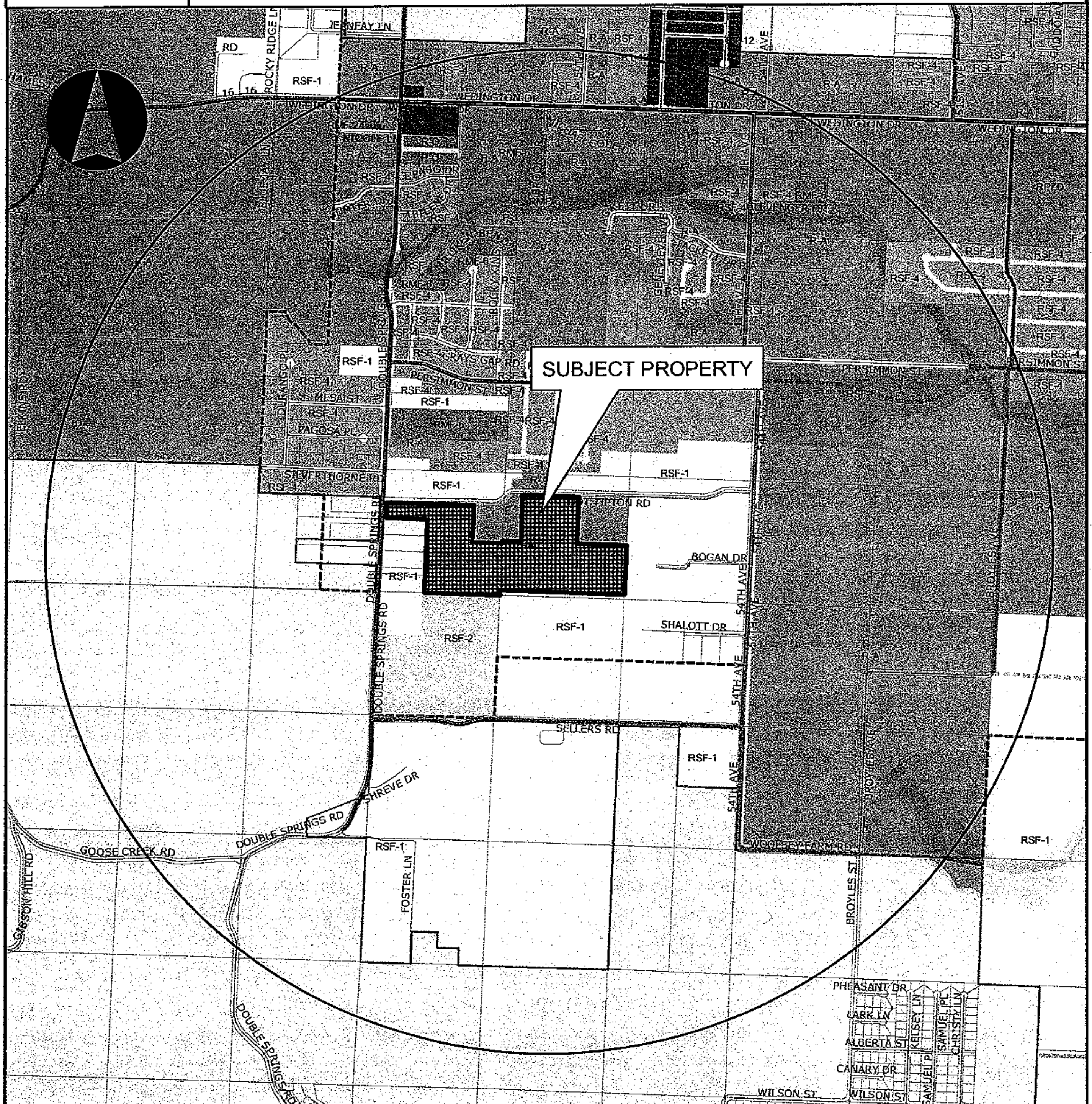


Overview

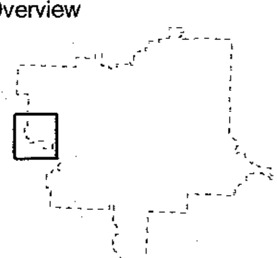
RPZD08-2965

One Mile View

AMBERWOOD PLACE



Overview



Legend

Subject Property

RPZD08-2965

Boundary

Planning Area

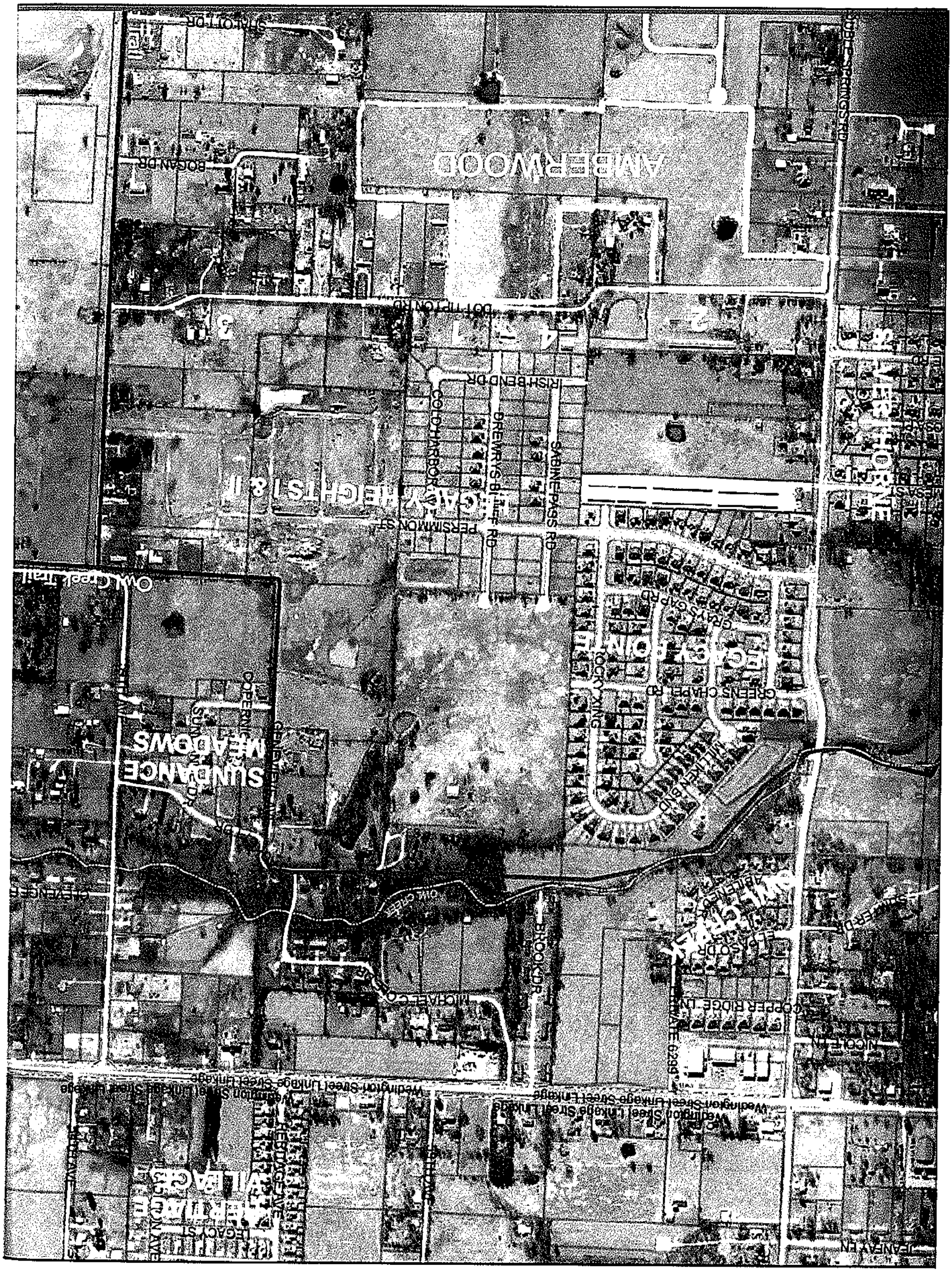
Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

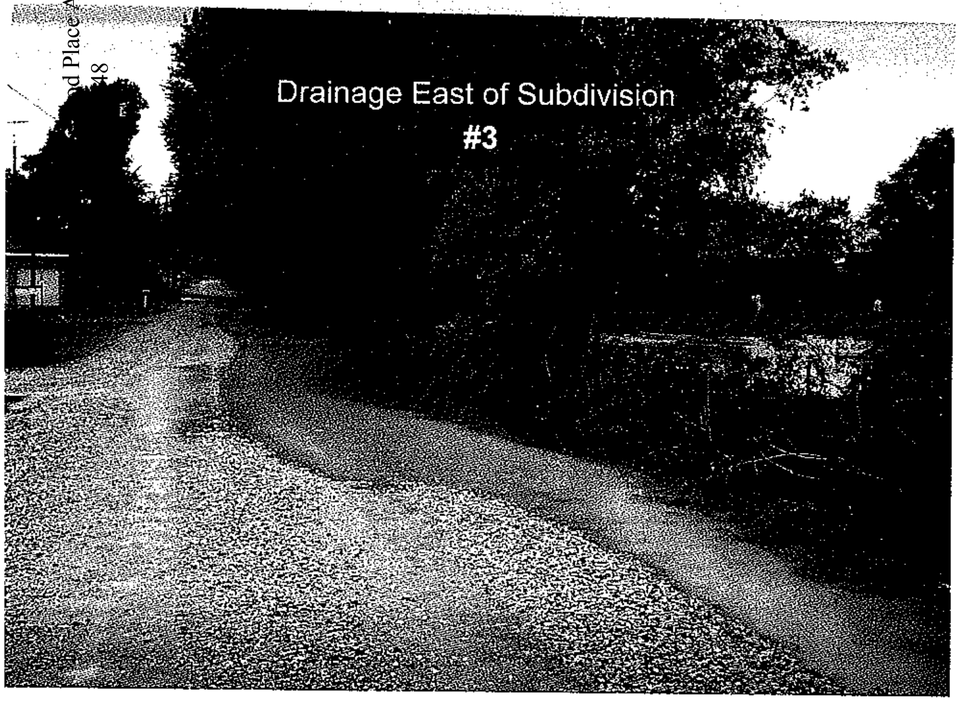
0 0.25 0.5 1 Miles

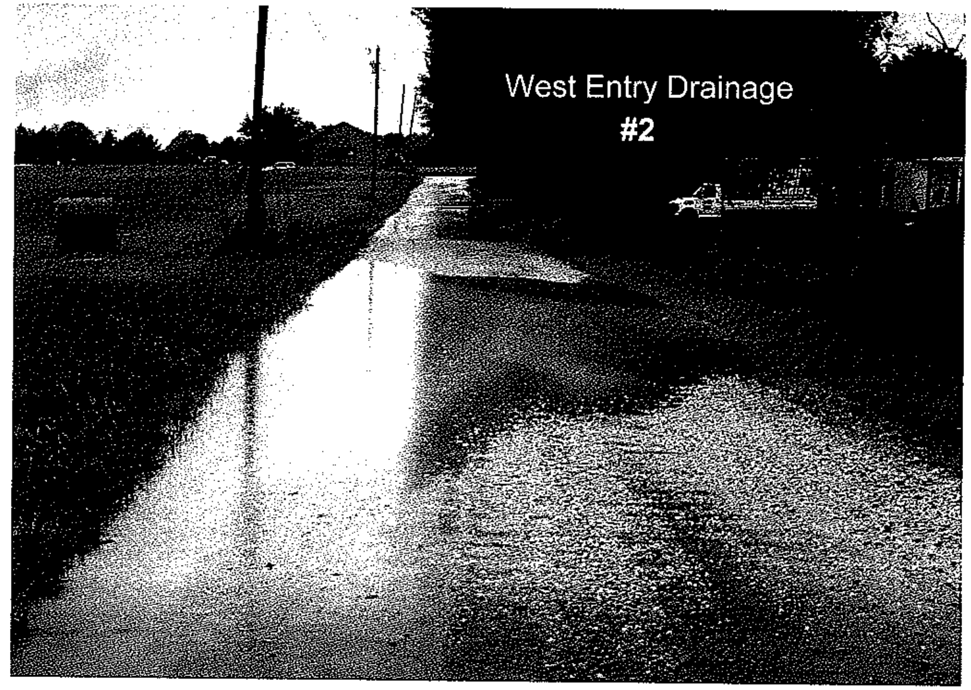


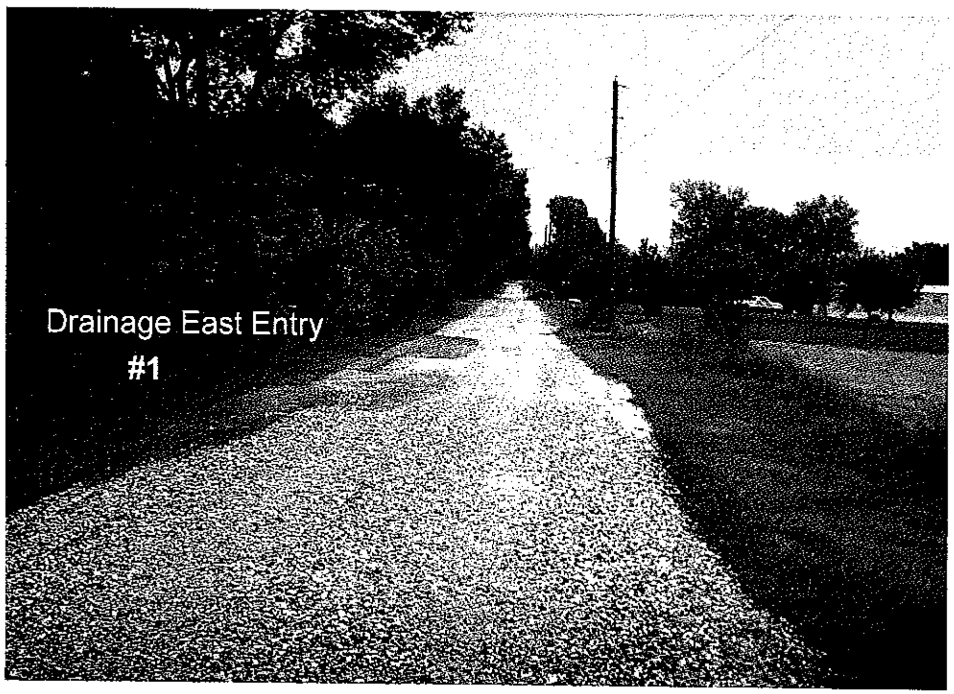
Handed out at the City Council meeting 1-15-08

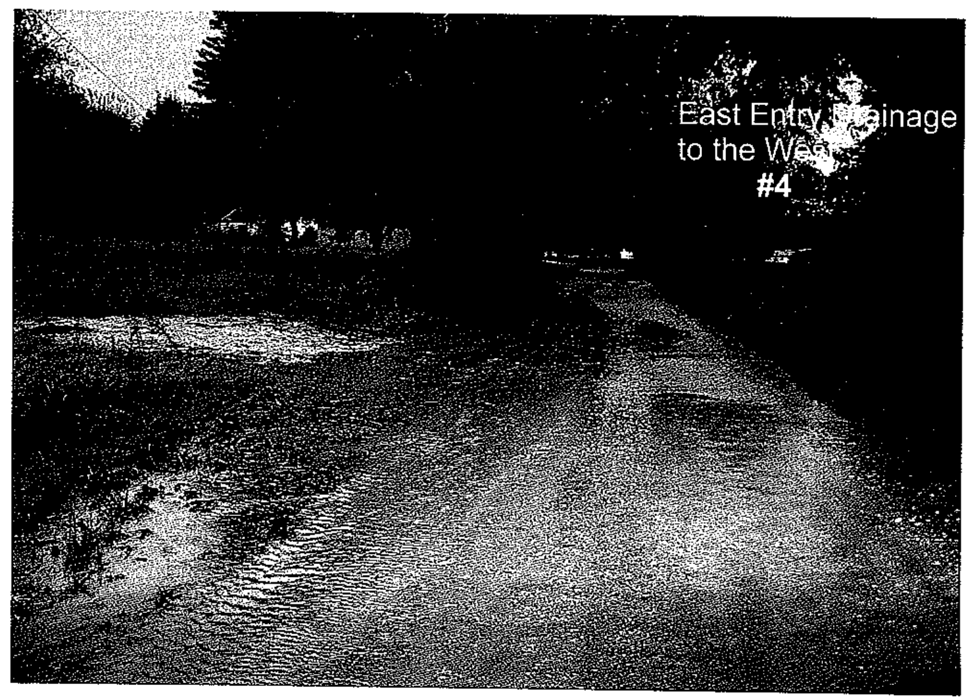
Amberwood Place Appeal

B3


Drainage East of Subdivision
#3


West Entry Drainage
#2


Drainage East Entry
#1


East Entry ainage
to the We
#4

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

~~2/17/2009~~ 3-3-09
City Council Meeting Date
Agenda Items Only

Jill Hatfield	Animal Services	Police
Submitted By	**Division**	**Department**

Action Required:

Review and approval of Animal Services sheltering contract with Washington County. The contract is for housing 1,136 dogs and cats in 2009. The contract aggreement is $75 for 5 days of sheltering for each animal. The total for the contract is $85,200 for 2009.

	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
1010 0001 4390 00	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	Animal Shelter Fair Share
Project Number	Remaining Balance	Fund Name

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

PAB.

X
Department Director — Date

Previous Ordinance or Resolution # 11-07#

Original Contract Date:

Original Contract Number:

City Attorney — Date 2/3/09

Finance and Internal Services Director — Date 2-3-09

Received in City Clerk's Office — ENTERED 1-30-09

Chief of Staff — Date 2/4/09

Received in Mayor's Office — ENTERED 2/3/09

Mayor — Date 2/4/09

Comments:

Fayetteville
ARKANSAS

Fayetteville Animal Services
1640 Armstrong Road
Fayetteville, AR 72701
Telephone: (479) 444-3456
Fax: (479) 444-3459

Departmental Correspondence

To: Mayor Lioneld Jordan and Fayetteville City Council

Thru: Don Marr, Chief of Staff

From: Jill Hatfield, Animal Services Superintendent

Date: January 30, 2009

Re: **Review and approval of animal sheltering contract with Washington County**

Recommendation
Staff recommends approval of sheltering contract with Washington County to assist with stray and surrendered animals from county citizens.

Background
The City of Fayetteville Animal Services has offered inter-local sheltering contracts to surrounding municipalities since 1995. In 2007, seven cities agreed to a three year sheltering contract with the city. Washington County chose to continue with a one year contract with the city.

Discussion
Offering these contracts to the municipalities who do not have sheltering facilities is a humane approach to the overpopulation problem and ensures the animals are given excellent care and humane treatment. To help in the battle of pet overpopulation, all municipalities in Washington County and the citizens of Fayetteville should be encouraged to utilize the county's free low income spay/neuter program and Fayetteville's $10 low income spay/neuter service. These services should be emphasized to decrease the amount of homeless animals needing to be sheltered.

Budget Impact
As of 2005 the inter-local sheltering contract cost is $75 per animal sheltered. The cost to Washington County for 2009 is $85,200 for sheltering 1,136.

RESOLUTION NO. ______

A RESOLUTION APPROVING AN INTER-LOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND WASHINGTON COUNTY, ARKANSAS TO PROVIDE ANIMAL SHELTERING SERVICES TO WASHINGTON COUNTY FOR 2009.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2009. A copy of the agreement, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute the Inter-Local Agreement with Washington County, Arkansas.

PASSED and **APPROVED** this 17th day of February, 2009.

APPROVED:

By: ______________________
LIONELD JORDAN, Mayor

ATTEST:

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

RECEIVED
JAN 07 2009
BY: cbp

MARILYN EDWARDS
County Judge

280 North College, Suite 500
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

January 5, 2009

Ms. Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Animal Shelter Agreement

Ms. Smith:

Attached are two original copies of the Interlocal Sheltering agreement between the City of Fayetteville and Washington County, which I am forwarding to you at the request of Jill Hatfield, Fayetteville Animal Services.

Please notice the handwritten addendum to Article XI on the last page. Please make sure that you and the Mayor initial this in addition to signing both copies. Once the agreements are signed, please return one of the original agreements to this office.

As you can see, this is a time sensitive issue and I would appreciate your assisting us with a quick response.

If you have any questions, please contact George Butler, County Attorney, 444-8415.

Sincerely,

Marilyn Edwards

Marilyn Edwards
Washington County Judge

Telephone: 479 / 444-1700 • FAX: 479 / 444-1889

INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND WASHINGTON COUNTY, ARKANSAS

THIS AGREEMENT is entered into this 5th day of January, 20 09, by and between the **CITY OF FAYETTEVILLE,** and the **COUNTY OF WASHINGTON, ARKANSAS,** concerning the provision of animal sheltering services;

WHEREAS, effective animal control is of mutual interest to the City of Fayetteville and Washington County; and

WHEREAS, the City of Fayetteville possesses the necessary facilities to provide animal sheltering services to Washington County.

NOW, THEREFORE, IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

Article I

The City of Fayetteville agrees to provide sheltering services for animals delivered to its shelter, located at 1640 Armstrong Avenue, in the City of Fayetteville, by designated animal control officers of Washington County.

Article II

Washington County agrees to comply with the Fayetteville Animal Shelter's Operating Policy during the term of this Agreement, and understands that the City of Fayetteville may terminate this agreement for noncompliance.

Article III

Washington County agrees to pay sheltering services fees in the amount of Eighty-five thousand, two hundred dollars ($85,200) said sum being based on the number of animals delivered to the shelter by Washington County citizens and designated animal control officers during the year 2008. Future charges will be calculated in the same manner at the rate of $75 per animal. Payments shall be made to the City of Fayetteville in the form of twelve (12) monthly payments. Payments shall be due on or before the first day of each month.

Article IV

This agreement shall begin on January 1, 2009 and end at midnight on December 31, 2009; however either party, upon 30 days written notice may terminate this agreement.

Article V

The City of Fayetteville agrees to provide assistance to Washington County in the form of minor medical treatment while a shelter veterinarian is on staff, the drafting of animal control ordinances, educational programming, professional consultation regarding animal control matters, and in all other areas necessary and proper to effectuate the highest level of cooperation between the City of Fayetteville and Washington County.

Article VI

Neither the City of Fayetteville nor Washington County may assign any of its rights or delegate any of its obligations under this Agreement, without the express written consent of the other.

Article VII

This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

Article VIII

Each paragraph of this Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

Article IX

Washington County shall hold harmless the City of Fayetteville from any and all claims or liabilities arising from the performance of this Agreement, provided that nothing in this Agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville or Washington County under the Constitution and Statutes of the State of Arkansas.

Article X

It is agreed that the failure of any party to invoke any of the available remedies under this Agreement or under law in the event of one or more breaches or defaults by any party under the Agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

Article XI

This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this Agreement shall be valid unless made in writing and signed by the duly authorized agents of the parties. This agreement is also subject to sufficient appropriation by the Quorum Court. ML, KCP ML

IN WITNESS WHEREOF, the City of Fayetteville and Washington County have executed this Agreement on or as of the date first written above.

CITY OF FAYETTEVILLE, ARKANSAS

____

LIONELD JORDAN, Mayor

ATTEST:

____

SONDRA SMITH, City Clerk

WASHINGTON COUNTY, ARKANSAS

____

MARILYN EDWARDS, County Judge

ATTEST:

____

KAREN COMBS PRITCHARD, County Clerk

ML

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/3/2009

City Council Meeting Date
Agenda Items Only

Jeremy Pate JP	Planning	Operations
Submitted By	**Division**	**Department**

Action Required:

RZN 08-3189: (First Baptist Church, 484): Submitted by Miller, Boskus, and Lack for property located at 20 East Dickson Street. The property is zoned C-PZD 05-1704 First Baptist Church, and contains approximately 4.08 acres. The request is to rezone the subject property to MSC, Main Street Center.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date

City Attorney — 2-13-09 Date

Paul A. Becker — Finance and Internal Services Director — 2-13-09 Date

Chief of Staff — 2/13/09 Date

Mayor — 2/13/09 Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office ENTERED 2-12-09

Received in Mayor's Office ENTERED 2/13/09

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Jeremy C. Pate, Director of Current Planning

Date: February 10, 2009

Subject: Rezoning for First Baptist Church (RZN 08-3189)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property from C-PZD 05-1704 (First Baptist Church), to MSC, Main Street Center located at 20 E. Dickson Street.

BACKGROUND

The subject property is located at the southwest corner of College Avenue and Dickson Street and is zoned C-PZD 05-1704 (First Baptist Church). The church buildings and adjacent parking lots were previously zoned C-2, Thoroughfare Commercial and R-O, Residential Office. The 30-50' building setbacks required by these zoning districts, and the fact that a church is not a permitted use in the R-O zoning district, created challenges for the church's planned expansions. Accordingly, the owners requested a unique PZD zoning classification and received approval from the City Council on January 03, 2006. The PZD zoning district allowed Cultural and Recreational Facilities as a use by right and allowed future buildings to be located up to the right-of-way line.

As required with all PZD applications, specific timeframes were established for development, creating strict deadlines for expansion without consideration of available funding. The church was aware of this requirement, as noted in the PZD booklet. However, in 2006, prior to adoption of the Downtown Master Plan zoning districts, the church had no other reasonable alternatives, such as rezoning to Main Street Center.

DISCUSSION

This item was heard at the regular Planning Commission meeting on February 9, 2009. The Planning Commission voted 7-0-1 to forward this rezoning request to the City Council with a recommendation for approval with Commissioner Lack recusing.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 08-3189, FOR APPROXIMATELY 4.08 ACRES, LOCATED AT 20 DICKSON STREET FROM C-PZD 05-1704 FIRST BAPTIST CHURCH TO MSC, MAIN STREET CENTER

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-PZD 05-1704 First Baptist Church to MSC, Main Street Center, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and **APPROVED** this day of , 2009.

APPROVED:

By: ______________________________
LIONELD JORDAN, Mayor

ATTEST:

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

EXHIBIT "A"

RZN08-3189

Close Up View

FIRST BAPTIST CHURCH/DICKSON

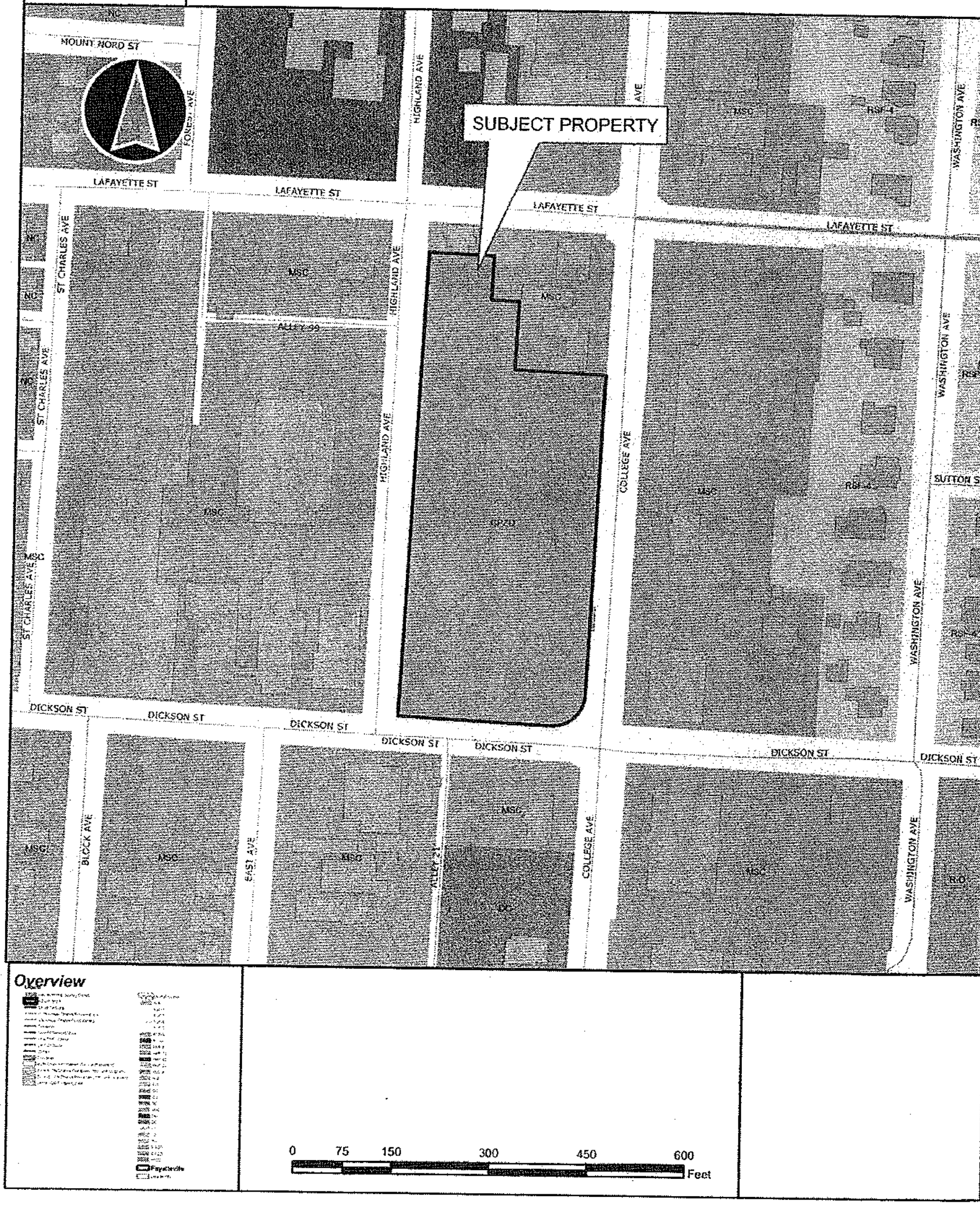


EXHIBIT "B"
RZN 08-3189

A PART OF BLOCK NUMBERED TEN (10) OF THE COUNTY COURT ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE ORIGINAL SOUTHWEST CORNER OF LOT SIX (6) OF SAID BLOCK TEN (10), SAID POINT BEING IN DICKSON STREET; THENCE N02°50'34"E ALONG THE WEST LINE OF SAID BLOCK TEN (10) 13.16 FEET TO A SET 1/2" IRON REBAR AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE AND THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET FOR THE TRUE POINT OF BEGINNING; THENCE S87°03'19"E ALONG THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET 234.95 FEET TO A CHISELED "X" IN A CONCRETE SIDEWALK AT THE BEGINNING OF A TANGENT 50 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHEASTERLY ALONG SAID CURVE 78.26 FEET, THE CHORD FOR WHICH BEING N47°47'09"E 70.51 FEET, TO A SET 1/2" IRON REBAR AT THE POINT OF TANGENCY OF SAID CURVE, SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE; THENCE N02°37'37"E ALONG SAID RIGHT-OF-WAY 497.00 FEET TO A SET 1/2" IRON REBAR; THENCE LEAVING THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE N87°03'20"W140.39 FEET TO A SET 1/2" IRON REBAR; THENCE N02°50'33"E 105.25 FEET TO A SET 1/2" IRON REBAR ON THE SOUTH LINE OF LOT ONE (1) OF SAID BLOCK TEN (10); THENCE N87°13'09"W ALONG THE SOUTH LINE OF SAID LOT ONE (1) 42.42 FEET TO AN EXISTING CONCRETE MONUMENT; THENCE N02°33'24"E 67.78 FEET TO AN EXISTING IRON PIPE; THENCE N87°22'40"W 99.89 FEET TO AN EXISTING IRON ON THE WEST LINE OF SAID BLOCK TEN (10), SAID POINT ALSO BEING THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE; THENCE S02°43'02"W ALONG THE EAST RIGHT-OF-WAY OF HIGHLAND AVENUE 67.50 FEET TO AN EXISTING 1/2" IRON REBAR; THENCE S02°50'34"W 651.84 FEET TO THE POINT OF BEGINNING.

Fayetteville ARKANSAS

PC Meeting of February 9, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~January 14, 2008~~ *Updated February 10, 2009*

RZN 08-3189: (FIRST BAPTIST CHURCH/DICKSON, 484): Submitted by MILLER, BOSKUS, LACK for property located at 20 E. DICKSON STREET. The property is zoned C-PZD, COMM. PLANNED ZONING DIST. and contains approximately 4.08 acres. The request is to rezone the subject property to MSC, Main Street Center.

Planner: Jesse Fulcher

BACKGROUND:

Property description and background: The subject property is located at the southwest corner of College Avenue and Dickson Street and is zoned C-PZD 05-1704 (First Baptist Church). The church buildings and adjacent parking lots were previously zoned C-2, Thoroughfare Commercial and R-O, Residential Office. The 30-50' building setbacks required by these zoning districts, and the fact that a church is not a permitted use in the R-O zoning district, created challenges for the church's planned expansions. Accordingly, the owners requested a unique PZD zoning classification and received approval from the City Council on January 03, 2006. The PZD zoning district allowed Cultural and Recreational Facilities as a use by right and allowed future buildings to be located up to the right-of-way line.

As required with all PZD applications, specific timeframes were established for development, creating strict deadlines for expansion without consideration of available funding. The church was aware of this requirement, as noted in the PZD booklet. However, in 2006, prior to adoption of the Downtown Master Plan zoning districts, the church had no other reasonable alternatives, such as rezoning to Main Street Center.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Office/Commercial	MSC, Main Street Center
South	Church/Office	MSC, Main Street Center
East	Office/Commercial	MSC, Main Street Center
West	Church	MSC, Main Street Center

Proposal: The applicant proposes a rezoning of the subject property from C-PZD 05-1704 to MSC, Main Street Center, as this zoning district, which was create uniquely for the downtown area, will facilitate growth and development that is desired by both the church and the city.

INFRASTRUCTURE:

Streets: The site has access to Highland Avenue, Dickson Street and College Avenue. Street improvements will be evaluated at the time of development.

Water: There is an 8" waterline along College, a 12" line along Dickson and a 6" line along Highland. Water may need to be extended through the site at the time of development.

Sewer: There are 8" mains along College, Dickson and Highland. Sewer service may need to be extended through the site at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

Fire: The subject property is located approximately a ½ mile from Fire Station #1. Response time to the property is approximately 2 minutes, which is acceptable, and above the City's goal of having the first unit on the scene within 6 minutes, 90% of the time, and the City's goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. There should be no adverse effects on call volume.

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

RECOMMENDATION:

Staff recommends approval of the requested rezoning to MSC, Main Street Center, based on the findings included as part of this report.

PLANNING COMMISSION ACTION: Required YES
√ Forward to City Council (recommend approval) ☐ Denied
Date: January 26, 2009

Motion: Winston
Second: Cabe
Vote: 7-0-1 (Lack recused)

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied
Date: March 3, 2009 (1st reading if recommended)

LAND USE PLAN: The Future Land Use Plan adopted as part of the City Plan 2025 designates this site **Complete Neighborhood Plan-Downtown Master Plan.** Rezoning this property to Main Street Center would be consistent with the zoning districts assigned to the property within the Downtown Master Plan (DMP) area. All of the surrounding properties were rezoned to Main Street Center with adoption of the DMP; however, the subject property was not rezoned, since the property had been previously rezoned to a unique PZD designation.

FINDINGS OF THE STAFF

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

Finding: **The subject property was included within the Downtown Master Plan boundary and the Main Street Center zoning district was created specifically for certain properties within the master plan boundary. Therefore, rezoning the property to Main Street Center would be consistent with land use planning objectives, principles, and policies and with the land use and zoning plans. In addition, future development on the site would be consistent with other properties in the district, including parking lot improvements, architectural design standards, etc.**

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

Finding: **A rezoning of the property is justified at this time, due to the fact that the PZD approval requires the church to develop the property based on a set time frame that is challenging to meet, given that the church is only able to expand its facilities as funding is available. Rezoning the property will allow the church to expand as needed. Additionally, the Main Street Center zoning district provides similar zoning rights as was approved by the PZD, including a front built-to line**

and the church use as a use by right.

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

Finding: **Based on staff findings and the Fayetteville Police Department report, the proposed rezoning would not create or appreciably increase traffic danger and congestion in the area. The property is served by College Ave., a Principal Arterial, along with two other local Streets, Dickson and Highland. Access to the site will be reviewed as redevelopment occurs.**

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

Finding: **The proposed rezoning will allow for a mixture of uses to be developed on the property; however, it is the intent of the church to utilize all of the property being rezoned. Responses from public service providers are included herein.**

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

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

    b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

161.21 Main Street/Center

(A) *Purpose.* A greater range of uses is expected and encouraged in the *Main Street / Center*. The *Center* is more spatially compact and is more likely to have some attached buildings than *Downtown General* or *Neighborhood Conservation*. Multi-story buildings in the Center are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the *Main Street/Center*. The *Center* is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street Center district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 18	Gasoline services stations and drive in restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.

(2) *Lot area minimum.* None.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, internal	None
Rear, without easement or alley	5 ft.
Rear, from center line of an easement or alley	12 ft.

(F) *Minimum buildable street frontage.* 75% of lot width.

(G) Height Regulations. A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 4 stories or 56 feet, whichever is less. A building or a portion of a building that is located 15 feet or greater from the front property line or any master street plan right-of-way line shall have a maximum height of 6 stories or 84 feet, which ever is less.

(H) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to-zone facing a public right of way.

Miller
Boskus
Lack
Architects, P.A

First Baptist Church, Fayetteville
Re-Zone Request,

Application Attachment, Item Five - Written Description and six - Determination Statements:

5. Written Description

   a. **Current ownership information and any proposed or pending property sales.**

      The buildings and grounds are wholly owned by the church. There are no intentions to transfer title to any existing properties at this time.

   b. **Reason (need) for requesting the zoning change.**

      With time the needs of the church have changed from the stringent direction of the current Master Development Plan zoning. This dictates that a major modification be processed to revise the Master Plan or that the property be re-zoned to a more fitting zoning. The zoning surrounding this property is currently Main Street Center which is now more fitting for the church's facility needs.

   c. **Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage.**

      The church property is directly adjacent to Central United Methodist Church and St. Paul's Episcopal Church and is across the street from commercial and governmental buildings of similar scale. Land use, traffic, appearance, and signage seem obviously compatible in this well established node of College and Dickson streets.

   d. **Availability of water and sewer (state size of lines.)**

      Sewer; 8" lines at College, Dickson, and Highland
      Water; 8" line at College, 12" line at Dickson, and 6" line at Highland

6. Statements of Address to Planning Commission findings

   a. **The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies, and with land use and zoning plans.**

      The proposed zoning is consistent with the Down Town Master Plan proposed zoning for this area. Land around this property is currently zoned MSC.

   b. **Whether the proposed zoning is justified and / or needed at the time of the request.**

      In that re-zoning is required to proceed with needed expansion of the church's facility we find MSC to be a needed and justifiable zoning. In addition we contend that the Down Town Master Plan was accurate and appropriate in designation of this area of the city to be zoned MSC.

2397 Green Acres Road, Fayetteville, Arkansas 72703
Phone: 479.443.7121 E-mail: audy@mbl-arch.com Fax: 479.443.7139

c. **Whether the proposed zoning will create or appreciably increase traffic danger and congestion.**

The use of the facility and the traffic generated are the same in either zone.

d. **Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.**

The Down Town Master Plan appropriately suggests this area should be MSC with it's given, and beneficial, population density.

e. **Why it would be impractical to use the land for any of the uses permitted under it's existing zoning classification.**

The desired use is allowed in the current and proposed zones. The catalyst for change to MSC is the allowance of mass and building placement which promotes urban development consistent with the Down Town Master Plan provisions.

Date 1/20/09

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

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed RZN 08-3189: (First Baptist Church/Dickson, 481): Submitted by Miller, Boskus, Lack for property located at 20 E. Dickson would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 4.08 acres.

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

Sincerely,

Captain William Brown
Fayetteville Police Department

ORDINANCE NO. 4812

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED C-PZD 05-1704 FIRST BAPTIST CHURCH, LOCATED AT 20 EAST DICKSON STREET, 325 AND 321 NORTH COLLEGE AVENUE, AND 350 AND 354 NORTH HIGHLAND AVENUE, CONTAINING APPROXIMATELY 4.08 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

> From C-2, Thoroughfare Commercial, and R-O, Residential Office, to C-PZD 05-1704 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 3rd day of January, 2006.

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

APPROVED:

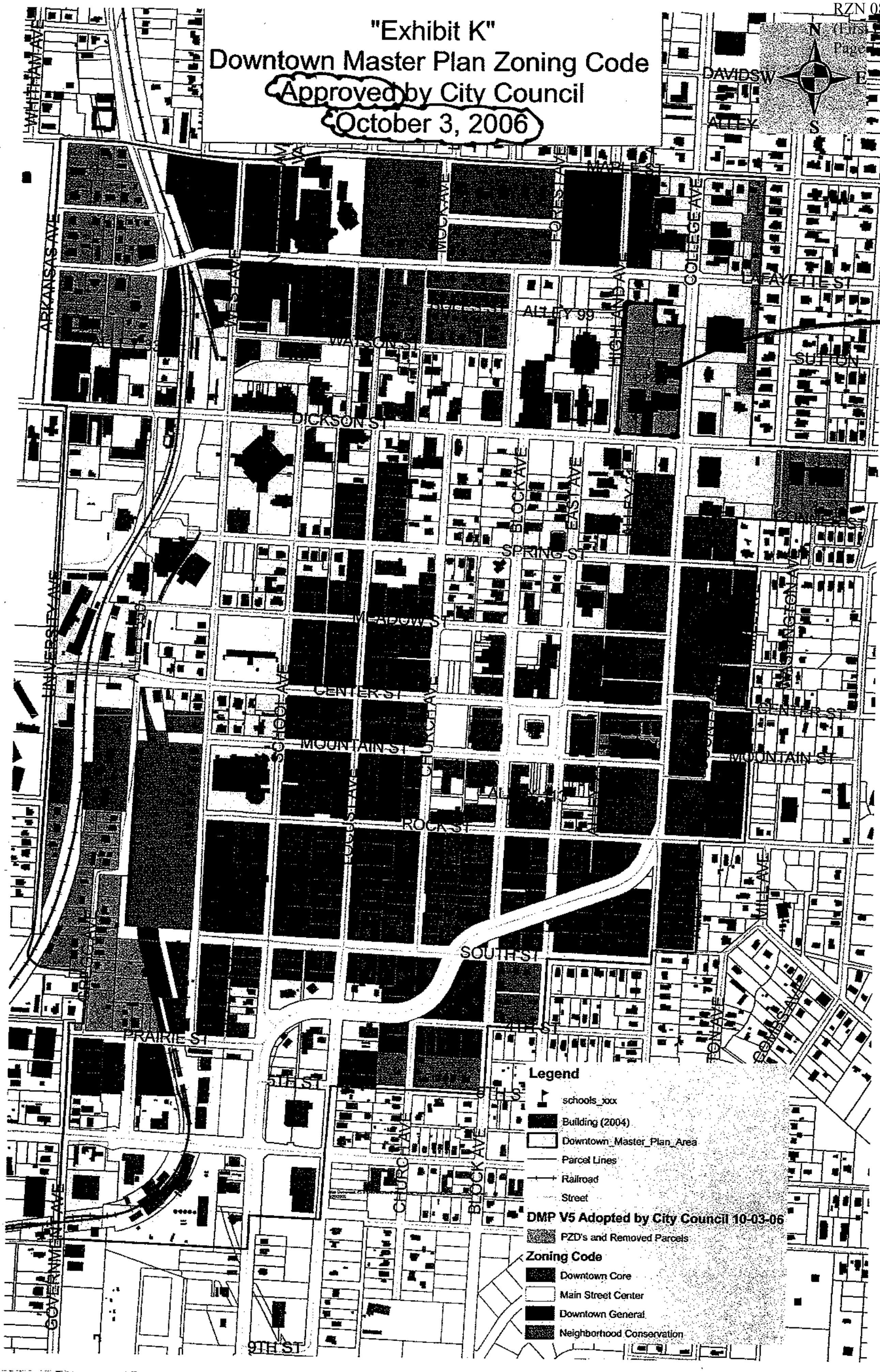
By: Dan Coody
DAN COODY, Mayor

ATTEST:

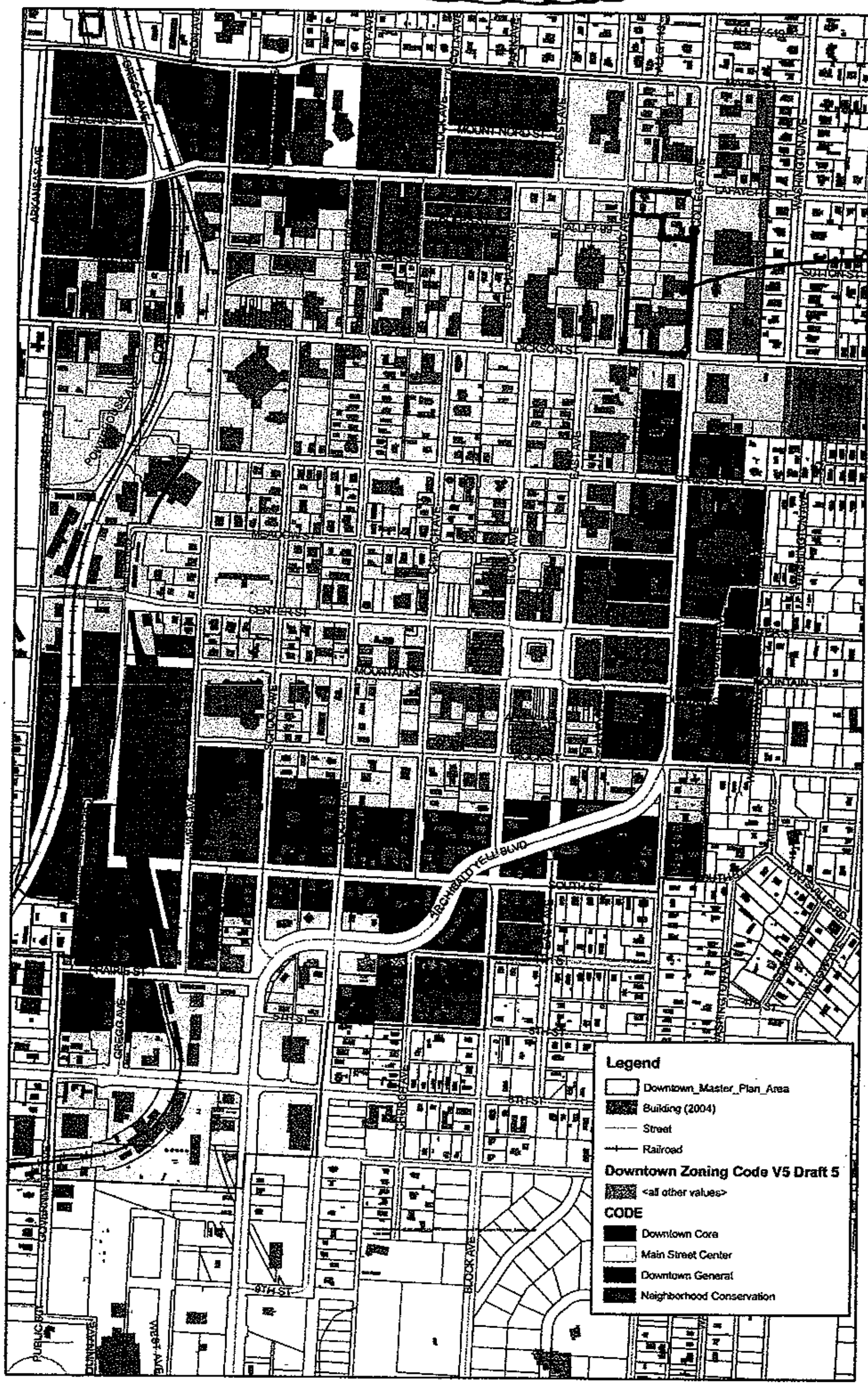
By: Sondra Smith
SONDRA SMITH, City Clerk

EXHIBIT "A"
MDP C-PZD 05-1704

A PART OF BLOCK NUMBERED TEN (10) OF THE COUNTRY COURT ADDTITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE ORIGINAL SOUTHWEST CORNER OF LOT SIX (6) OF SAID BLOCK TEN (10), SAID POINT BEING IN DICKSON STREET; THEN N02°50'34"E ALONG THE WEST LINE OF SAID BLOCK TEN (10) 13.16 FEET TO A SET 1/2 IRON REBAR AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE AND THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET FOR THE TRUE POINT OF BEGINNING; THEN S87°3'19"E ALONG THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET 234.95 FEET TO A CHISLED "X" IN A CONCRETE SIDEWALK AT THE BEGINNING OF A TANGENT 50 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHEASTERLY ALONG SAID CURVE 78.26 FEET, THE CHORD FOR WHICH BEING N47°47'09"E 70.51 FEET, TO A SET ½" IRON REBAR AT THE POINT OF TANGENCY OF SAID CURVE, SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE; THEN N02°37'37"E ALONG SAID RIGHT-OF-WAY 497.00 FEET TO A SET 1/2" IRON REBAR; THENCE LEAVING THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE N87°03'20"W 140.39 FEET TO A SET 1/2" IRON BAR; THEN N02°50'33"E 105.25 FEET TO A SET 1/2" IRON REBAR ON THE SOUTH LINE OF LOT ONE (1) OF SAID BLOCK TEN (10); THEN N87°13'09"W ALONG THE SOUTH LINE OF SAID LOT ONE (1) 42.42 FEET TO AN EXISTING CONCRETE MONUMENT; THEN N02°33'24"E 67.78 FEET TO AN EXISTING IRON PIPE; THEN N87°22'40"W 99.89 FEET TO AN EXISTING IRON ON THE WEST LINE OF SAID BLOCK TEN (10), SAID POINT ALSO BEING THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE; THEN S02°43'02"W ALONG THE EAST RIGHT-OF-WAY OF HIGHLAND AVENUE 67.50 FEET TO AN EXISTING 1/2" IRON REBAR; THEN S02°50'34"W 651.84 FEET TO THE POINT OF BEGINNING.


"Exhibit K"
Downtown Master Plan Zoning Code
Approved by City Council
October 3, 2006
N
W
E
S
Subject property
MAPLE ST
LAFAYETTE ST
ALLEY 99
WATSON ST
DICKSON ST
SPRING ST
MEADOW ST
CENTER ST
MOUNTAIN ST
ROCK ST
SOUTH ST
PRAIRIE ST
5TH ST
9TH ST
SUTTON
DAVIDSON
ALLEY
ARKANSAS AVE
UNIVERSITY AVE
GOVERNMENT AVE
WEST AVE
SCHOOL AVE
LOCUST AVE
CHURCH AVE
BLOCK AVE
EAST AVE
HIGHLAND AVE
COLLEGE AVE
WASHINGTON
MILL AVE
MOCK AVE
Legend
schools_xxx
Building (2004)
Downtown_Master_Plan_Area
Parcel Lines
Railroad
Street
DMP V5 Adopted by City Council 10-03-06
PZD's and Removed Parcels
Zoning Code
Downtown Core
Main Street Center
Downtown General
Neighborhood Conservation

Proposed Downtown Master Plan Zoning Code
Draft for the Planning Commission Meeting
February 27, 2006



Subject Property

RZN08-3189

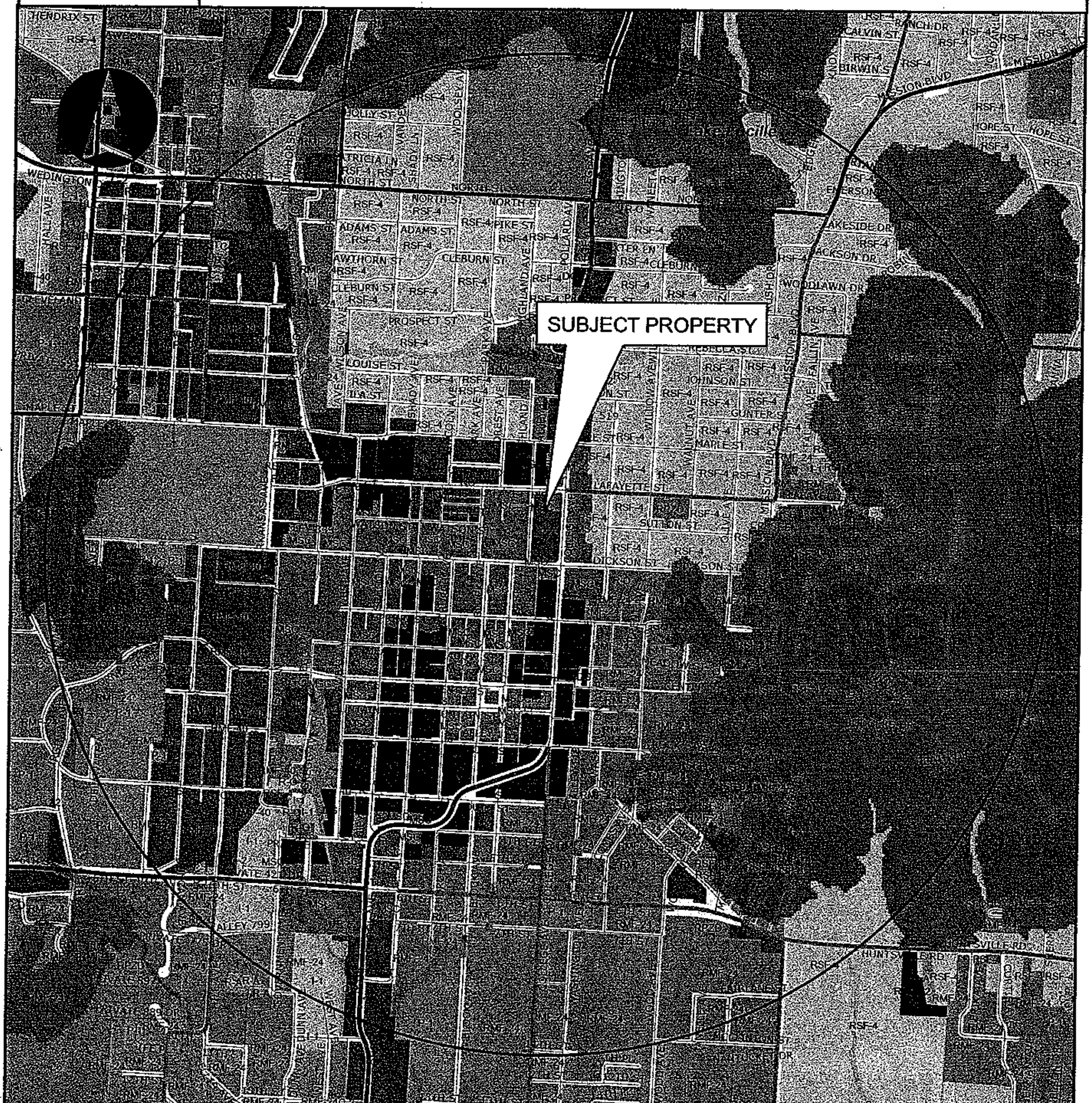
Close Up View

FIRST BAPTIST CHURCH/DICKSON

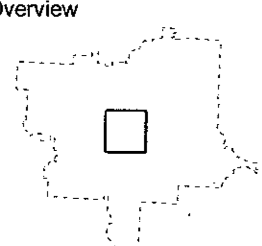
RZN08-3189

One Mile View

FIRST BAPTIST CHURCH/DICKSON



Overview



Legend

Subject Property

RZN08-3189

Boundary

Planning Area

Overlay District

Outside City

Legend

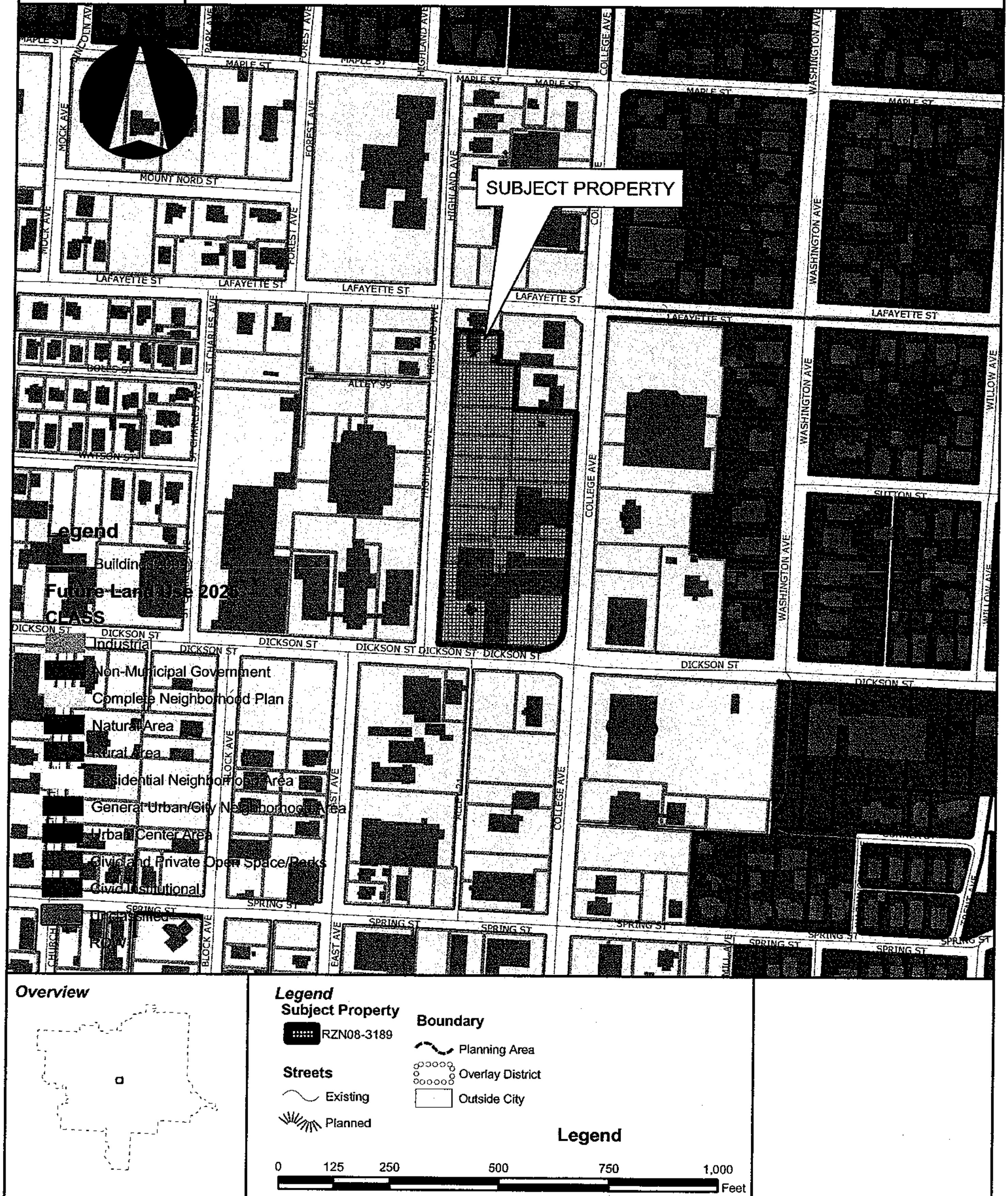
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

RZN08-3189

Future Land Use

FIRST BAPTIST CHURCH/DICKSON



City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/3/2009
City Council Meeting Date
Agenda Items Only

Jeremy Pate	Planning	Operations
Submitted By	**Division**	**Department**

Action Required:

RZN 08-3190: (Lolley, 522): Submitted by Mikel Lolley for property located at 5, 8, 12, and 20 South Hill Avenue. The property is zoned RMF-40, Residential Multi-Family, 40 units per acre, and contains approximately 1.67 acres. The request is to rezone the subject property to DG, Downtown General.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director	Date
City Attorney	2-13-09 Date
Paul A. Becker — Finance and Internal Services Director	2-13-09 Date
Chief of Staff	2/13/09 Date
Mayor	2/13/09 Date

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office — ENTERED 2-12-09

Received in Mayor's Office — ENTERED 2/13/09

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Jeremy C. Pate, Director of Current Planning

Date: February 12, 2009

Subject: Rezoning for Lolley (RZN 08-3190)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property from RMF-40, to DG, Downtown General located at 5, 8, 12, and 20 South Hill Avenue.

BACKGROUND

The site is located just west of downtown on the south side of the Center Street/Hill intersection within the Putman Addition neighborhood and is zoned RMF-40. The property at 5, 8, and 12 South Hill Avenue is being utilized for multi-family development. The property at 20 South Hill Avenue contains a large residential structure constructed in 1903 that was originally constructed as a single family residence. This structure has been used in the past for a seven unit apartment and a four unit apartment building, and has been recently renovated back into a single family residence.

DISCUSSION

This item was heard at the regular Planning Commission meeting on February 9, 2009. The Planning Commission voted 8-0-0 to forward this rezoning request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 08-3190, FOR APPROXIMATELY 1.67 ACRES, LOCATED AT 5, 8, 12, AND 20 SOUTH HILL AVENUE FROM RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE, TO DG, DOWNTOWN GENERAL

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

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

From RMF-40, Residential Multi-Family, 40 units per acre to DG, Downtown General, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and **APPROVED** this day of , 2009.

APPROVED:

By: ______________________________
LIONELD JORDAN, Mayor

ATTEST:

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

EXHIBIT "A"

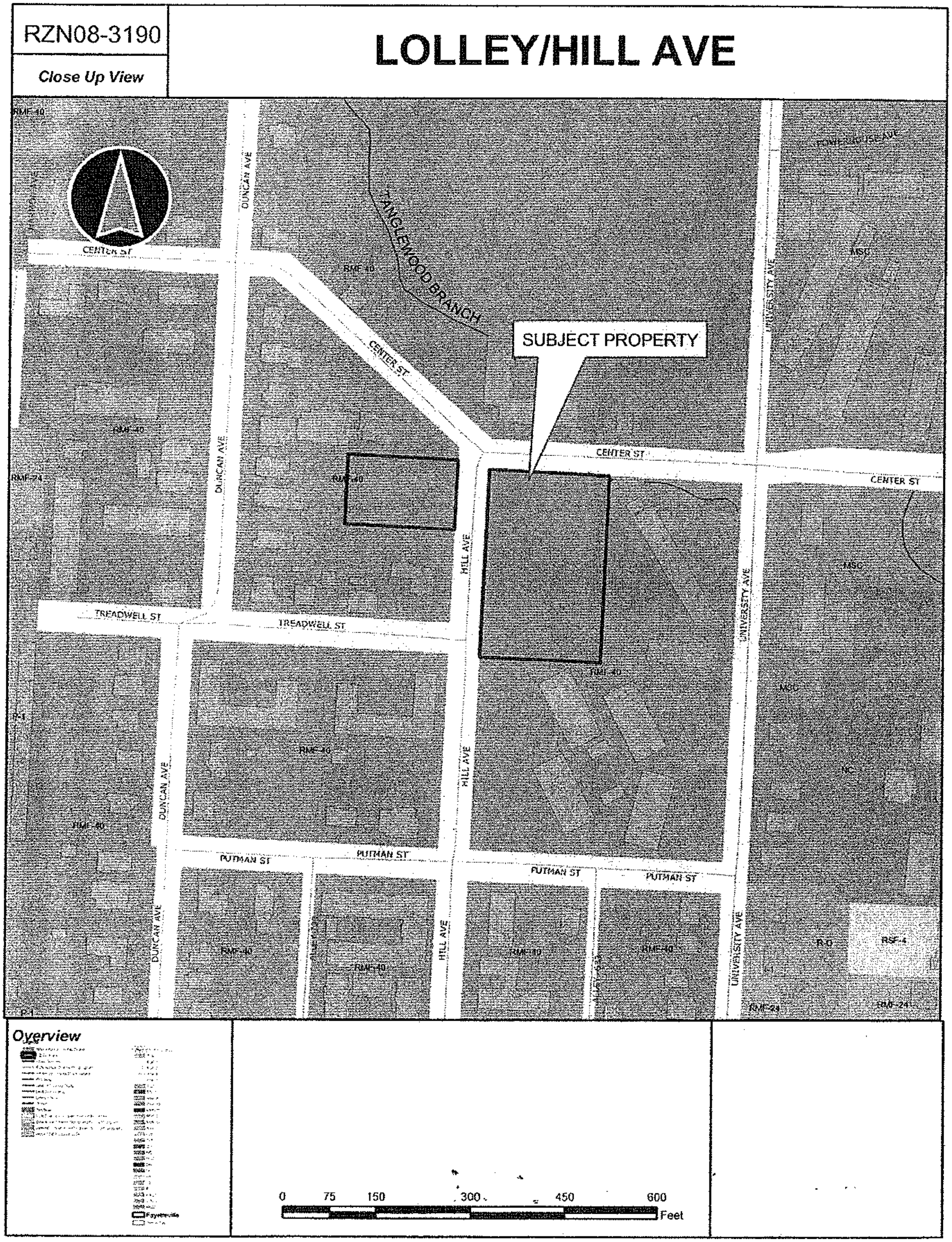

RZN08-3190
Close Up View
LOLLEY/HILL AVE
SUBJECT PROPERTY
CENTER ST
DUNCAN AVE
TANGLEWOOD BRANCH
UNIVERSITY AVE
HILL AVE
TREADWELL ST
PUTMAN ST
RMF-40
RMF-24
MSC
NC
R-O
RSF-4
P-1
Overview
0 75 150 300 450 600
Feet

EXHIBIT "B"
RZN 08-3190

5 SOUTH HILL AVENUE -- LOTS TWENTY-THREE (23) AND TWENTY-FOUR (24) IN BLOCK TWO (2) IN PUTMAN'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS. SUBJECT TO AN EXISTING EASEMENT ACROSS THE SOUTH TWELVE (12) FEET OF SAID LOT TWENTY-THREE (23).

8 AND 12 SOUTH HILL AVENUE -- LOTS NUMBERED ONE (1), TWO (2), AND THREE (3) IN BLOCKS NUMBERED ONE (1) IN PUTMAN'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS DESIGNATED UPON THE RECORDED PLAT OF SAID ADDITION ON FILE IN THE LAND RECORDS OF WASHINGTON COUNTY, ARKANSAS.

20 SOUTH HILL AVENUE -- LOTS NUMBERED FOUR (4), FIVE (5), AND SIX (6), OF BLOCK NUMBERED ONE (1), PUTMAN'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS DESIGNATED UPON THE RECORDED PLAT OF SAID ADDITION.

Fayetteville
ARKANSAS

PC Meeting of February 9, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Andrew Garner, Senior Planner
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~January 14, 2009~~ *Updated February 12, 2009*

RZN 08-3190: (LOLLEY/ HILL AVENUE, 522): Submitted by MIKEL LOLLEY for property located at 5,8,12, AND 20 S. HILL AVENUE. The property is zoned RMF-40, MULTI FAMILY - 40 UNITS/ACRE and contains approximately 1.67 acres. The request is to rezone the subject properties to DG, Downtown General. Planner: Andrew Garner

BACKGROUND:

Property Description: The subject property is zoned RMF-40 and contains three parcels totaling 1.67 acres in the Putman's Addition neighborhood. The site is located just west of downtown on the south side of the Center Street/Hill Avenue intersection. The property is addressed as 5, 8, 12, and 20 South Hill Avenue. The property at 5, 8, and 12 South Hill Avenue is being utilized for multi-family development. The property at 20 South Hill Avenue contains a large residential structure constructed in 1903 that was originally constructed as a single family residence. This structure has been used in the past for a seven unit apartment and a four unit apartment building, and has been recently renovated back into a single family residence. Surrounding land use and zoning is depicted in *Table 1.*

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Multi-family residential; Single family residential	RMF-40
South, East	Multi-family residential	RMF-40
West	Multi-family residential; Single family residential	RMF-40

Proposal: The applicant proposes to rezone the subject property from RMF-40 to DG, Downtown General to allow for "appropriate infill and revitalization" consistent with City Plan 2025, and to allow for the preservation and adaptive re-use of the historic structure at 20 South Hill Avenue.

Public Comment: Staff has not received any public comment.

INFRASTRUCTURE:

Streets: The site has access to Center Street and Hill Avenue. Center Street and Hill Avenue are fully improved paved two lane City streets. Street improvements will need to be evaluated at the time of development.

Water: Public water is available to the property. There is an 8" main along Center Street and a 4-inch main on Hill Aveue. Water may need to be extended through the property at the time of development to provide domestic service and fire protection.

Sewer: Sanitary sewer is available to the site. There is an 8" public main along Hill Avenue. Sewer may need to be extended through the property at the time of development. The capacity of the existing main may need to be evaluated at the time of development.

Drainage: Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

Fire: This property will be covered by Engine #1 located at 303 West Center. It is 0.7 miles from the station with an anticipated response time of 2.5 minutes.

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

CITY PLAN 2025 FUTURE LAND USE PLAN: City Plan 2025 Future Land Use Plan designates this site as **City Neighborhood Area.** Rezoning this property to DG in a neighborhood near downtown and the University with small blocks and a variety of uses and structures would be compatible with the surrounding development pattern and land uses. The DG zoning would allow for a more traditional form of development with buildings closer to the street, and would allow for mixed uses at the intersection of Center Street/Hill Avenue. This zoning would encourage infill and the adaptive re-use of existing structures, consistent with the City Plan 2025 Goal 1, "We will make appropriate infill and revitalization our highest priorities."

RECOMMENDATION:

Staff recommends approval of the rezoning based on findings stated herein. The traditional development pattern and mixed uses allowed under this zoning are appropriate in this neighborhood near downtown and the University, at the corner location of Center Street/Hill Avenue. The DG zoning would encourage infill, revitalization, and adaptive re-use of the property, allowing this site to make a greater contribution to being a complete neighborhood than under the current RMF-40 zoning.

PLANNING COMMISSION ACTION:	**Required <u>YES</u>**		
	☐ Approved	**X Forwarded**	**☐ Denied**
Motion: <u>Graves</u>	**Second: <u>Anthes</u>**	**Vote: <u>8-0-0</u>**	
Date: <u>February 9, 2009</u>			
CITY COUNCIL ACTION:	**Required <u>YES</u>**		
	☐ Approved		**☐ Denied**
Date: <u>March 3, 2009 (1st reading if recommended)</u>			

FINDINGS OF THE STAFF

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

Finding: **The property is designated as City Neighborhood Area in City Plan 2025 Future Land Use Plan. The proposed DG zoning is consistent with the City's land use planning objectives, principles and policies to encourage complete, compact, and connected neighborhoods indicated by the City Neighborhood Area designation. The Guiding Policies for the City Neighborhood Area also discuss that non-residential uses should be provided in areas that are accessible for the convenience of individuals living in residential districts, and that developers should be encouraged to designate and plan for mixed-use at corners. The subject property is at a busy intersection of two streets connecting vehicular and pedestrian traffic from Martin Luther King, Jr. Boulevard, downtown, Dickson Street Entertainment District, and the University. This site is an appropriate location for mixed use in this fairly dense and busy residential neighborhood zoned entirely RMF-40.**

The Downtown Master Plan Neighborhood boundary is located one block to the east along University Avenue. The zoning along University Avenue is Main Street Center, MSC, and transitions directly to RMF-40 zoning in the Putman Addition. Due to the close proximity of the University and the demand for student housing, most of the Putman Addition has been developed or renovated for multi-family residences. There are pockets of single family homes that have been retained mainly on traditional 50-foot wide lots, with some larger historic homes that have been preserved. Staff finds that it is appropriate for the subject property to be zoned Downtown General, a less intensive zoning than MSC, providing for the continuation of mixed use at a busy corner, while transitioning the density and intensity at a lesser scale into this residential neighborhood. The proposed DG zoning would be compatible and appropriate in this location, based on the surrounding land uses and Future Land Use Plan for the area.

The DG zoning permits mixed uses and buildings close to the street in a

traditional pattern. This encourages the preservation and adaptive re-use of existing structures to a greater extent than the current RMF-40 zoning and makes for a more pedestrian-friendly environment. The proposed DG zoning would therefore be consistent with a number of the Goals in City Plan 2025 including:

- **We will make appropriate infill and revitalization our highest priorities.**
- **We will discourage suburban sprawl.**
- **We will make traditional town form the standard.**

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

Finding: **The proposed zoning is needed to encourage infill and revitalization of this neighborhood and preservation and re-use of the existing historic home at 20 South Hill Avenue. In addition, the proposed zoning is needed to allow for mixed use at a busy corner location in this dense residential neighborhood and redevelopment in a traditional town form. The current RMF-40 zoning allows only residential uses by right in a predominantly suburban pattern. Staff finds that it is more in keeping with the adopted land use policies of the City to have the property redevelop and change over time under the DG zoning standards rather than RMF-40.**

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

Finding: **The proposed zoning has the potential to generate additional traffic on the surrounding street system over the existing RMF-40 zoning mainly because of the commercial uses that would be permitted. However, due to this site being within walking distance of employment and education centers of the City, and the existing street infrastructure that is in place, this impact would be negligible when compared with the existing conditions and would not increase traffic danger or congestion. Access points would be reviewed in conformance with the Access Management Ordinance at the time of development to ensure safe ingress and egress.**

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

Finding: **The proposed zoning would increase the potential population density as the DG zoning district does not have a maximum density, compared with 40 units per acres under the RMF-40 zoning. However, due to the size and layout of the property developing at a density of over 40 units per acre would not be feasible under any zoning district. Further, this location in central Fayetteville near**

downtown and the University has adequate existing infrastructure and can accommodate high density.

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

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

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

Finding: **It is feasible to allow the property to remain under the RMF-40 zoning classification. However, this neighborhood, and in particular this site at the corner of Hill Avenue/Center Street, has the potential to support appropriate infill and redevelopment in a traditional pattern. Staff finds that the proposal for DG zoning, surrounded by the relatively dense multi-family housing near the University and downtown, is appropriate. The site will utilize existing infrastructure and result in the potential for infill, revitalization, and adaptive re-use of the existing structures.**

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **Not applicable. Staff recommends in favor of the requested zoning.**

Mikel C. Lolley
20 South Hill Avenue
Fayetteville, AR 72701
479.841.7801

Date: December 17th, 2008

RE: Rezoning for properties, 5, 8, 12, and 20 South Hill Avenues from RMF-40 to Downtown General.

TO: Chairman for the Planning Division
City of Fayetteville
Planning Division
125 West Mountain Street
Fayetteville, AR 72701
479.575.8267
479.575.8282 fax

Dear Chairman,

I am interested in pursuing a down zoning for four properties located at 5, 8, 12, and 20 South Hill Avenue. This down zoning should prove more consistent with the Cities 2025 Plan, specifically "appropriate infill and revitalization." These properties are currently zoned as RMF-40, and I would like to request that these four properties be down zoned more appropriately as "Downtown General." This down zoning would be more consistent for when this land would have been incorporated into the City of Fayetteville known as the Putman's Addition right around the turn of this century. Zoned as RMF-40 encourages the destruction of the original character for when these properties would have been developed. Extending the zone "Downtown General" one block further west from where it currently stops at Center Street and University Avenue would reinforce the primary goal as stated in the Cities 2025 Plan. Its first stated goal defined as "a form based code designed to ensure that the Downtown area retains its livability and human scale, while allowing for an increase in density and economic value." This is precisely why these four properties would be best served by a down zone from RMF-40 to Downtown General.

To down zone the specific property located at 20 South Hill Avenue from RMF-40 to Downtown General will also serve the historic preservation commitment as stated in the Cities 2025 Plan, 8.1 -- Historic Resources -- integrating historically significant structures into functionally viable uses for present day residential and commercial business activity.

I feel that the requested downzone for these four properties is in keeping with the Planning Departments Goals as expressed thru the City Plan 2025, and that we would be working together toward a mutual goal that will serve the immediate neighborhood and the city as a whole.

Thanks for your time and consideration.

Mikel Lolley

Date 1/20/09

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

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed RZN 08-3190: (Lolley / Hill Avenue, 522): Submitted by Mikel Lolley for property located at 5,8,12 and 20 S. Hill Avenue would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 1.67 acres.

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

Sincerely,

Captain William Brown
Fayetteville Police Department

C-3

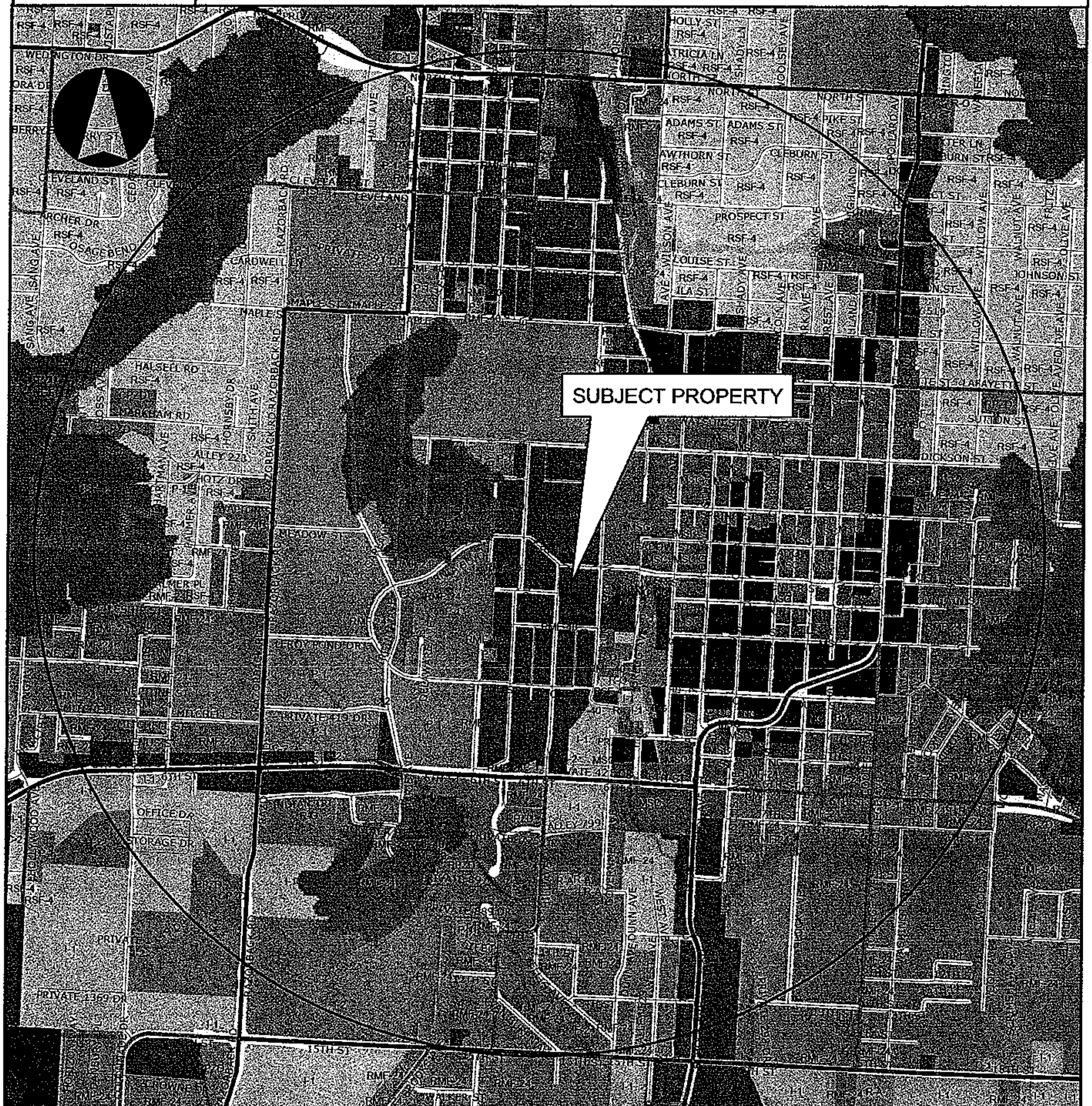
1 inch equals 60 feet

RZN 08-3190 (Lolley)

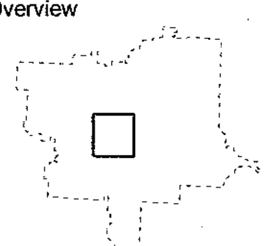
90 45 0 90 Feet

RZN08-3190	LOLLEY/HILL AVE
Close Up View	

RZN08-3190	LOLLEY/HILL AVE
One Mile View	



Overview



Legend

Subject Property

RZN08-3190

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

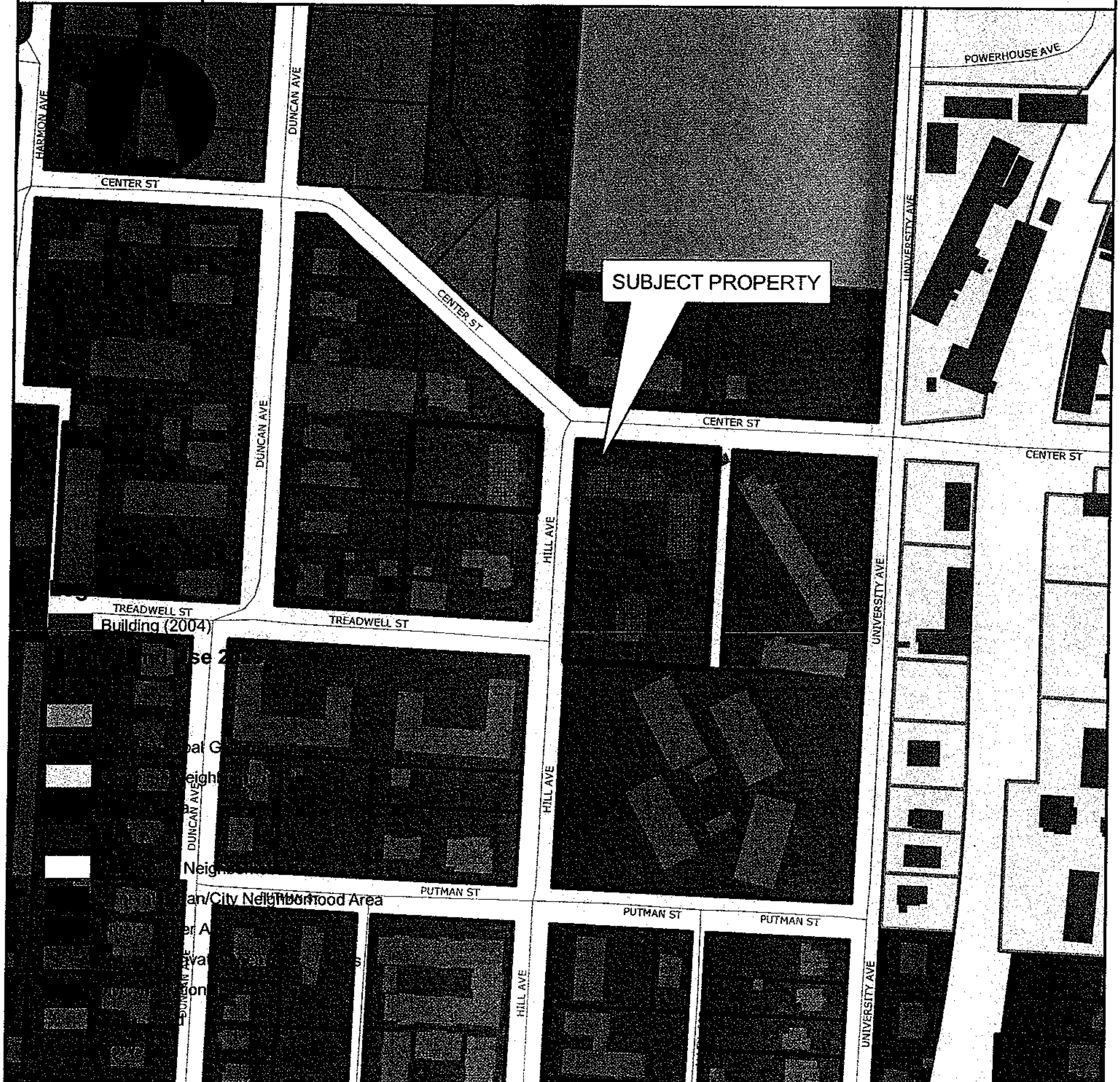
0 0.25 0.5 1

Miles

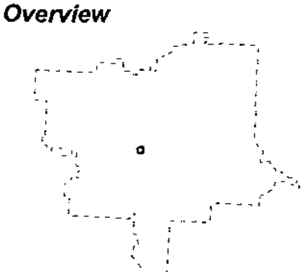
RZN08-3190

Future Land Use

LOLLEY/HILL AVE



Overview



Legend

Subject Property

RZN08-3190

Boundary

Planning Area

Overlay District

Outside City

Streets

Existing

Planned

Legend

0 75 150 300 450 600 Feet

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/3/2009
City Council Meeting Date
Agenda Items Only

Jeremy Pate	Planning	Operations
Submitted By	**Division**	**Department**

Action Required:

VAC 09-3197: (Butterfield Trail Village, 175): Submitted by McClelland Consulting Engineers for property located at 1923 Joyce Boulevard. The request is to vacate a portion of a utility easement on the subject property.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director	Date	Previous Ordinance or Resolution #	
City Attorney	2-13-09 Date	Original Contract Date:	
Paul A. Becker Finance and Internal Services Director	2-13-09 Date	Original Contract Number:	
Chief of Staff	2/13/09 Date		
Mayor	2/17/09 Date		

Received in City Clerk's Office ENTERED 2-12-09

Received in Mayor's Office ENTERED 2/13/09

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Jeremy C. Pate, Director of Current Planning

Date: February 10, 2009

Subject: Vacation for Butterfield Trail Village (VAC 09-3197)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance vacating a portion of a utility easement on the subject property.

BACKGROUND

Butterfield Trail Village Retirement Community is located at 1923 E. Joyce Boulevard and is zoned RMF-24. The facility consists of approximately 350 residential units and many amenities, including a dining hall, general store, pool, flower gardens, and art studio for the community residents.

The applicant's request is to vacate a portion of an existing utility easement to allow for the construction of a new dining/lodge facility.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City with no objections to the requested utility easement vacation. This item was heard at the regular Planning Commission meeting on February 9, 2009 and forwarded by vote of 7-0-1 on the consent agenda to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 09-3197 SUBMITTED BY MCCLELLAND CONSULTING ENGINEERS FOR PROPERTY LOCATED AT 1923 JOYCE BOULEVARD TO VACATE A PORTION OF A UTILITY EASEMENT, A TOTAL OF 0.05 ACRES

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted utility easement is not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easement:

See Exhibit "B" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Condition of Approval as follows, and shall not be in effect until such condition is met.

Any relocation of existing utilities shall be at the owner/developer's expense.

PASSED and **APPROVED** this day of , 2009.

APPROVED: ATTEST:

By: ______________________________ By: ______________________________
LIONELD JORDAN, Mayor **SONDRA E. SMITH,** City Clerk/Treasurer

EXHIBIT "A"

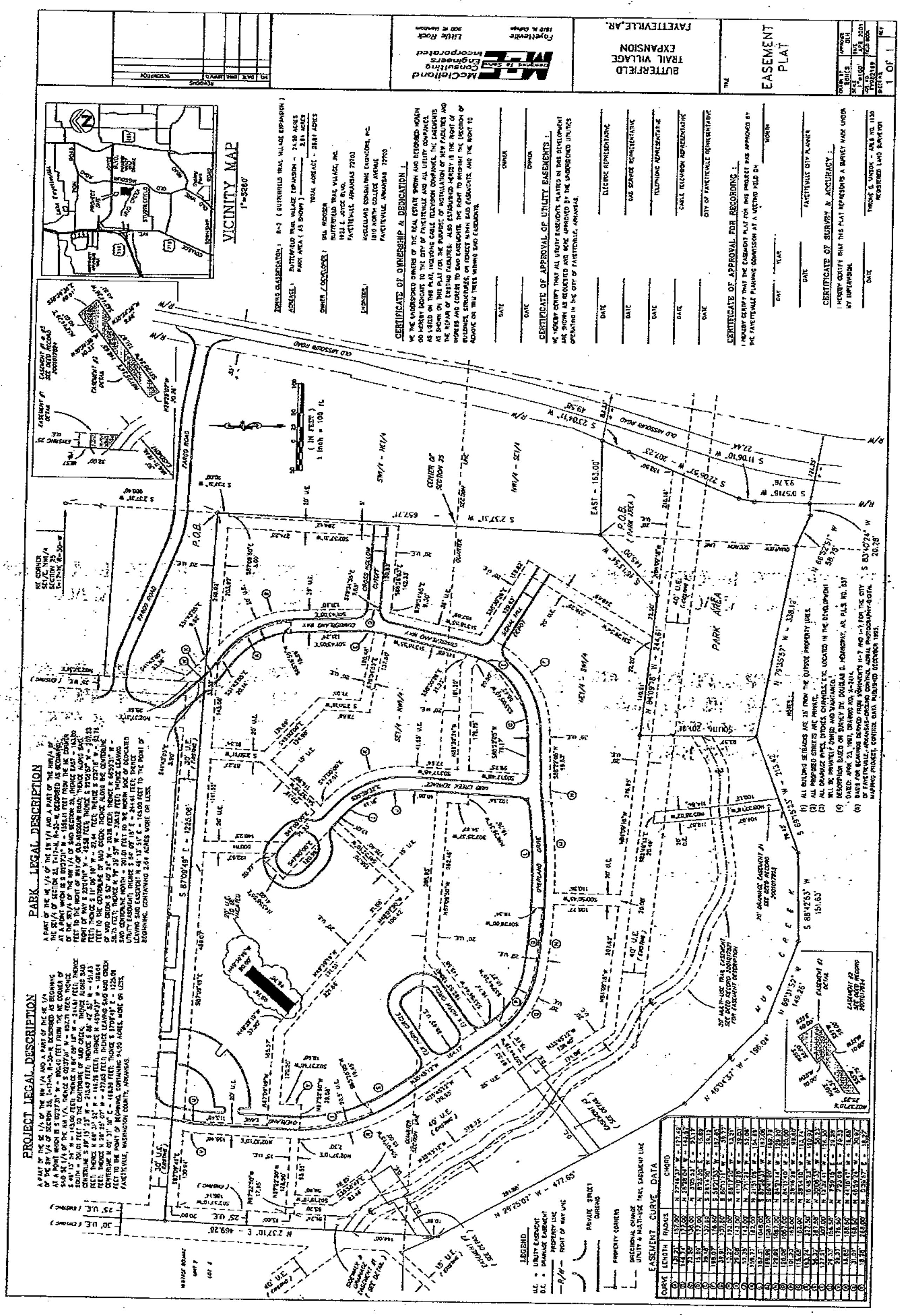

EASEMENT PLAT
BUTTERFIELD TRAIL VILLAGE EXPANSION
FAYETTEVILLE, AR.
McClelland Consulting Engineers Incorporated
VICINITY MAP
PARK LEGAL DESCRIPTION
PROJECT LEGAL DESCRIPTION
PARK AREA
OLD MISSOURI ROAD
MUD CREEK
LEGEND
EASEMENT CURVE DATA

EXHIBIT "B"
VAC 09-3197

A PART OF THE SE ¼ OF THE NW ¼ OF SECTION 25, T-17-N, R-30-W, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: FROM THE NE CORNER OF THE SE ¼ OF THE NW ¼ OF SAID SECTION 25, THENCE S2°37'31"W-900.40 FEET, THENCE N87°09'49"W-428.10 FEET, THENCE S2°50'11"W-107.27 FEET, THENCE S41°52'10"W-324.91 FEET, THENCE N48°07'50"W-91.68 FEET, THENCE N49°39'19"W-171.51 FEET TO THE POINT OF BEGINNING, THENCE N49°39'19"W-20.00 FEET, THENCE N40°20'41"E-99.76 FEET, THENCE S49°39'19"W-20.00 FEET, THENCE S40°20'41"W-99.76 FEET TO THE POINT OF BEGINNING, CONTAINING 1995 SQ. FT. (0.05 ACRES), MORE OR LESS.

Fayetteville ARKANSAS

PC Meeting of February 09, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jesse Fulcher, Current Planner Matt Casey, Assistant City Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~February 2, 2009~~ *Updated February 10, 2009*

VAC 09-3197: (BUTTERFIELD TRAIL VILLAGE, 175): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at 1923 JOYCE BOULEVARD. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 25.99 acres. The request is to vacate a portion of a utility easement.

Planner: Jesse Fulcher

Findings:

Property Description: Butterfield Trail Village Retirement Community is located at 1923 E. Joyce Boulevard and is zoned RMF-24. The facility consists of approximately 350 residential units and many amenities, including a dining hall, general store, pool, flower gardens, and art studio for the community residents.

Request: The applicant's request is to vacate a portion of an existing utility easement to allow for the construction of a new dining/lodge facility that is being requested through CUP 08-3192.

The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES	RESPONSE
Ozarks Electric	No Objections.
Cox Communications	No Objections. Relocation of any existing facilities shall be at the owner/developers expense
Southwestern Electric Power Company	No Objections.
Arkansas Western Gas	No Objections.
Southwestern Bell Telephone	No Objections.

CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections.
Transportation	No Objections.
Solid Waste	No Objections.
Engineering	No Objections.

Public Comment: No public comment has been received.

Recommendation: Staff recommends forwarding **VAC 09-3197** to the City Council with a recommendation of approval with the following conditions:

Conditions of Approval:

1. Any relocation of existing utilities shall be at the owner/developer's expense.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: √ **Forwarded** ☐ **Denied** ☐ **Tabled**

Date: February 09, 2009

Motion: Graves
Second: Cabe
Vote: 7-0-1 (Lack recused-consent agenda)

Comments:____

MCE 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

To: The City of Fayetteville – Planning Staff

From: McClelland Consulting Engineers

Date: December 31, 2008

Subject: **Butterfield Trail Village**
Easement Vacation Submittal

Submitted for your review are exhibits illustrating a 20' UE, within Butterfield Trail Village that we are seeking to have vacated. The easement in question is located upon the parcel of land currently being reviewed by the City of Fayetteville for a conditional use permit (Parcel #765-15683-000).

As per the requirements of the Easement/Alley Vacation application, comments regarding this easement have been gathered by all of the local utility providers. Additional supplemental information regarding this easement vacation request are enclosed.

Please contact me at any time to discuss any questions or concerns that you may have,

Sincerely,

Leslie Tabor
McClelland Consulting Engineers
479.443.2377
479.443.9241 f
LTabor@McClelland-engrs.com

PETITION TO VACATE AN (EASEMENT) LOCATED AT (PARCEL #765-15683-000, BUTTERFIELD TRAIL VILLAGE), CITY OF FAYETTEVILE, ARKANSAS

TO: The Fayetteville City Planning Commission and

The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easement, hereinafter sought to be abandoned and vacated, lying in Butterfield Trail Village, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement, which is described as follows:

A 20' x 99.76' Utility Easement – Shown on easement plat filed in Plat Book 17-46 in the office of the circuit clerk, Washington County, Arkansas.

Description of 20' x 99.76' Utility Easement (1995 sq. ft.)

A part of the SE1/4 of the NW1/4 of Section 25, T-17-N, R-30-W. Being more particularly described as follows, to wit: From the NE corner of the SE1/4 of the NW1/4 of said Section 25, Thence S 2°37'31" W –900.40 feet, Thence N 87°09'49" W – 428.10 feet , Thence S 2°50'11" W - 107.27 feet, Thence S 41°52'10" W – 324.91 feet, Thence N 48°07'50" W – 91.68 feet, Thence N 49°39'19" W – 171.51 feet to the POINT OF BEGINNING, Thence N 49°39'19" W – 20.00 feet; Thence N 40°20'41" E – 99.76 feet; Thence S 49°39'19" E – 20.00 feet; Thence S 40°20'41" W – 99.76 feet to the POINT OF BEGINNING, containing 1995 sq. ft. (0.05 Acres), more or less.

That the abutting real estate affected by said abandonment of the easement are within Butterfield Trail Village, City of Fayetteville, used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said easements.

Dated this 30th day of December, 2008

William A. Wickizer, Administrator
Printed Name

[signature]
Signature

Butterfield Trail Village

December 11, 2008

Job No. 082154

Utility Easement to be Vacated

A 20' x 99.76' Utility Easement – Shown on easement plat filed in Plat Book 17-46 in the office of the circuit clerk, Washington County, Arkansas.

Description of 20' x 99.76' Utility Easement (1995 sq. ft.)

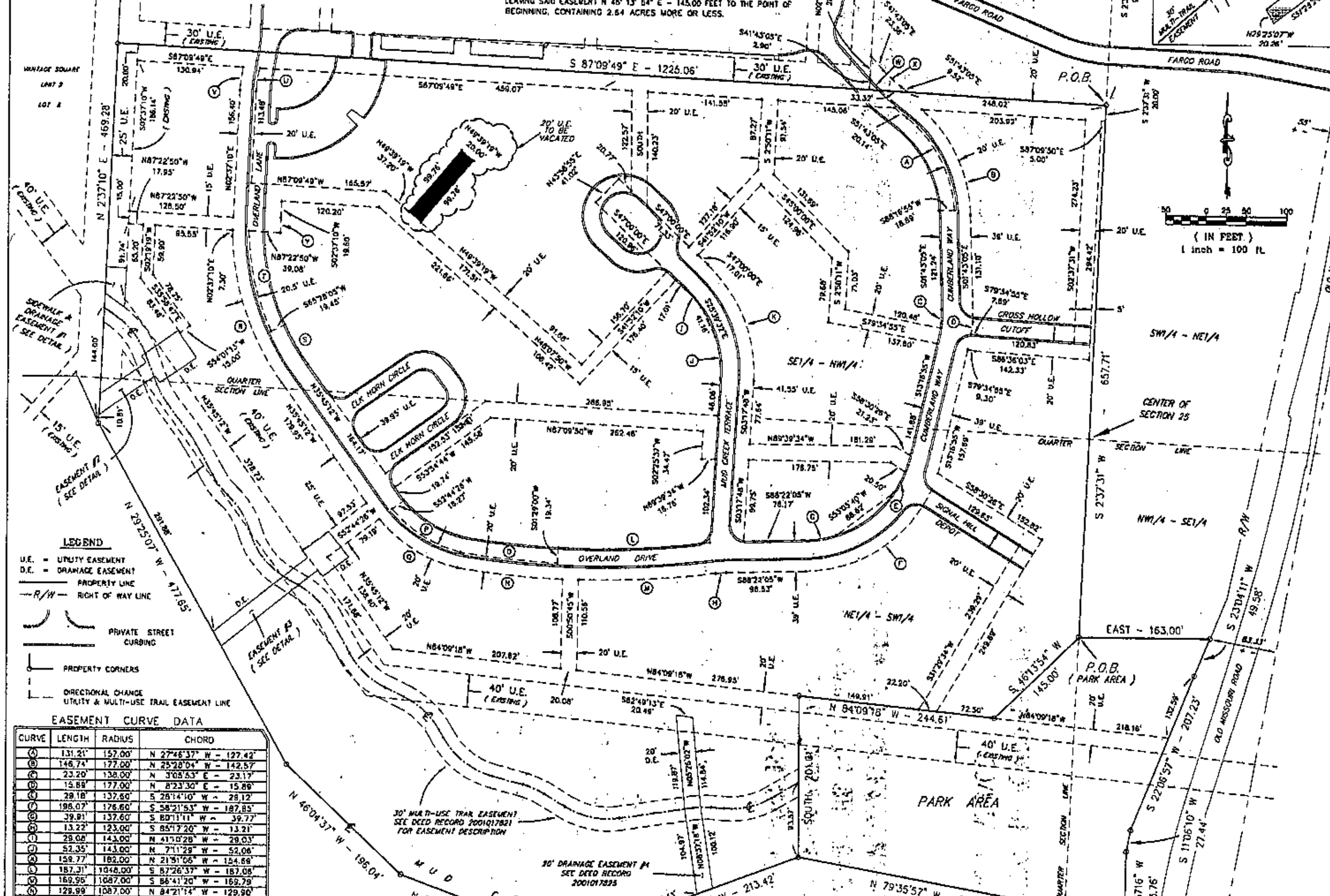
A part of the SE1/4 of the NW1/4 of Section 25, T-17-N, R-30-W. Being more particularly described as follows, to wit: From the NE corner of the SE1/4 of the NW1/4 of said Section 25, Thence S 2°37'31" W – 900.40 feet, Thence N 87°09'49" W – 428.10 feet , Thence S 2°50'11" W - 107.27 feet, Thence S 41°52'10" W – 324.91 feet, Thence N 48°07'50" W – 91.68 feet, Thence N 49°39'19" W – 171.51 feet to the POINT OF BEGINNING, Thence N 49°39'19" W – 20.00 feet; Thence N 40°20'41" E – 99.76 feet; Thence S 49°39'19" E – 20.00 feet; Thence S 40°20'41" W – 99.76 feet to the POINT OF BEGINNING, containing 1995 sq. ft. (0.05 Acres), more or less.

PROJECT LEGAL DESCRIPTION

A PART OF THE SE 1/4 OF THE NW 1/4 AND A PART OF THE NE 1/4 OF THE SW 1/4 OF SECTION 25, T-17-N, R-30-W, DESCRIBED AS BEGINNING AT A POINT WHICH IS S 02°37'31" W – 900.40 FEET FROM THE NE CORNER OF SAID SE 1/4 OF THE NW 1/4, THENCE S 02°37'31" W – 657.71 FEET; THENCE S 46° 13' 54" W – 145.00 FEET; THENCE N 84° 09' 18" W – 244.61 FEET; THENCE SOUTH – 201.01 FEET TO THE CENTERLINE OF MUD CREEK; THENCE ALONG SAID CENTERLINE S 69° 15' 23" W – 213.42 FEET; THENCE S 88° 42' 53" W – 151.63 FEET; THENCE N 69° 31' 52" W – 149.26 FEET; THENCE N 46°04'37" W – 196.04 FEET; THENCE N 29° 25' 07" W – 477.65 FEET; THENCE LEAVING SAID MUD CREEK CENTERLINE N 02° 37' 10" E – 469.28 FEET; THENCE S 87°09'49" E – 1225.06 FEET TO THE POINT OF BEGINNING, CONTAINING 24.20 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

PARK LEGAL DESCRIPTION

A PART OF THE NE 1/4 OF THE SW 1/4 AND A PART OF THE NW1/4 OF THE SE1/4 OF SECTION 25, T-17-N, R-30-W, DESCRIBED AS BEGINNING AT A POINT WHICH IS S 02°37'31" W – 1558.11 FEET FROM THE NE CORNER OF THE SE1/4 OF THE NW 1/4 OF SAID SECTION 25, THENCE EAST – 163.00 FEET TO THE RIGHT OF WAY OF OLD MISSOURI ROAD; THENCE ALONG SAID RIGHT OF WAY S 23°04'11" W – 49.58 FEET; THENCE S 22°06'57" W – 207.23 FEET; THENCE S 11° 06' 10" W – 27.44 FEET; THENCE S 05°7'16" W – 93.76 FEET TO THE CENTERLINE OF MUD CREEK; THENCE ALONG THE CENTERLINE OF MUD CREEK S 83° 40' 24" W – 20.28 FEET; THENCE N 66°52'51" W – 58.75 FEET; THENCE N 79° 35' 57" W – 338.12 FEET; THENCE LEAVING SAID CENTERLINE NORTH – 201.01 FEET TO THE NORTH SIDE OF DEDICATED UTILITY EASEMENT; THENCE S 84° 09' 18" E – 244.61 FEET; THENCE LEAVING SAID EASEMENT N 46° 13' 54" E – 145.00 FEET TO THE POINT OF BEGINNING, CONTAINING 2.64 ACRES MORE OR LESS.



LEGEND

U.E. = UTILITY EASEMENT
D.E. = DRAINAGE EASEMENT
PROPERTY LINE
–R/W– RIGHT OF WAY LINE
PRIVATE STREET CURBING
PROPERTY CORNERS
DIRECTIONAL CHANGE
UTILITY & MULTI-USE TRAIL EASEMENT LINE

EASEMENT CURVE DATA

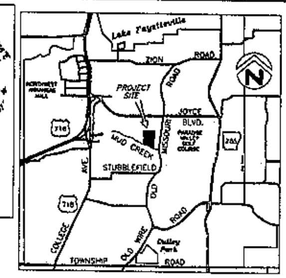
CURVE	LENGTH	RADIUS	CHORD
A	131.21'	152.00'	N 27°46'37" W – 127.42'
B	146.74'	177.00'	N 25°28'04" W – 142.57'
C	23.20'	138.00'	N 3°05'53" E – 23.17'
D	15.89'	177.00'	N 8°23'30" E – 15.89'
E	29.18'	137.60'	S 28°14'10" W – 29.12'
F	196.07'	176.60'	S 58°21'53" W – 187.85'
G	39.91'	137.60'	S 80°11'11" W – 39.77'
H	13.22'	123.00'	S 85°17'20" W – 13.21'
I	29.08'	143.00'	N 41°10'28" W – 29.03'
J	52.35'	143.00'	N 7°11'29" W – 52.06'
K	159.77'	182.00'	N 21°51'06" W – 154.68'
L	187.31'	1048.00'	S 87°26'37" W – 187.06'
M	169.96'	1087.00'	S 86°41'20" W – 169.79'
N	129.99'	1087.00'	N 84°21'14" W – 129.90'
O	120.06'	1067.00'	N 84°11'40" W – 120.00'
P	101.23'	162.00'	N 58°16'28" W – 99.60'
Q	115.68'	182.00'	N 58°14'18" W – 113.74'
R	193.74'	327.50'	N 18°48'23" W – 190.92'
S	56.32'	287.55'	N 30°08'33" W – 56.23'
T	127.21'	307.00'	N 12°39'41" W – 126.30'
U	29.33'	156.50'	N 7°59'15" E – 29.28'
V	29.37'	176.50'	N 7°23'09" E – 29.33'
W	16.85'	166.50'	N 44°16'47" W – 16.85'
X	31.01'	166.50'	N 46°59'24" W – 30.97'
Y	16.28'	268.00'	N 0°39'57" E – 16.27'

NOTES :

(1) ALL BUILDING SETBACKS ARE 25' FROM THE OUTSIDE PROPERTY LINES.
(2) ALL PROPOSED STREETS ARE PRIVATE.
(3) ALL DRAINAGE PIPES, DITCHES, CHANNELS, ETC. LOCATED IN THE DEVELOPMENT WILL BE PRIVATELY OWNED AND MAINTAINED.
(4) DESCRIPTION BASED ON SURVEY BY: DOUGLAS G. HEMINGWAY, AR. P.L.S. NO. 857 DATED: APRIL 23, 1997, DRAWING NO. A-2414.
(5) BASIS FOR BEARINGS DERIVED FROM MONUMENTS H-7 AND I-7 FOR THE CITY OF FAYETTEVILLE, ARKANSAS-GROUND CONTROL AERIAL PHOTOGRAPHY DIGITAL MAPPING PROJECT, CONTROL DATA PUBLISHED DECEMBER 1995.

VICINITY MAP

1"=5280'



ZONING CLASSIFICATION : R-2 (BUTTERFIELD TRAIL VILLAGE EXPANSION)

ACREAGE : BUTTERFIELD TRAIL VILLAGE EXPANSION – 24.20 ACRES
PARK AREA (AS SHOWN) — 2.64 ACRES
TOTAL ACREAGE – 26.84 ACRES

OWNER / DEVELOPER : BILL MCKISER
BUTTERFIELD TRAIL VILLAGE, INC.
1923 E. JOYCE BLVD.
FAYETTEVILLE, ARKANSAS 72703

ENGINEER : McCLELLAND CONSULTING ENGINEERS, INC.
1810 NORTH COLLEGE AVENUE
FAYETTEVILLE, ARKANSAS 72703

CERTIFICATE OF OWNERSHIP & DEDICATION :

WE THE UNDERSIGNED OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN DO HEREBY DEDICATE TO THE CITY OF FAYETTEVILLE AND ALL UTILITY COMPANIES, AS LISTED ON THIS PLAT, INCLUDING CABLE TELEVISION COMPANIES, THE EASEMENTS AS SHOWN ON THIS PLAT FOR THE PURPOSE OF INSTALLATION OF NEW FACILITIES AND THE REPAIR OF EXISTING FACILITIES. ALSO ESTABLISHED HEREBY IS THE RIGHT OF INGRESS AND EGRESS TO SAID EASEMENTS, THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHING SAID EASEMENTS.

DATE ______ OWNER ______
DATE ______ OWNER ______

CERTIFICATE OF APPROVAL OF UTILITY EASEMENTS :

WE HEREBY CERTIFY THAT ALL UTILITY EASEMENTS PLATTED IN THIS DEVELOPMENT ARE SHOWN AS REQUESTED AND WERE APPROVED BY THE UNDERSIGNED UTILITIES OPERATING IN THE CITY OF FAYETTEVILLE, ARKANSAS.

DATE ______ ELECTRIC REPRESENTATIVE ______
DATE ______ GAS SERVICE REPRESENTATIVE ______
DATE ______ TELEPHONE REPRESENTATIVE ______
DATE ______ CABLE TELEVISION REPRESENTATIVE ______
DATE ______ CITY OF FAYETTEVILLE REPRESENTATIVE ______

CERTIFICATE OF APPROVAL FOR RECORDING :

I HEREBY CERTIFY THAT THE EASEMENT PLAT FOR THIS PROJECT WAS APPROVED BY THE FAYETTEVILLE PLANNING COMMISSION AT A MEETING HELD ON ______ MONTH ______ DAY, ______ YEAR

DATE ______ FAYETTEVILLE CITY PLANNER ______

CERTIFICATE OF SURVEY & ACCURACY :

I HEREBY CERTIFY THAT THIS PLAT REPRESENTS A SURVEY MADE UNDER MY SUPERVISION.

DATE ______ TYRONE G. VINSON – ARLS NO. 1130
REGISTERED LAND SURVEYOR

REVISIONS: NO. | DATE | DRN. | APPV'D | DESCRIPTION

McClelland Consulting Engineers Incorporated — Designed To Serve
Fayetteville 1810 N. College
Little Rock 900 W. Markham

BUTTERFIELD TRAIL VILLAGE EXPANSION
FAYETTEVILLE, AR.

TITLE: EASEMENT PLAT

DRAWN BY: BONES	APPROVED: OLH
SCALE: 1"=100'	DATE: APR. 2001
JOB. NO.: FY982149	FIELD BOOK
SHEET NO.: 1 OF 1	REV.

**UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 12-11-08

Utility Company: OZARKS ELECTRIC

Applicant Name: Mike Morgan Applicant Phone: 479-443-2377

REQUESTED VACATION (*applicant must check all that apply*):

- [x] Utility Easement
- [ ] Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- [ ] Alley
- [ ] Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- [x] No objections to the vacation(s) described above.
- [ ] No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions and purpose below.)

No objections provided the following conditions are met:

Signature of Utility Company Representative

Lead Staking Tech
Title

**UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 12-11-08

Utility Company: Cox Communications

Applicant Name: Mike Morgan Applicant Phone: 479-443-2377

REQUESTED VACATION *(applicant must check all that apply)*:

- [X] Utility Easement
- [ ] Right-of-way for alley or streets and all utility easements located within the vacated right-of- way.
- [ ] Alley
- [ ] Street right-of-way

I have been notified of the petition to vacate the following (alley, casement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- [ ] No objections to the vacation(s) described above.
- [X] No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:
Any relocation of existing facilities will be at the developer's expense.

Signature of Utility Company Representative

Construction Surveyor
Title

**UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 12-11-08

Utility Company: AEP / SWEPCO

Applicant Name: Mike Morgan Applicant Phone: 479-443-2377

REQUESTED VACATION *(applicant must check all that apply):*

- [X] Utility Easement
- [ ] Right-of-way for alley or streets and all utility easements located within the vacated right-of- way.
- [ ] Alley
- [ ] Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed)**

____

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- [X] No objections to the vacation(s) described above.
- [ ] No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

____

____

____

No objections provided the following conditions are met:

____

____

____

Sammie Winkler
Signature of Utility Company Representative

RIGHT-OF-WAY AGENT
Title

**UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 12-11-08

Utility Company: ARKANSAS WESTERN GAS

Applicant Name: Mike Morgan Applicant Phone: 479-443-2377

REQUESTED VACATION *(applicant must check all that apply)*:

- [x] Utility Easement
- [ ] Right-of-way for alley or streets and all utility easements located within the vacated right-of- way.
- [ ] Alley
- [ ] Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed)**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- [x] No objections to the vacation(s) described above.
- [ ] No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Signature of Utility Company Representative

NORTHWEST REGIONAL MANAGER
Title

UTILITY APPROVAL FORM FOR RIGHT-OF-WAY, ALLEY AND UTILITY EASEMENT VACATIONS

DATE: 12/16/08

UTILITY COMPANY: Southwestern Bell Telephone Co. d.b.a. AT&T Arkansas

REQUESTED VACATION: **utility easement**

I have been notified of the petition to vacate the following right-of-way for the Butterfield Trail Village Subdivision

Described as follows:

A part of the SE ¼ of the NW ¼ of Section 25, T-17-N, R-30-W, being more particularly described as follows: from the NE corner of the SE ¼ of the NW ¼ of said Section 25, thence S 2°37'31" W 900.40 feet; thence N 87°09'49" W 428.10 feet; thence S 2°50'11" W 107.27 feet; thence S 41°52'10" W 324.91 feet; thence N 48°07'50" W 91.68feet; thence N 49°39'19" W 171.51 feet to the point of beginning; thence N 49°39'19" W 20.00 feet; thence 40°20'41" E 99.76 feet to the point of beginning, containing 1995 square feet (0.05 acres), more or less.

UTILITY COMPANY COMMENTS: No objections to the vacation described above.

Signature of this form does not constitute a release of easement. The attached Concurrence must be recorded at the Washington County courthouse in order for this release to be complete and legal.

Signature of AT&T Company Representative:

Lynda E. Sommerfeldt Palmer

Lynda E. Sommerfeldt Palmer, Mgr.-Engr. (ROW)

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 12-11-08

Utility Company:

Applicant Name: Mike Morgan Applicant Phone: 479-443-2377

REQUESTED VACATION (*applicant must check all that apply*):

- [ ] Utility Easement
- [ ] Right-of-way for alley or streets and all utility easements located within the vacated right-of- way.
- [ ] Alley
- [ ] Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed)**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- [x] No objections to the vacation(s) described above.
- [ ] No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Signature of Utility Company Representative

Water & Wastewater Ops Mgr.
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 12-11-08

Utility Company: CITY OF FAYETTEVILLE TRANSPORTATION DIVISION

Applicant Name: Mike Morgan Applicant Phone: 479-443-2377

REQUESTED VACATION *(applicant must check all that apply)*:

- [x] Utility Easement
- [ ] Right-of-way for alley or streets and all utility easements located within the vacated right-of- way.
- [ ] Alley
- [ ] Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed)**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- [x] No objections to the vacation(s) described above.
- [ ] No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Signature of Utility Company Representative

ASSISTANT TRANSPORTATION MANAGER

Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 12-11-08

Utility Company: Fayetteville Solid Waste + Recycling

Applicant Name: Mike Morgan   Applicant Phone: 479-443-2377

REQUESTED VACATION *(applicant must check all that apply)*:

- [ ] Utility Easement
- [ ] Right-of-way for alley or streets and all utility easements located within the vacated right-of- way.
- [ ] Alley
- [ ] Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed)**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- [x] No objections to the vacation(s) described above.
- [ ] No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

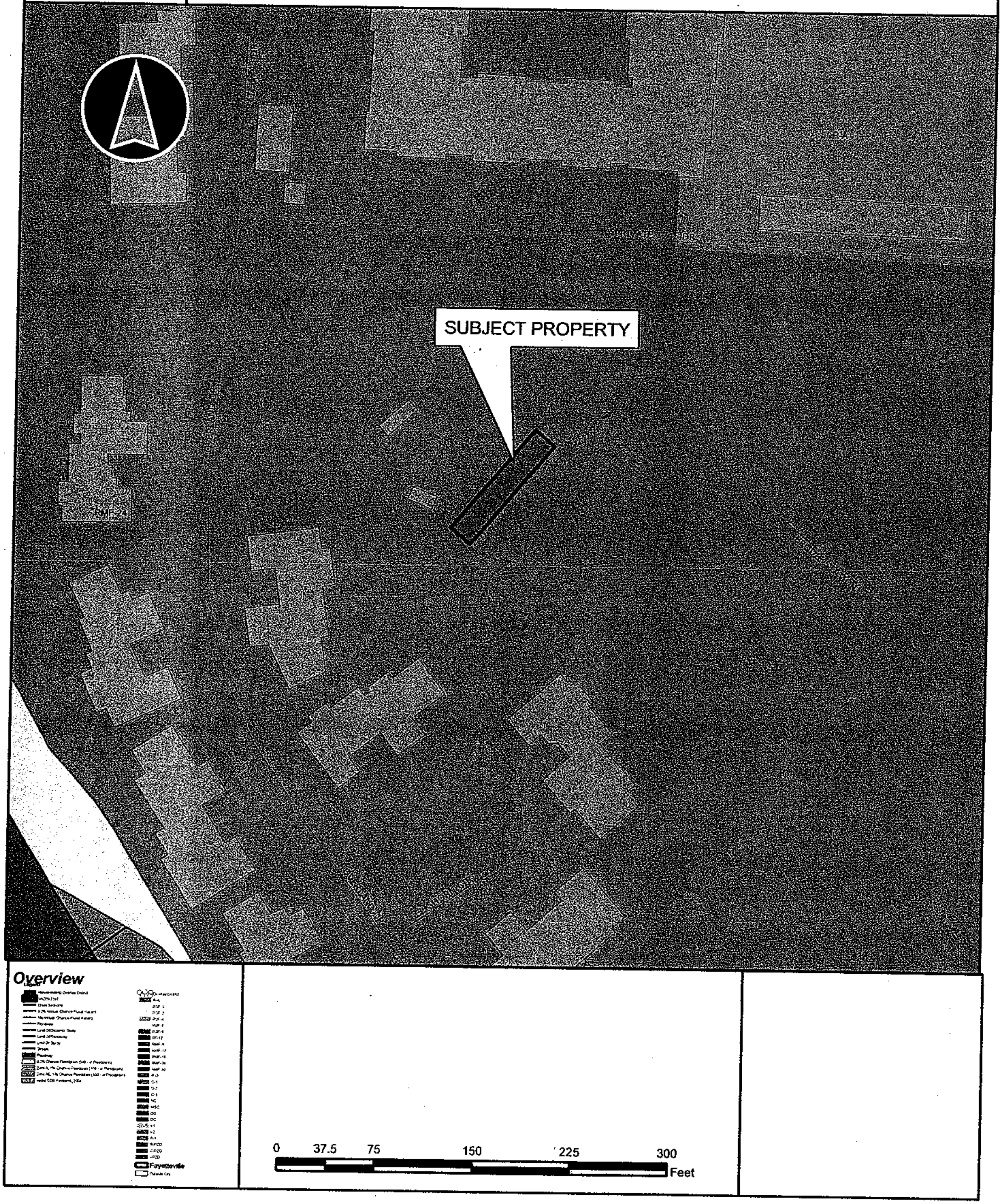
Brian Pugh
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

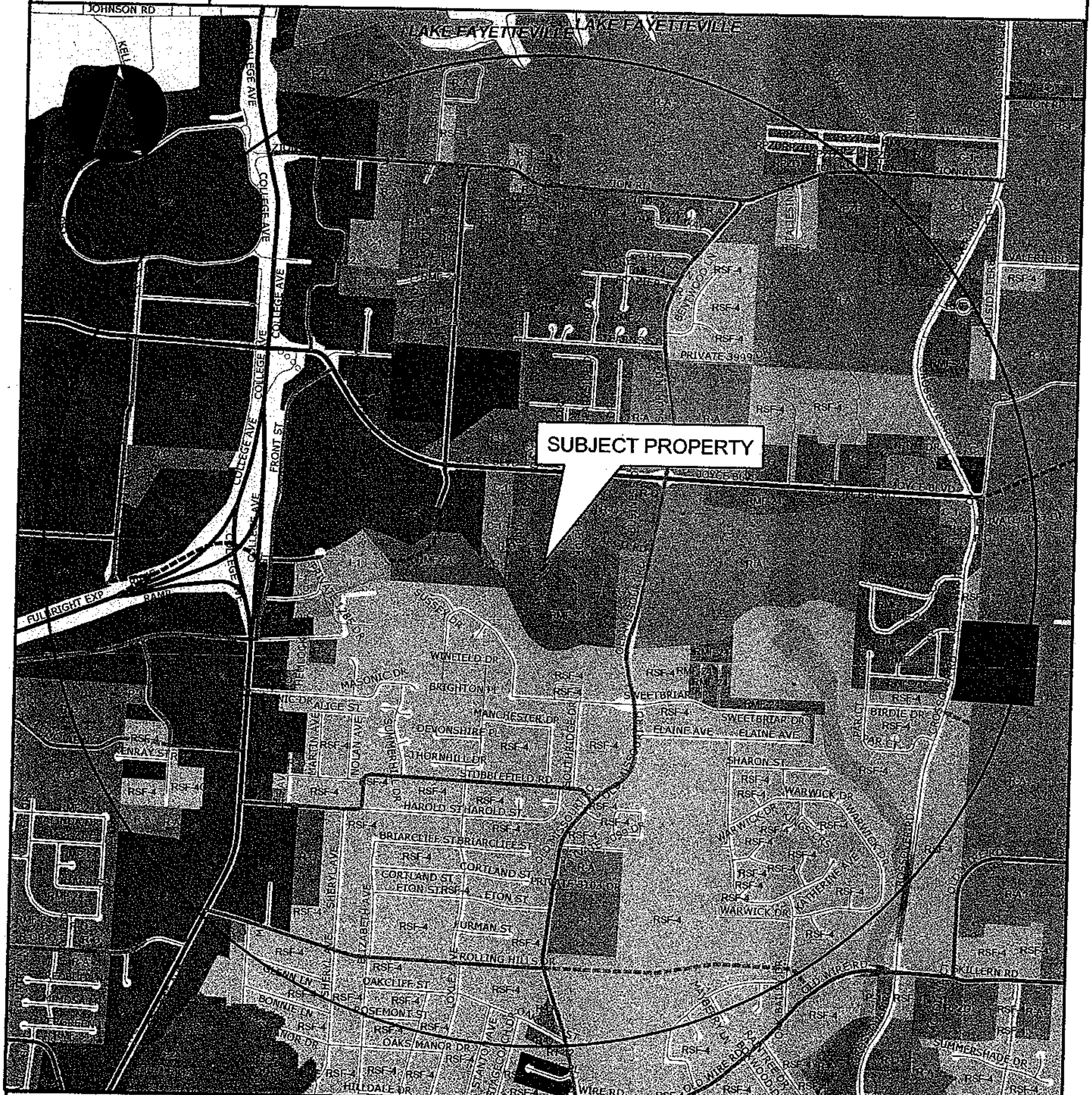
VAC09-3197

Close Up View

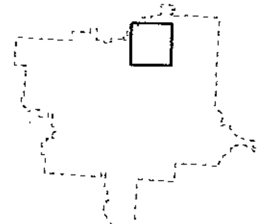
BUTTERFIELD TRAIL VILLAGE



VAC09-3197	BUTTERFIELD TRAIL VILLAGE
One Mile View	



Overview



Legend

Subject Property

VAC09-3197

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/3/2009
City Council Meeting Date
Agenda Items Only

Leif Olson	Planning	Operations
Submitted By	**Division**	**Department**

Action Required:

ADM 09-3198: (UDC Amendment): An ordinance to amend Ch. 161: Zoning Districts to amend and unify building setbacks and building height regulations in single-family and multi-family residential zoning districts.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Department Director ______ Date ______

City Attorney: D. J. Whit... Date: 2/13/09

Finance and Internal Services Director: Paul A. Becker Date: 2-13-09

Chief of Staff Date: 2/13/09

Mayor Date: 2/13/09

Received in City Clerk's Office — ENTERED 2-12-09

Received in Mayor's Office — ENTERED 2/13/09

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Operations DM
Jeremy Pate, Director of Current Planning JP
Karen Minkel, Interim Director of Long Range Planning K.M.

From: Leif Olson, Long Range Planner

Date: February 12, 2009

Subject: UDC Ch. 161 Zoning Regulations Amendments (ADM 09-3198)

RECOMMENDATION

On March 18, 2008 the Fayetteville City Council approved Ordinance No. 5118, adopting Urban Residential Design Standards (URDS). The URDS call for buildings to locate and orient structures close to the street right-of-way. The proposed ordinance will amend and unify building setbacks and building height regualtions in multi-family zoning districts in order to codify the preferable building form intended by the URDS. Staff also proposes amending and clarifying the method for regulating and measuring building heights in residential office and multi-family zoning districts when located adjacent to single-family zoning districts. Finally, staff is proposing to reduce the front building setbacks in certain single-family zoning districts to allow greater flexibilty in home design and site considerations while encouraging traditional neighborhood design with homes that address the street.

BACKGROUND

Zoning district regulations such as building setbacks, building height limits and lot width minimums determine the building form and site planning for new development. The adoption of additional design standards necessitates amendments to applicable zoning districts in order to codify the intent of the design standards. Amendments to the single-family zoning districts is intended to further the City Plan 2025 goal of encouraging traditional neighborhood design by encouraging homes and porches to address the street through reduced front setbacks.

DISCUSSION

This item was heard at the regular Planning Commission meeting on February 9, 2009 and forwarded by vote of 8-0 with a recommendation for approval to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. ________

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CODE OF FAYETTEVILLE TO AMEND CHAPTER 161: ZONING DISTRICTS IN ORDER TO AMEND AND UNIFY BUILDING SETBACK AND BUILDING HEIGHT REGULATIONS IN RESIDENTIAL SINGLE-FAMILY AND MULTI-FAMILY ZONING DISTRICTS.

WHEREAS, the City of Fayetteville has adopted Urban Residential Design Standards that requires buildings to front city streets and locate parking behind the structure; and

WHEREAS, the Zoning Regulations in Chapter 161 dictate building placement and structure heights; and

WHEREAS, the City of Fayetteville recognizes that the Zoning Regulations, Design Guidelines and methods of measuring building placement and height should be consistent;

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

Section 1. That Chapter 161: Zoning Regulations is amended by repealing and replacing specific sections, a copy of which marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this the ____ day of ____, 2009.

APPROVED:

By: __________________________________
LIONELD JORDAN, Mayor

ATTEST:

By: __________________________________
SONDRA SMITH, City Clerk

Exhibit "A"
Chapter 161: Zoning Regulations is amended by removing and replacing the following sections.

161.04 District RSF-.5, Residential Single-Family – One Half Unit Per Acre

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of two acres and a maximum gross density of approximately one-half unit per acre.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half (approximately)

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot area minimum	71,438 Sq. Ft.
Land area per dwelling unit	71,438 Sq. Ft.

(E) *Setback requirements.*

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

(F) *Building height regulations.*

Building Height Maximum	45 Ft

Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(G) *Building area.* None.

(Code 1991, §160.043; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.05 District RSF-1, Residential Single-Family – One Unit Per Acre

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of one unit per acre. The district is designed to permit and encourage the development of very low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(D) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(E) *Density.*

Units per acre	1

(F) *Bulk and area regulations.*

Lot width minimum	150 ft.
Lot area minimum	35,720 Sq. Ft.
Land area per dwelling unit	35,720 Sq. Ft.

(G) *Setback requirements.*

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

(H) *Building height regulations.*

Building Height Maximum	45 Ft

Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(I) *Building area.* None.

(Code 1965, §160.44; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.06 District RSF-2, Residential Single-Family – Two Units Per Acre

(A) *Purpose.* To provide a single-family dwelling transition zone between single-family neighborhoods that have developed with larger lot sizes (one acre and over) and areas that have developed with smaller lot sizes (8,000 sq. ft.), and to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(D) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(E) Density.

Units per acre	2

(F) *Bulk and area regulations.*

Lot width minimum	100 ft.
Lot area minimum	17,860 Sq. Ft.
Land area per dwelling unit	17,860 Sq. Ft.

(G) *Setback requirements.*

Front	Side	Rear
30 ft.	15 ft.	30 ft.

(H) *Building height regulations.*

Building Height Maximum	45 Ft

Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(I) *Building area.* None.

(Code 1991, §160.045; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(F) *Building height regulations.*

Building Height Maximum	45 Ft

Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.08 District RSF-7, Residential Single-Family – Seven Units Per Acre

(A) *Purpose.* The RSF-7 Residential District is designed to permit and encourage the development of detached dwellings in suitable environments.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Single-family dwelling units per acre	7 or less

(D) *Bulk and area regulations.*

(E) Lot width minimum.

Single-family	60 ft.
Two-family	60 ft.
Townhouse, no more than two attached	30 ft.

(F) Lot area minimum.

Single-family	6,000 sq. ft.
Two-family	6,000 sq. ft.
Townhouse, no more than two attached	3,000 sq. ft.

(G) Land area per dwelling unit.

Single-family	6,000 sq. ft.
Two-family	3,000 sq. ft.
Townhouse, no more than two attached	3,000 sq. ft.

(H) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(I) *Building height regulations.*

Building Height Maximum	45 Ft

Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(J) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area.

(Code 1991, §160.046; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.09 District RSF-8, Residential Single-Family – 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building Height Maximum	45 ft.

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

(Ord. 4783, 10-18-05; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

Cross reference(s)--Variance, Ch. 156.

161.10 District RT-12, Residential Two And Three Family

(A) *Purpose.* The RT-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings

Unit 10	Three-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	12 or less

(D) *Bulk and area regulations.*

	Single-family	Two-family	Three-family
Lot width minimum	60 ft.	70 ft.	90 ft.
Lot area minimum	6,000 sq. ft.	7,260 sq. ft.	10,890 sq. ft.
Land area per dwelling unit	6,000 sq. ft.	3,630 sq. ft.	3,630 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
10 ft.	8 ft.	20 ft.

(F) *Height regulations.*

Building height maximum	45 ft.

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area.

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07)

Cross reference(s)--Variance, Ch. 156.

161.11 District RMF-6, Residential Multi-Family – Six Units Per Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	6 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a Manufactured home park	4,200 sq. ft.
Townhouse: •Development •Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments: No bedrooms	 1,700 sq. ft.

One bedroom Two or more bedrooms	1,700 sq. ft. 2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
10 ft.	8 ft.	25 ft.

Cross reference(s)--Variances, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60Ft

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07)

161.12 District RMF-12, Residential Multi-Family – Twelve Units Per Acre

(A) *Purpose.* The RMF-12 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a moderate density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	12 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse: Development Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

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

(E) *Setback requirements.*

Front	Side	Rear
10 ft.	8 ft.	25 ft.

Cross reference(s)--Variances, Ch. 156

(F) *Building height regulations.*

Building Height Maximum	60 Ft.

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07)

161.13 District RMF-18, Residential Multi-Family – Eighteen Units Per Acre

(A) *Purpose.* The RMF-18 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a medium density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	18 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse: Development Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

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

(E) *Setback requirements.*

Front	Side	Rear
10 ft.	8 ft.	25 ft.

Cross reference(s) --Variances, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60 ft.

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07)

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

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

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings

Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	24 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses: Development Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land area per dwelling unit.*

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

(E) *Setback requirements.*

Front	Side	Rear
10 ft.	8 ft.	25 ft.
HHOD Front	HHOD Side	HHOD Rear
15 ft.	8 ft.	15 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60Ft

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5079, 11-20-07)

161.15 District RMF-40, Residential Multi-Family – Forty Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

Unit 2	City-wide uses by CUP
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 24	Home occupation
Unit 25	Professional offices

Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	40 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

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

(3) *Land area per dwelling unit.*

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

(E) *Setback requirements.*

Front	Side	Rear
10 ft.	8 ft.	20 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60Ft

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07)

161.16 District R-O, Residential Office

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

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

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

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

(3) *Land area per dwelling unit.*

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

(D) *Density.*

Units per acre	24 or less

(E) *Setback regulations.*

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

(F) *Building height regulations.*

Building Height Maximum	60 ft.

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district an additional distance of one foot for each foot of height in excess of 20 feet.

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

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4726, 7-19-05; Ord. 4943, 11-07-06; Ord. 5079, 11-20-07; Ord. 5195, 11-6-08)

PC Meeting of February 9, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO:	Fayetteville Planning Commission
FROM:	Leif Olson, Long Range Planner
THRU:	Karen Minkel, Interim Director of Long Range Planning
DATE:	January 16, 2009

ADM 09-3198: Administrative Item (Amendment to Chapter 161: Zoning Regulations) Submitted by Planning Staff to amend and unify building setbacks and building height regulations in residential single-family and multi-family zoning districts.

Planner: Leif Olson

BACKGROUND

The City Council adopted Urban Residential Design Standards (URDS) in March of 2008. URDS called for multi-family residential projects to locate and orient structures to the public right of way. However, the multi-family zoning districts, RT-12, RMF-6, RMF-12, RMF-24, and RMF-40 all require a 25-foot front setback. This ordinance will clarify the intent of the URDS by requiring a minimum of a 10-foot front setback. This will allow development to locate in the front build-to-zone of 10-feet to 25-feet as required by the URDS.

Additionally, the height requirements in the Multi-family and Residential Office zoning districts have a requirement for a side setback of an additional foot of setback for every foot of building height in excess of 20 feet. This regulation is intended to provide compatibility with adjacent uses; however, it is too vague and its interpretation does not allow for a variety of instances when the additional setback would be un-necessary or counter productive. Ultimately, this regulation conflicts with the intent of URDS to create a meaningful streetscape because it will force projects to center structures on the lot with large side yards and parking in most cases. Planning staff proposes amending the height and setback language to apply only in instances where multi-family or residential office districts are located adjacent to single family districts.

Planning staff also recommends reducing the front building setback in the RSF-4 and RSF-7 Zoning districts from 25 feet to 15 feet. This will allow for greater flexibility in home design and site considerations while encouraging traditional neighborhood design with homes that address the street. This will allow for a reduced front setback that will encourage the use of front porches in both old and new neighborhoods and reduce the number of variance requests that are processed for the city's established traditional neighborhoods. Other single family districts such as the RSF-8, Neighborhood Conservation and Downtown General zoning districts already have reduced front setbacks or build-to zones so they are not included. Additionally, the RSF-0.5, RSF-1 and RSF-2 zoning districts have not been amended because they have large lot area requirements and a suburban or rural nature.

Amendments have also been made to remove any redundancies in the code such as the method for measuring building heights in the Hillside/Hilltop Overlay District that has been adopted citywide for all structures in all zoning districts.

RECOMMENDATION

Planning Staff recommends approval of ADM 09-3198 to amend and unify building setbacks and building height regulations in residential single-family and multi-family zoning districts.

Planning Commission Action: ☐ Approved ☐ Denied ☐ Tabled

Motion: ____________________
Second: ____________________
Vote: ____________________

Meeting Date: **February 9, 2008**

Comments: ____

ORDINANCE NO. _______

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CODE OF FAYETTEVILLE TO AMEND CHAPTER 161: ZONING DISTRICTS IN ORDER TO AMEND AND UNIFY BUILDING SETBACK AND BUILDING HEIGHT REGULATIONS IN RESIDENTIAL SINGLE-FAMILY AND MULTI-FAMILY ZONING DISTRICTS.

WHEREAS, the City of Fayetteville has adopted Urban Residential Design Standards that requires buildings to front city streets and locate parking behind the structure; and

WHEREAS, the Zoning Regulations in Chapter 161 dictate building placement and structure heights; and

WHEREAS, the City of Fayetteville recognizes that the Zoning Regulations, Design Guidelines and methods of measuring building placement and height should be consistent;

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

Section 1. That Chapter 161: Zoning Regulations is amended by repealing and replacing specific sections, a copy of which marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this the ____ day of ____, 2009.

APPROVED:

By: ______________________________
LIONELD JORDAN, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

Exhibit "A"

Chapter 161: Zoning Regulations is amended by removing and replacing the following sections.

161.04 District RSF-.5, Residential Single-Family – One Half Unit Per Acre

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of two acres and a maximum gross density of approximately one-half unit per acre.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half (approximately)

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot area minimum	71,438 Sq. Ft.
Land area per dwelling unit	71,438 Sq. Ft.

(E) *Setback requirements.*

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

(F) *Building height regulations.*

Building Height Maximum	45 Ft

Height regulations. Structures in this District are limited to a building height of 45 feet. ~~The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission.~~ Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(G) *Building area.* None.

(Code 1991, §160.043; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.05 District RSF-1, Residential Single-Family – One Unit Per Acre

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of one unit per acre. The district is designed to permit and encourage the development of very low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(D) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities

Unit 24	Home occupations
Unit 36	Wireless communications facilities

(E) *Density.*

Units per acre	1

(F) *Bulk and area regulations.*

Lot width minimum	150 ft.
Lot area minimum	35,720 Sq. Ft.
Land area per dwelling unit	35,720 Sq. Ft.

(G) *Setback requirements.*

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

(H) ***Building height regulations.***

Building Height Maximum	**45 Ft**

Height regulations. Structures in this District are limited to a building height of 45 feet. ~~The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission~~. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(I) *Building area.* None.

(Code 1965, §160.44; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.06 District RSF-2, Residential Single-Family – Two Units Per Acre

(A) *Purpose.* To provide a single-family dwelling transition zone between single-family neighborhoods that have developed with larger lot sizes (one acre and over) and areas that have developed with smaller lot sizes (8,000 sq. ft.), and to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(D) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(E) Density.

Units per acre	2

(F) *Bulk and area regulations.*

Lot width minimum	100 ft.
Lot area minimum	17,860 Sq. Ft.
Land area per dwelling unit	17,860 Sq. Ft.

(G) *Setback requirements.*

Front	Side	Rear
30 ft.	15 ft.	30 ft.

(H) ***Building height regulations.***

Building Height Maximum	**45 Ft**

Height regulations. Structures in this District are limited to a building height of 45 feet. ~~The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission~~. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(I) *Building area.* None.

(Code 1991, §160.045; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) ***Setback requirements.***

Front	**Side**	**Rear**
15 ft.	**5 ft.**	**15 ft.**

(F) ***Building height regulations.***

Building Height Maximum	**45 Ft**

Height regulations. Structures in this District are limited to a building height of 45 feet. ~~The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission.~~ Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.08 District RSF-7, Residential Single-Family – Seven Units Per Acre

(A) *Purpose.* The RSF-7 Residential District is designed to permit and encourage the development of detached dwellings in suitable environments.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Single-family dwelling units per acre	7 or less

(D) *Bulk and area regulations.*

(E) Lot width minimum.

Single-family	60 ft.
Two-family	60 ft.
Townhouse, no more than two attached	30 ft.

(F) Lot area minimum.

Single-family	6,000 sq. ft.
Two-family	6,000 sq. ft.

Townhouse, no more than two attached	3,000 sq. ft.

(G) Land area per dwelling unit.

Single-family	6,000 sq. ft.
Two-family	3,000 sq. ft.
Townhouse, no more than two attached	3,000 sq. ft.

(H) ***Setback requirements.***

Front	Side	Rear
15 ft.	**5 ft.**	**15 ft.**

(I) ***Building height regulations.***

Building Height Maximum	**45 Ft**

Height regulations. Structures in this District are limited to a building height of 45 feet~~. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission~~. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(J) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area.

(Code 1991, §160.046; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.09 District RSF-8, Residential Single-Family – 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building Height Maximum	45 ft.

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

(Ord. 4783, 10-18-05; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

Cross reference(s)--Variance, Ch. 156.

161.10 District RT-12, Residential Two And Three Family

(A) *Purpose.* The RT-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	12 or less

(D) Bulk and area regulations.

	Single-family	Two-family	Three-family
Lot width minimum	60 ft.	70 ft.	90 ft.
Lot area minimum	6,000 sq. ft.	7,260 sq. ft.	10,890 sq. ft.
Land area per dwelling unit	6,000 sq. ft.	3,630 sq. ft.	3,630 sq. ft.

(E) ***Setback requirements.***

Front	Side	Rear
10 ft.	8 ft.	20 ft.

(F) ***Height regulations.***

Building height maximum	**45 ft.**

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area.

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07)

Cross reference(s)--Variance, Ch. 156.

161.11 District RMF-6, Residential Multi-Family – Six Units Per Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) ***Density.***

Units per acre	**6 or less**

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.

Two-family	60 ft.
Three and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a Manufactured home park	4,200 sq. ft.
Townhouse: •Development •Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

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

(E) ***Setback requirements.***

Front	Side	Rear
10 ft.	8 ft.	25 ft.

Cross reference(s)--Variances, Ch. 156.

(F) ***Building height regulations.***

Building Height Maximum	**60Ft**

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line **of an adjacent single family district,** an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07)

161.12 District RMF-12, Residential Multi-Family – Twelve Units Per Acre

(A) *Purpose.* The RMF-12 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a moderate density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) ***Density.***

Units per acre	**12 or less**

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse: Development Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

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

(E) ***Setback requirements.***

Front	Side	Rear
10 ft.	8 ft.	25 ft.

Cross reference(s)--Variances, Ch. 156

(F) ***Building height regulations.***

Building Height Maximum	**60 Ft.**

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line **of an adjacent single family district,** an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07)

161.13 District RMF-18, Residential Multi-Family – Eighteen Units Per Acre

(A) *Purpose.* The RMF-18 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a medium density that is appropriate to the area.

(B) *Uses.*
(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) ***Density.***

Units per acre	**18 or less**

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse: Development Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

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

(E) ***Setback requirements.***

Front	Side	Rear
10 ft.	8 ft.	25 ft.

Cross reference(s) --Variances, Ch. 156.

(F) ***Building height regulations.***

Building Height Maximum	**60 ft.**

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line **of an adjacent single family district,** an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07)

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

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) ***Density.***

Units per acre	**24 or less**

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses: Development Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land area per dwelling unit.*

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

(E) ***Setback requirements.***

Front	Side	Rear
10 ft.	8 ft.	25 ft.
HHOD Front	HHOD Side	HHOD Rear
15 ft.	8 ft.	15 ft.

Cross reference(s)--Variance, Ch. 156.

(F) ***Building height regulations.***

Building Height Maximum	**60Ft**

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line **of an adjacent single family district,** 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~~.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No.

4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5079, 11-20-07)

161.15 District RMF-40, Residential Multi-Family – Forty Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) ***Density.***

Units per acre	**40 or less**

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

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

(3) *Land area per dwelling unit.*

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

(E) ***Setback requirements.***

Front	Side	Rear
10 ft.	8 ft.	20 ft.

Cross reference(s)--Variance, Ch. 156.

(F) ***Building height regulations.***

Building Height Maximum	**60Ft**

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line **of an adjacent single family district,** an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07)

161.16 District R-O, Residential Office

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

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings

Unit 12	Offices, studios and related services
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

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

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

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

(3) *Land area per dwelling unit.*

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

(D) ***Density.***

Units per acre	**24 or less**

(E) ***Setback regulations.***

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

(F) ***Building height regulations.***

Building Height Maximum	**60 ft.**

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line **of an adjacent single family district** 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~~

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

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4726, 7-19-05; Ord. 4943, 11-07-06; Ord. 5079, 11-20-07; Ord. 5195, 11-6-08)

ADM 09-3198: (AMENDMENT TO CH. 161: ZONING REGULATIONS): Submitted by Planning Staff to amend and unify building setbacks and building height regulations in residential single- and multi-family zoning districts.

Jeremy Pate, Director of Current Planning, gave the staff report, recommending forwarding to City Council with a recommendation of approval.

No public comment was received.

Motion:

Commissioner Anthes made a motion to forward the request to City Council with a recommendation of approval **Commissioner Cabe** seconded the motion. **Upon roll call the motion passed with a vote of 8-0-0.**

All business being concluded, the meeting was adjourned at 7:00 PM.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/3/2009
City Council Meeting Date
Agenda Items Only

Jeremy Pate	Planning	Operations
Submitted By	**Division**	**Department**

Action Required:

ADM 09-3205 (UDC Ch. 164.11 Height and Setback Regulations; Exceptions): An ordinance amending Ch. 164.11 of the Unified Development Code to permit zero lot line and common wall development.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date

City Attorney — Date 2-13-09

Paul A. Becker 2-13-09

Chief of Staff — Date 2/13/09

Mayor — Date 2/13/09

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office — ENTERED 2-12-09

Received in Mayor's Office — ENTERED 2/13/09

Comments:

ORDINANCE NO.

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE BY ADDING SUBSECTION 164.11(B): SIDE SETBACKS, TO INCLUDE BULK AND AREA REQUIREMENTS FOR ZERO LOT LINE AND COMMON WALL DEVELOPMENT.

WHEREAS, the City of Fayetteville permits the development of zero lot line developments in certain zoning districts; and

WHEREAS, additional zoning regulations are necessary to permit zero lot line development;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas, hereby amends **§164.11 Height Regulations; Exceptions**, by naming the section **Height or Setback Regulations; Exceptions**, and enacting a new subsection (B), as follows:

"§164.11 Height or Setback Regulations; Exceptions"

"(B) *Side Setbacks.* Zero lot line and common wall development. Side setbacks may be varied to permit common walls between townhouses. There shall be no specific requirements as to minimum lot width, lot area, or minimum area per dwelling unit for townhouses; but townhouses shall conform to the district densities, setback requirements, height regulations, parking and access requirements, and all other applicable city ordinances."

PASSED and **APPROVED** this day of , 2009.

APPROVED:

By: ______________________
LIONELD JORDAN, Mayor

ATTEST:

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

City Council Meeting of March 3, 2009
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: February 5, 2009

Subject: UDC Ch. 164.11 Height and Side Setback Regulations (ADM 08-3205)

RECOMMENDATION

On October 7, 2008 the Fayetteville City Council approved Ordinance No. 5183, repealing and replacing Chapter 157, Notification, of the Unified Development Code. In addition to these amendments, staff noted and recommended that a code section regarding bulk and area requirements for common wall/zero lot line development be removed, as it was inadvertantly placed in the Notification chapter in a previous re-codification of the Unified Development Code (2003).

BACKGROUND

The bulk and area requirements for common wall/zero lot line developments are still utilized, and therefore must be placed within another chapter of the Unified Development Code. Staff recommends that the amended language be placed under Chapter 164.11, which gives similar bulk and area exceptions. Some of the language from this section has been removed, as it is redundant.

DISCUSSION

The bulk and area requirements for common wall or zero lot line developments, commonly known as townhome development, are an exception to the standard zoning district requirements, and therefore should be placed within Chapter 164 Supplementary Zoning Regulations.

BUDGET IMPACT

None.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: September 19, 2008

Subject: UDC Ch. 157 Notification (ADM 08-3021)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance to repeal and replace Ch. 157, Notification, of the Unified Development Code, in order to clarify and streamline the process for notification for public meetings.

BACKGROUND

For several months, planning staff has been working to redraft, in its entirety, Ch. 157: Notification, of the Unified Development Code. The purpose of this chapter is to establish the standards and criteria by which applicants and the City are to notify the public for specific development, land use and variance/appeal requests that require a public hearing. Notification types include:

1) Written notification: involves a project description, date and time of the meeting, contact information, etc. sent to adjacent land owners;
2) Posted Notice: involves a sign erected on the site in question, for public view and information
3) Published notification: involves date, time and location of meeting, use and location of project – the City is responsible for this type of notice

In the existing code, there are a variety of notification requirements, differing between the multiple types of applications. The City often hears complaints from citizens about notification, which staff believes in large part are due to the lack of consistency between types of notification required for every application. Notices vary between all three types listed above.

Staff has proposed a new draft of Ch. 157, incorporating all of the existing code requirements, but streamlining the code so that there is much more consistency between projects. All projects going before the Subdivision Committee will now require a 7-day notification; Planning Commission will require a 14-day notification. Projects currently range from no notification to 7, 10, 14 and 15 days prior to the meeting. In addition, the types of notification have been broken into very clear explanations, and what is expected for each type in order to proceed forward in the review process. This is to combat the complaints staff and the Planning Commission receive that written notices sometimes are not at all informative. In perhaps the biggest change to the ordinance, staff is recommending that applicants post their own notification signs on their sites. Planning Staff would still prepare the signs for posting, after receiving the application, and notify the applicant when the signs are ready to be posted. Applicants would post the sign on the site, take a photo, and provide a signed Certificate of Sign Posting to the Planning office in the time specified. Staff can still investigate missing or downed signs as necessary, but this would reduce the amount of City staff time in the field, driving to each site to erect the sign, and place the responsibility back on the property owner/applicant for whom the application is being processed. Staff has researched multiple cities which utilize a similar system, and it typically operates very smoothly.

Ch. 164.11 Exceptions to Height Regulations and Side Setbacks
In a previous re-codification of the entire Unified Development Code (2003), a code section regarding side setbacks for townhome development was inadvertently placed in the Notification Chapter. In adopting an entirely new chapter, this section, which is still utilized, must be placed elsewhere. Staff recommends the amended language be placed under Ch. 164.11, which gives similar exceptions to code restrictions, as appropriate. Some of the language contained within this section has been removed, as it is superfluous.

Staff finds the re-adoption of the Notification chapter will hopefully result in more consistency of notifying the public, a stream-lined approach for applicants, and reduced staff time and resources dedicated to in-the-field operations for an applicant's proposal.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on September 22, 2008. Staff finds the re-adoption of the Notification chapter will hopefully result in more consistency of notifying the public, a stream-lined approach for applicants, and reduced staff time and resources dedicated to in-the-field operations for an applicant's proposal.

BUDGET IMPACT

None.

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

3/3/2009
City Council Meeting Date
Agenda Items Only

Leif Olson	Planning	Operations
Submitted By	**Division**	**Department**

Action Required:

ADM 09-3206: (UDC Amendment): An ordinance to amend Ch. 162: Use Units in order to add a use description of Accessory Dwelling Units.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director ______ Date ______

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney ______ Date 2/13/09

Finance and Internal Services Director ______ Date 2-13-09

Received in City Clerk's Office ENTERED 2-12-09

Chief of Staff ______ Date 2/13/09

Received in Mayor's Office ENTERED 2/13/09

Mayor ______ Date 2/13/09

Comments:

City Council Meeting of March 3, 2009
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Karen Minkel, Interim Director of Long Range Planning KM.
Don Marr, Chief of Staff

From: Leif Olson, Long Range Planner

Date: February 11, 2009

Subject: ADM 09-3206 UDC Amendment – Ch. 162: Use Units

RECOMMENDATION

Staff recommends approval of an ordinance amendment to Ch. 162: Use Units, in order to insert a use unit description for Accessory Dwelling Units.

BACKGROUND

The City Council adopted an ordinance on April 15, 2008 that established a Use Unit for Accessory Dwelling Units.

DISCUSSION

Staff was made aware by the City Clerks office that a use unit description was not included at the time of the Accessory Dwelling Unit ordinance adoption. This amendment will insert the appropriate language in Chapter 162: Use Units.

BUDGET IMPACT

None.

ORDINANCE NO. ________

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CODE OF FAYETTEVILLE TO AMEND CHAPTER 162: USE UNITS IN ORDER TO ADD A USE UNIT DESCRIPTION FOR ACCESSORY DWELLING UNITS.

WHEREAS, the City of Fayetteville has adopted Accessory Dwelling Unit regulations; and

WHEREAS, the Accessory Dwelling Unit Use Unit Description was not included at the time of adoption;

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

Section 1. That Chapter 162: Use Units is amended by inserting section 162.01(00) a copy of which marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this the ____ day of ____, 2009.

APPROVED:

By: ________________________________
LIONELD JORDAN, Mayor

ATTEST:

By: ________________________________
SONDRA SMITH, City Clerk

Exhibit "A"

Exhibit "A" to be inserted in Chapter 162: Use Units.

(OO) *Unit 41. Accessory Dwelling Units*. *

(1) *Description.* Unit 41 includes accessory dwelling units.

(2) *Included uses.*

Accessory Dwelling Units *

Agenda Session 2/24/09

Aldermen

Mayor Lioneld Jordan

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 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
March 3, 2009

A meeting of the Fayetteville City Council will be held on March 3, 2009 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. Courthouse Progress Report given by Lynn Hyke

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the February 17, 2009 City Council meeting minutes.

2. **Bid # 09-19 Sweetser Construction:** A resolution awarding Bid # 09-19 to Sweetser Construction and approving the purchase of curb and gutter construction services utilized by various divisions of the City of Fayetteville in the estimated amount of $229,825.00.

3. **Bid # 09-20 ABC Central Block, Inc.:** A resolution awarding Bid # 09-20 to ABC Central Block, Inc. and approving the purchase of bricks utilized by various divisions of the City of Fayetteville in the estimated amount of $20,075.00.

NB #1

4. **Residential Energy Efficiency Program Participating Home Sign:** A resolution to approve a Residential Energy Efficiency Program Participating Home Sign pursuant to § 174.03 (F) of Chapter 174: Signs of the Unified Development Code.

5. **Arkansas Historic Rehabilitation Tax Credit:** A resolution to support the establishment of an Arkansas Historic Rehabilitation Tax Credit.

6. **Fayetteville District Court:** A resolution approving a budget adjustment for the Fayetteville District Court in the amount of $10,000.00 to recognize revenue from the Court Automation Fund for the purchase of laptops, printer and DVD player.

7. **Fayetteville Executive Airport DBE Program Revision:** A resolution to accept and approve the updated Fayetteville Executive Airport Disadvantaged Business Enterprise (DBE) Program revision and participation goal for FY2009; and authorizing the Mayor to sign the required objectives/policy statement.

B. Unfinished Business:

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

   This ordinance was left on the Second Reading at the November 6, 2008 City Council meeting and Tabled Indefinitely.

2. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. (*This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting. This ordinance failed at the December 2, 2008 City Council meeting. This ordinance was Re-considered at the December 16, 2008 City Council meeting and then Tabled to the February 3, 2009 City Council meeting.)*

   This ordinance was Tabled at the February 3, 2009 City Council meeting to the March 3, 2009 City Council meeting.

C. New Business:

1. **2009 Washington County Animal Sheltering Services:** A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2009.

2. **RZN 08-3189 (First Baptist Church):** An ordinance rezoning that property described in rezoning petition RZN 08-3189, for approximately 4.08 acres, located at 20 Dickson Street from C-PZD 05-1704 First Baptist Church to MSC, Main Street Center.

3. **RZN 08-3190 (Lolley):** An ordinance rezoning that property described in rezoning petition RZN 08-3190, for approximately 1.67 acres, located at 5, 8, 12, and 20 South Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.

4. **VAC 09-3197 (Butterfield Trail Village):** An ordinance approving VAC 09-3197 submitted by McClelland Consulting Engineers for property located at 1923 Joyce Boulevard to vacate a portion of a utility easement, a total of 0.05 acres.

New Ordinance from Jeremy

5. **ADM 09-3198 Amend Chapter 161:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to Amend Chapter 161: Zoning Districts in order to amend and unify building setback and building height regulations in residential single-family and multi-family zoning districts.

6. **ADM 09-3205 Amend Chapter 164:** An ordinance amending the Unified Development Code by adding subsection 164.11 (B): Side Setbacks, to include bulk and area requirements for zero lot line and common wall development.

7. **ADM 09-3206 Amend Chapter 162:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 162: Use Units in order to add a use unit description for accessory dwelling units.

Announcements:

1. **City Council Tour:** ~~March 2, 2009~~ NONE

Adjournment:

Add:

Consent – Arkansas Dept. of Aeronautics Grant

Consent – "Fayetteville Forward" Summit

NB-last – Amend 117.47 Advertising

113 West Mountain 72701 (479) 521-7700 (479) 575-8257 (Fax)
accessfayetteville.org

Pre-Agenda Meeting 2-18-09

Aldermen

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
March 3, 2009

A meeting of the Fayetteville City Council will be held on March 3, 2009 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: Lynn Hyke - Courts Building Construction update

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the February 17, 2009 City Council meeting minutes.

2. **Bid # 09-19 Sweetser Construction:** A resolution awarding Bid # 09-19 to Sweetser Construction and approving the purchase of curb and gutter construction services utilized by various divisions of the City of Fayetteville in the estimated amount of $229,825.00.

3. **Bid # 09-20 ABC Central Block, Inc.:** A resolution awarding Bid # 09-20 to ABC Central Block, Inc. and approving the purchase of bricks utilized by various divisions of the City of Fayetteville in the estimated amount of $20,075.00.

Remove 4. **2009 Overlay/Sidewalk Projects List:** A resolution ~~approving the Transportation Division Overlay/Sidewalk Projects list for 2009.~~

Participating Home Sign.

5. **Residential Energy Efficiency Program:** A ~~resolution~~ to approve a Residential Energy Efficiency Program participating home sign pursuant to § 174.03 (F) of Chapter 174: Signs of the Unified Development Code.

Caps

6. **Arkansas Historic Rehabilitation Tax Credit:** A resolution to support ~~of~~ the establishment of an Arkansas Historic Rehabilitation Tax Credit.

7. **Fayetteville District Court:** A resolution approving a budget adjustment for the Fayetteville District Court in the amount of $10,000.00 to recognize revenue from the Court Automation Fund for the purchase of laptops, printer and DVD player.

8. **Fayetteville Executive Airport DBE Program Revision:** A resolution to accept and approve the updated Fayetteville Executive Airport Disadvantaged Business Enterprise (DBE) Program revision and participation goal for FY2009; and authorizing the Mayor to sign the required objectives/policy statement.

~~9. **Fayetteville Forward:** No information – Don Marr~~

B. Unfinished Business:

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

Check

This ordinance was left on the Second Reading at the November 6, 2008 City Council meeting and Tabled Indefinitely.

2. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. (*This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting. This ordinance failed at the December 2, 2008 City Council meeting. This ordinance was Re-considered at the December 16, 2008 City Council meeting and then Tabled to the February 3, 2009 City Council meeting.)*

This ordinance was Tabled at the February 3, 2009 City Council meeting to the March 3, 2009 City Council meeting.

C. New Business:

1. **2009 Washington County Animal Sheltering Services:** A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2009.

2. **RZN 08-3189 (First Baptist Church):** An ordinance rezoning that property described in rezoning petition RZN 08-3189, for approximately 4.08 acres, located at 20 Dickson Street from C-PZD 05-1704 First Baptist Church to MSC, Main Street Center.

3. **RZN 08-3190 (Lolley):** An ordinance rezoning that property described in rezoning petition RZN 08-3190, for approximately 1.67 acres, located at 5, 8, 12, and 20 South Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.

4. **VAC 09-3197 (Butterfield Trail Village):** An ordinance approving VAC 09-3197 submitted by McClelland Consulting Engineers for property located at 1923 Joyce Boulevard to vacate a portion of a utility easement, a total of 0.05 acres.

5. **ADM 09-3198 Amend Chapter 161:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to Amend Chapter 161: Zoning Districts in order to amend and unify building setback and building height regulations in residential single-family and multi-family zoning districts.

6. **ADM 09-3205 Amend Chapter 164:** An ordinance amending the Unified Development Code by adding subsection 164.11 (B): Side Setbacks, to include bulk and area requirements for zero lot line and common wall development.

7. **ADM 09-3206 Amend Chapter 162:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 162: Use Units in order to add a use unit description for accessory dwelling units.

Announcements:

1. **City Council Tour: March 2, 2009**

Adjournment:

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE **LEGAL DEPARTMENT**

TO: **Lioneld Jordan**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **March 4, 2009**

RE: **Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of March 3, 2009**

1. **Bid #09-19 Sweetser Construction:** A resolution awarding Bid # 09-19 to Sweetser Construction and approving the purchase of curb and gutter construction services utilized by various divisions of the City of Fayetteville in the estimated amount of $229,825.00;

2. **Bid #09-20 ABC Central Block, Inc.:** A resolution awarding Bid #09-20 to ABC Central Block, Inc. and approving the purchase of bricks utilized by various divisions of the City of Fayetteville in the estimated amount of $20,075.00;

3. **Fayetteville District Court:** A resolution approving a budget adjustment for the Fayetteville District Court in the amount of $10,000.00 to recognize revenue from the Court Automation Fund for the purchase of laptops, printer and DVD player;

4. **Fayetteville Executive Airport DBE Program Revision:** A resolution to accept and approve the updated Fayetteville Executive Airport Disadvantaged Business Enterprise (DBE) program revision and participation goal for FY2009 and authorizing the Mayor to sign the required objectives/policy statement;

5. **Arkansas Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Executive Airport Staff to apply for and accept an 80/20 grant in the estimated amount of $87,790.00 from the Arkansas Department of Aeronautics to fund the terminal building HVAC repair project and approving a budget adjustment recognizing the grant revenue;

6. **"Fayetteville Forward" Summit:** A resolution to approve a budget adjustment of $38,500.00 to fund an economic development "Fayetteville Forward" Summit and to approve a letter agreement with the University of Arkansas Sam M. Walton College of Business to facilitate the "Fayetteville Forward" Summit for $17,500.00;

7. **Residential Energy Efficiency Program Participating Home Sign:** A resolution to approve a Residential Energy Efficiency Program Participating Home Sign pursuant to §174.03(F) of Chapter 174: **Signs** of the Unified Development Code;

8. **2009 Washington County Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2009.

RECEIVED

MAR 05 2009

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION
Northwest Arkansas Times
Benton County Daily Record
P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville Final Agenda

March 2, 2009

Publication Charge : $199.06

Signed: Cathy Wiles

Subscribed and sworn to before me
This 4 day of March, 2009.

Notary Public Elizabeth A. Jarvis

My Commission Expires: May 6, 2012

Do not pay from Affidavit, an invoice will be sent

ELIZABETH A. JARVIS
MY COMM. EXP.
NOTARY
PUBLIC
MAY 08, 2012
WASHINGTON CO., ARKANSAS

RECEIVED
MAR 05 2009
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
MARCH 3, 2009

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on March 3, 2009 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:
1. Approval of the February 17, 2009 City Council meeting minutes.
2. Bid # 09-19 Sweetser Construction: A resolution awarding Bid # 09-19 to Sweetser Construction and approving the purchase of curb and gutter construction services utilized by various divisions of the City of Fayetteville in the estimated amount of $229,825.00.
3. Bid # 09-20 ABC Central Block, Inc.: A resolution awarding Bid # 09-20 to ABC Central Block, Inc. and approving the purchase of bricks utilized by various divisions of the City of Fayetteville in the estimated amount of $20,075.00.
4. Arkansas Historic Rehabilitation Tax Credit: A resolution to support the establishment of an Arkansas Historic Rehabilitation Tax Credit.
5. Fayetteville District Court: A resolution approving a budget adjustment for the Fayetteville District Court in the amount of $10,000.00 to recognize revenue from the Court Automation Fund for the purchase of laptops, printer and DVD player.
6. Fayetteville Executive Airport DBE Program Revision: A resolution to accept and approve the updated Fayetteville Executive Airport Disadvantaged Business Enterprise (DBE) Program revision and participation goal for FY2009, and authorizing the Mayor to sign the required objectives/policy statement.
7. Arkansas Department of Aeronautics Grant: A resolution authorizing the Fayetteville Executive Airport staff to apply for and accept an 80/20 grant in the estimated amount of $67,790.00 from the Arkansas Department of Aeronautics to fund the Terminal Building HVAC Repair Project.
8. "Fayetteville Forward" Summit: A resolution to approve a budget adjustment of $38,500.00 to fund an Economic Development "Fayetteville Forward" Summit and to approve a letter agreement with the University of Arkansas Sam M. Walton College of Business to facilitate the "Fayetteville Forward" Summit for $17,500.00.

B. Unfinished Business:
1. RZN 08-3084 (Candlelight Place): An ordinance rezoning that property described in rezoning petition RZN 08-3084, for approximately 0.94 acres, located at the southeast corner of Gregg Avenue and Ash Street from RSF-4, Residential Single-Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre. *(This ordinance was left on the First Reading at the October 21, 2008 City Council meeting and Tabled to the November 4, 2008 City Council meeting.) This ordinance was left on the Second Reading at the November 6, 2008 City Council meeting and Tabled Indefinitely.*
2. Amberwood Place Appeal: An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. *(This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting. This ordinance failed at the December 2, 2008 City Council meeting. This ordinance was Re-considered at the December 16, 2008 City Council meeting and then Tabled to the February 3, 2009 City Council meeting.) This ordinance was Tabled at the February 3, 2009 City Council meeting to the March 3, 2009 City Council meeting.*

C. New Business:
1. Residential Energy Efficiency Program Participating Home Sign: A resolution to approve a Residential Energy Efficiency Program Participating Home Sign pursuant to § 174.03 (F) of Chapter 174: Signs of the Unified Development Code.
2. 2009 Washington County Animal Sheltering Services: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2009.
3. RZN 08-3189 (First Baptist Church): An ordinance rezoning that property described in rezoning petition RZN 08-3189, for approximately 4.08 acres, located at 20 Dickson Street from C-PZD 05-1704 First Baptist Church to MSC, Main Street Center.
4. RZN 08-3190 (Lolley): An ordinance rezoning that property described in rezoning petition RZN 08-3190, for approximately 1.67 acres, located at 5, 8, 12, and 20 South Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.
5. VAC 09-3197 (Butterfield Trail Village): An ordinance approving VAC 09-3197 submitted by McClelland Consulting Engineers for property located at 1923 Joyce Boulevard to vacate a portion of a utility easement, a total of 0.05 acres.
6. ADM 09-3198 Amend Chapter 161: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to Amend Chapter 161: Zoning Districts in order to amend and unify building setback and building height regulations in residential single-family, multi-family and residential-office zoning districts.
7. ADM 09-3205 Amend Chapter 164: An ordinance amending the Unified Development Code by adding subsection 164.11 (B): Side Setbacks, to include bulk and area requirements for zero lot line and common wall development.
8. ADM 09-3206 Amend Chapter 162: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 162: Use Units in order to add a use unit description for accessory dwelling units.
9. Amend Chapter 117: An ordinance to amend §117.47 Advertising of the Fayetteville Code

Announcements:
1. City Council Tour: None

Adjournment: