

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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

Final Agenda City of Fayetteville Arkansas City Council Meeting February 03, 2011

A meeting of the Fayetteville City Council will be held on February 03, 2011 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

1. Meeting was rescheduled from February 01, 2011 to February 03, 2011 due to inclement weather

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the January 18, 2011 City Council meeting minutes. **APPROVED**
2. **Community Development Block Grant (CDBG):** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) agreement for 2011 when received in the estimated amount of \$700,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 21-11

3. **Ranger's Pantry Pet Food Bank:** A resolution approving a budget adjustment in the amount of \$1,361.55 for donation revenue received from citizens for the Ranger's Pantry Pet Food Bank and in the amount of \$500.00 for donation revenue from the Fraternal Order of Police for the Senior Giving Tree event.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 22-11

4. **Joe Perme Construction Inc. Change Order:** A resolution approving a change order to the contract with Joe Perme Construction Inc. in the amount of \$2,700.00 for Community Development Block Grant rehabilitation at 1932 South Garland.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 23-11

5. **Pinkley Sales Company and Smith Two-Way Radio, Inc. Donation Revenue:** A resolution approving a budget adjustment in the amount of \$300.00 representing donation revenue received for the Fire Department's annual employee service awards events.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 24-11

6. **Civil Service Trials Legal Representation:** A resolution to approve contracts with law firms selected by the Police and Fire Chiefs to represent them during any civil service trials in 2011 with options to renew.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 25-11

B. Unfinished Business: None

C. New Business:

1. **VAC 10-3707 (Kum & Go):** An ordinance approving VAC 10-3707 submitted by CEI Engineering Associates, Inc. for property located at 2396 North College Avenue, to vacate an existing sewer easement on the property, as described herein.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5383

2. **RZN 10-3724 (Boudreaux/Thiel, 120 & 124 Sycamore Street):** An ordinance rezoning that property described in rezoning petition RZN 10-3724, for approximately 1.28 acres, located at 120 and 124 Sycamore Street from R-O, Residential Office, to C-S, Community Services.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5384

3. **Amend §71.170 Restriction of Type of Vehicles Allowed on City Trails:** An ordinance to amend §71.170 Restriction of Type of Vehicles Allowed on City Trails of the Fayetteville Code to allow some pedicab use and use of gas powered vehicles on limited segments of trails when necessary.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5385

4. **Amend Title XV: ADM 09-3480 (Streamside Protection):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 155: Appeals, Chapter 156: Variances, and Chapter 168: Flood Damage Prevention Code in order to establish Streamside Protection Zones and adopt a Protected Streams map and Best Management Practices Manual.

THIS ITEM WAS LEFT ON THE FIRST READING.

5. **Huntingdon Heights Appeal:** An appeal of the City Engineer's determination regarding the driveway approach at 3172 Warwick Dr.

TABLED TO FEBRUARY 15, 2011 CITY COUNCIL MEETING.

Announcements:

Adjournment: 9:10 p.m.

City Council Tour: January 31, 2011 – 4:30 p.m. – Mayors Office – Huntingdon Heights Appeal, 3172 Warwick Dr.

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:

February 3, 2011

Adjourn: 9:10 p.m.

Subject:	Roll				
	Thiel	✓			
	Kinion	✓			
	Petty	Absent			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Mayor Jordan	✓			

8-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Thiel				
	Kinion				
	Petty				
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Mayor Jordan				

Subject:	Consent				
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Thiel			
<u>Minutes Approved</u> Passed 21-11 thru 25-11	Thiel	✓			
	Kinion	✓			
	Petty	Absent			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Mayor Jordan				

70

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Thiel				
	Kinion				
	Petty				
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Mayor Jordan				

Subject:	None				
Motion To:					
Motion By:					
Seconded:					
B. 1 Unfinished Business	Thiel				
	Kinion				
	Petty				
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Mayor Jordan				

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Thiel				
	Kinion				
	Petty				
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Mayor Jordan				

Subject:		VAC 10-3707 (Kum & Go)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Ferrell	Gray	
Seconded:			Gray	Lewis	
C. 1 New Business <u>passed</u> 5383	Thiel	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	absent	absent	absent	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
Mayor Jordan					

7-0

7-0

7-0

Subject:		RZN 10-3724 (Boudreaux/Thiel, 120 & 124 Sycamore Street)			
Motion To:		Amend to 1.61 acre tract	2nd Read	3rd Read	Pass
Motion By:		Gray	Ferrell	Gray	
Seconded:		Tennant	Lewis		
C. 2 New Business <u>passed</u> 5384	Thiel	Recuse	Recuse	Recuse	Recuse
	Kinion	✓	✓	✓	✓
	Petty	Absent	absent	absent	absent
	Tennant	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Adams	✓	✓	✓	✓
	Lewis	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Mayor Jordan				

6-0

6-0

6-0

6-0

Subject:	Amend §71.170 Restriction of Type of Vehicles Allowed on City Trails				
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>	
Motion By:		<i>Thiel</i>	<i>Thiel</i>		
Seconded:			<i>Adams</i>		
C. 3 New Business <i>5385</i> <i>Passed</i>	Thiel	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Kinion	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Petty	<i>Absent</i>	<i>absent</i>	<i>absent</i>	
	Tennant	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Ferrell	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Adams	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Lewis	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Gray	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Jordan				

*7-0**7-0**7-0*

Subject:	Amend Title XV: ADM 09-3480 (Streamside Protection)				
Motion To:					
Motion By:					
Seconded:					
C. 4 New Business <i>Left on the first Reading</i>	Thiel				
	Kinion				
	Petty				
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Mayor Jordan				

Subject:	Huntingdon Heights Appeal				
Motion To:		<i>Table to next meeting.</i>			
Motion By:		<i>Ferrell</i>			
Seconded:		<i>Thiel</i>			
C. 5 New Business <i>Tabled</i> <i>to</i> <i>February</i> <i>15, 2011</i>	Thiel	<i>✓</i>			
	Kinion	<i>✓</i>			
	Petty	<i>Absent</i>			
	Tennant	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Adams	<i>✓</i>			
	Lewis	<i>✓</i>			
	Gray	<i>✓</i>			
	Mayor Jordan				

7-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Thiel				
	Kinion				
	Petty				
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Mayor Jordan				



Departmental Correspondence



www.accessfayetteville.org

LEGAL
DEPARTMENT

TO: **Lioneld Jordan**, Mayor

Kit Williams
City Attorney

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

Jason B. Kelley
Assistant City Attorney

DATE: **February 4, 2011**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of February 3, 2011**

1. **Community Development Block Grant:** A resolution authorizing the Mayor to execute the CDBG agreement for 2011 when received in the estimated amount of \$700,000.00.
2. **Ranger's Pantry Pet Food Bank:** A resolution approving a budget adjustment in the amount of \$1,361.55 for donation revenue received from citizens for the Ranger's Pantry Pet Food Bank and in the amount of \$500.00 for donation revenue from the Fraternal Order of Police for the Senior Giving Tree event.
3. **Joe Perme Construction Inc. Change Order:** A resolution approving a change order to the contract with Joe Perme Construction Inc. in the amount of \$2,700.00 for CDBG rehabilitation at 1932 S. Garland.
4. **Pinkley Sales Company & Smith Two-Way Radio, Inc. Donation Revenue:** A resolution approving a budget adjustment in the amount of \$300.00 representing donation revenue received for the Fire Department's annual Employee Service Awards event.
5. **Legal Representation for Civil Service Trial:** A resolution to approve contracts with law firms selected by the Police and Fire Chiefs to represent them during any Civil Service trials in 2011 with options to renew.
6. **Amend §71.170 Restriction of Type of Vehicles Allowed on City Trails:** An ordinance to amend §71.170 Restriction of Type of Vehicles Allowed on City Trails of the Fayetteville Code to allow some pedicab use and use of gas powered vehicles on limited segments of trails when necessary.

Aldermen

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Final Agenda City of Fayetteville Arkansas City Council Meeting February 01, 2011

A meeting of the Fayetteville City Council will be held on February 01, 2011 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:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the January 18, 2011 City Council meeting minutes.
2. **Community Development Block Grant (CDBG):** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) agreement for 2011 when received in the estimated amount of \$700,000.00.
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4. **Joe Perme Construction Inc. Change Order:** A resolution approving a change order to the contract with Joe Perme Construction Inc. in the amount of \$2,700.00 for Community Development Block Grant rehabilitation at 1932 South Garland.
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6. **Civil Service Trials Legal Representation:** A resolution to approve contracts with law firms selected by the Police and Fire Chiefs to represent them during any civil service trials in 2011 with options to renew.

B. Unfinished Business: None

C. New Business:

1. **VAC 10-3707 (Kum & Go):** An ordinance approving VAC 10-3707 submitted by CEI Engineering Associates, Inc. for property located at 2396 North College Avenue, to vacate an existing sewer easement on the property, as described herein.
2. **RZN 10-3724 (Boudreaux/Thiel, 120 & 124 Sycamore Street):** An ordinance rezoning that property described in rezoning petition RZN 10-3724, for approximately 1.28 acres, located at 120 and 124 Sycamore Street from R-O, Residential Office, to C-S, Community Services.
3. **Amend §71.170 Restriction of Type of Vehicles Allowed on City Trails:** An ordinance to amend §71.170 Restriction of Type of Vehicles Allowed on City Trails of the Fayetteville Code to allow some pedicab use and use of gas powered vehicles on limited segments of trails when necessary.
4. **Amend Title XV: ADM 09-3480 (Streamside Protection):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 155: Appeals, Chapter 156: Variances, and Chapter 168: Flood Damage Prevention Code in order to establish Streamside Protection Zones and adopt a Protected Streams map and Best Management Practices Manual.
5. **Huntingdon Heights Appeal:** An appeal of the City Engineer's determination regarding the driveway approach at 3172 Warwick Dr.

Announcements:

Adjournment:

City Council Tour: January 31, 2011 – 4:30 p.m. – Mayors Office – Huntingdon Heights Appeal, 3172 Warwick Dr.

NOTICE TO MEMBERS OF THE AUDIENCE

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RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$1,361.55 FOR DONATION REVENUE RECEIVED FROM CITIZENS FOR THE RANGER'S PANTRY PET FOOD BANK AND IN THE AMOUNT OF \$500.00 FOR DONATION REVENUE FROM THE FRATERNAL ORDER OF POLICE FOR THE SENIOR GIVING TREE EVENT

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, a copy of which is attached as Exhibit "A", in the amount of \$1,361.55 for donation revenue received for the Ranger's Pantry Food Bank from citizens and in the amount of \$500.00 for donation revenue received for the Senior Giving Tree event from the Fraternal Order of Police.

PASSED and APPROVED this 1st day of February, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



Departmental Correspondence



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**LEGAL
DEPARTMENT**

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
Matt Mihalevich, Trails Coordinator

FROM: Kit Williams, City Attorney

A handwritten signature in blue ink, appearing to read "Kit Williams", with a long horizontal line extending to the right.

DATE: January 25, 2011

RE: Obtaining easement rights on County Fair Ground property

Matt has been working with the Washington County Fair Board to secure easement rights for a trail over their property. The Board indicated some concern with my first suggested language (which was supplied to you in the Tentative Agenda). Therefore, I have redrafted the proposed revision of Section 71.170 by changing A. (2). It now refers directly to the attached map and includes the additional wording: "or other special event" so that the Washington County Fair Board could authorize access for cars and trucks on this extra wide trail (built on its existing gravel road) for any other events.

My purpose in drafting the initial language and now suggesting this change is to accommodate the Washington County Fair Board's needs for its existing usage of this gravel road while trying to restrict cars and trucks from our trail as much as possible. Hopefully, Matt will have heard from the Board about my new language by the Agenda Meeting. If the Board has agreed or if he has not yet heard its response, I will read the ordinance attached to this memo on the first reading at the City Council meeting without any need for you to amend what was sent to you with the Tentative Agenda Packet. Depending on the Board's response, we may need further amendments to secure the access rights for our trail on their property.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND §71.170 RESTRICTION OF TYPE OF
VEHICLES ALLOWED ON CITY TRAILS OF THE FAYETTEVILLE
CODE TO ALLOW SOME PEDICAB USE AND USE OF GAS POWERED
VEHICLES ON LIMITED SEGMENTS OF TRAILS WHEN NECESSARY**

WHEREAS, pedicabs are about the size of golf carts, but have been allowed on city trails with certain restrictions by §117.102(D) of the Fayetteville Code and should therefore be referenced in this section; and

WHEREAS, in order to secure the necessary right-of-way from the University of Arkansas and the Washington County Fair Board, a portion of the trail from the Porter Road underpass to connect with Scull Creek Trail must be placed upon an existing gravel road with County Fair traffic allowed to use the trail during the County Fair; and

WHEREAS, a Clear Creek Trail connection from Highway 71 B to the Lake Fayetteville Trail would be much less expensive and much more feasible and practical if it utilized an existing driveway to a cabin with the cabin owner and invitees retaining the right to also utilize the trail up to the cabin.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals §71.170(A) of the Fayetteville Code in its entirety and enacts a replacement §71.170(A) as follows:

“71.170 Restriction Of Type Of Vehicles Allowed On City Trails

A. No golf carts or comparable sized vehicles nor any gas powered vehicles (except city maintenance or emergency vehicles) shall be driven or operated on Scull Creek Trail, Mud Creek Trail, Lake Fayetteville Trail or any other city trail, except as follows.

- (1) Pedicabs may be operated on city trails pursuant to the authorization and restrictions of §117.102(D) of the Fayetteville Code.

- (2) A segment of the proposed trail from the Porter Road underpass through University of Arkansas property and Washington County Fair property along an existing gravel road (as shown on the attached map) shall allow the use of gas powered vehicles during the annual Washington County Fair or other special event if authorized by the Washington County Fair Board or as authorized by the University of Arkansas.
- (3) A portion of the Clear Creek Trail from Highway 71 to an existing cabin shall allow gas powered vehicles for access to the cabin, but only with the permission of the owner of the cabin."

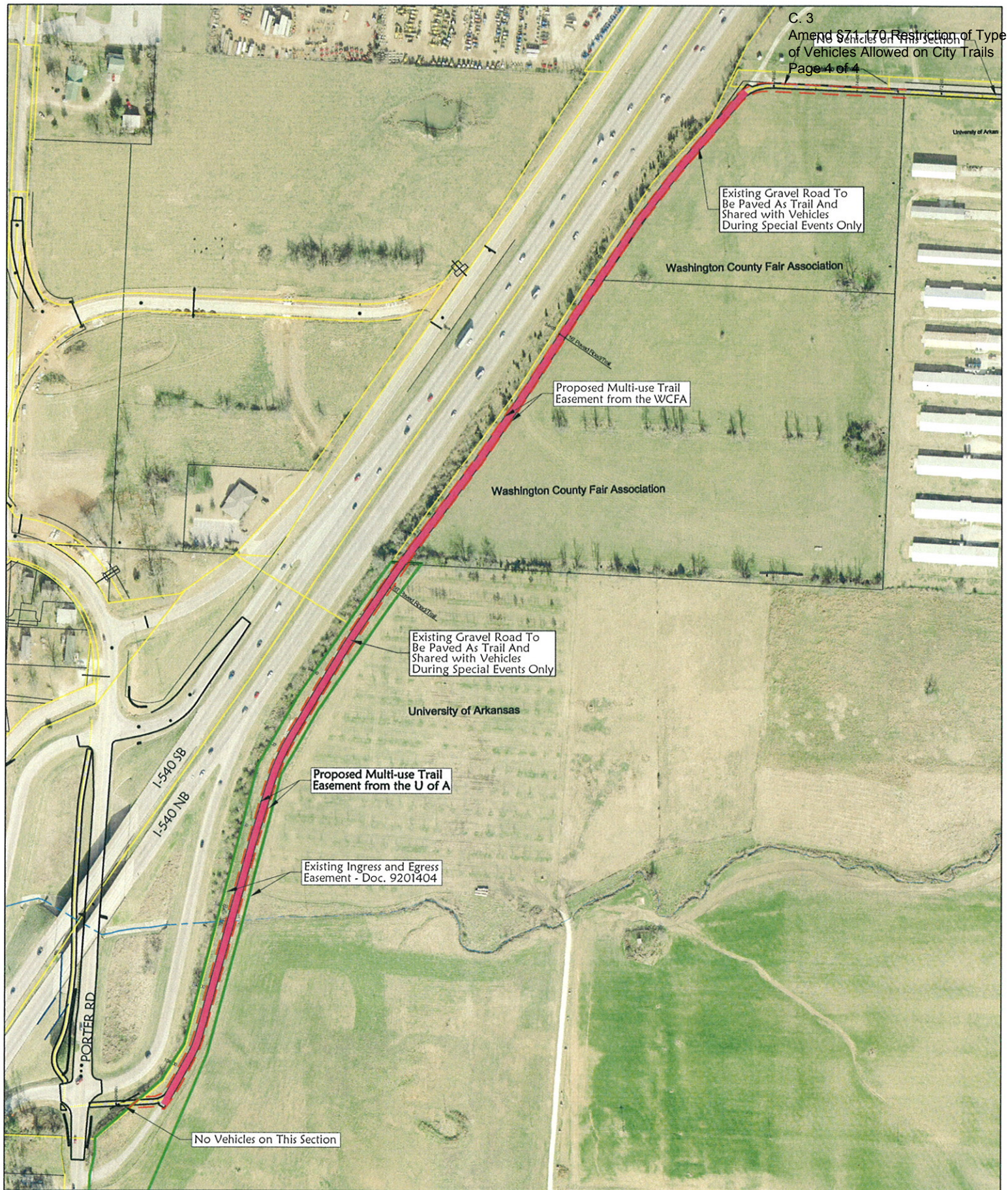
PASSED and **APPROVED** this 2nd day of February, 2011.

APPROVED:

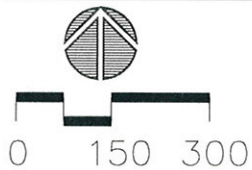
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



LEGEND	
12' WIDE TRAIL	
EXISTING FENCE	



U of A Farm Trail

Proposed Shared-Use
Trail with Vehicles

Fayetteville
ARKANSAS
Engineering Division
113 W. Mountain
Fayetteville, AR 72701
479-575-8206

Aldermen

Mayor Lioneld Jordan
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**City of Fayetteville Arkansas
City Council Meeting Minutes
January 18, 2011**

A meeting of the Fayetteville City Council was held on January 18, 2011 at 6:00 p.m. 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, Kinion, Petty, Tennant, Ferrell, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

State of the City Address: Mayor Jordan gave the State of the City Address. A copy of the State of City Address is attached.

Agenda Additions: None

Consent:

Approval of the January 4, 2011 City Council meeting minutes.

Approved

Bid #10-70 King Electrical Contractors, Inc.: A resolution awarding Bid #10-70 and authorizing a contract with King Electrical Contractors, Inc. in an amount not to exceed \$83,299.00 for lighting upgrades to the Water and Sewer Building plus a 10% project contingency from energy efficiency and conservation block grant funds, and approving a budget adjustment.

Resolution 14-11 as recorded in the office of the City Clerk.

Williams Tractor of Fayetteville: A resolution authorizing purchase of a Case Maxxum 125 tractor with Case L750 loader from Williams Tractor of Fayetteville, pursuant to a competitive bid through the National Joint Powers Alliance (NJPA) cooperative purchasing agreement, in the amount of \$72,475.00 for use in Wastewater Biosolids Solar Drying Operations, and approving a budget adjustment.

Resolution 15-11 as recorded in the office of the City Clerk.

Amend Resolution No. 223-10: A resolution amending Resolution No. 223-10 to authorize the additional payment of applicable sales taxes for the purchase of an H&S all-purpose spreader for the Wastewater Biosolids Solar Drying Project, and approving a budget adjustment.

Resolution 16-11 as recorded in the office of the City Clerk.

Amend Resolution No. 224-10: A resolution amending Resolution No. 224-10 to authorize the additional payment of applicable sales taxes for the purchase of a walking floor trailer for the Wastewater Biosolids Solar Drying Project, and approving a budget adjustment.

Resolution 17-11 as recorded in the office of the City Clerk.

Garland Avenue Widening and Improvement Project: A resolution to express the agreement of the City Council to accept the Arkansas Highway and Transportation Department's offer to transfer some of their money designated for the Highway 112 and 71B Interchange Project to complete the Garland Avenue Widening and Improvement Project if the City transfers its Garland Avenue commitment to the Highway 112 and 71B Interchange Project scheduled for 2013.

Resolution 18-11 as recorded in the office of the City Clerk.

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

Unfinished Business: None

New Business:

Quarterly Recycling Reports: A resolution to recommend posting quarterly reports about recycling efforts and seeking new markets for additional recycled material.

John Coleman, Sustainability Coordinator gave a brief description of the resolution.

Alderman Ferrell: John would you accept an amendment to this. I would like to add a sentence to show a reconciliation of what it costs us and what the expense and revenue is that comes in, where we stand on a quarterly basis.

John Coleman: I am not sure what the procedure is as far as the Environmental Action Committee (EAC) bringing the resolution forward. It is certainly not an issue with me to include something like that.

David Jurgens, Utilities Director: It would be very simple for us to do that because we include that information in our budget reports anyway both revenue and budgeting. We can do that and include that in this report as well as in our normal quarterly report.

Alderman Ferrell moved to amend the resolution to add language in the resolution to show a reconciliation of the recycling cost, expenses, revenues and cost savings. Alderman Gray seconded the motion.

Alderman Lewis: Didn't we do a recycling study that has this information?

David Jurgens: Yes Ma'am. A study was done by RW Beck a couple of years ago. That is posted on our website.

Alderman Lewis: The resolution is requesting information about our solid waste not just recycling. The point of this was to show the pricing and where we are selling our products and to maintain Fayetteville's reputation with its buyers. The more we are transparent with the public about the fact that we really are recycling and these are the people buying our materials, we are boosting our reputation in that market. If we are going to post that I just want to make sure the whole story is there about the cost involved with landfilling.

City Attorney Kit Williams: I think we should include one other thing besides the costs, expenses and revenues. We should probably put cost savings also that would show that we are not having a landfill bury it.

David Jurgens: I would suggest that we take the amount of tonnage we did not haul to the landfill. That is an easily defined savings. There are three components of recycling finances, what we spend to do the recycling program, the revenue received from fees and the sale of product, and the savings that we generate by not hauling to a landfill. We have all three of those components identified in the report.

Alderman Lewis: Part of this is really communicating this need for the closed loop and encouraging people that when you are shopping to select materials that are made of recycled materials. That is supporting that market.

Alderman Ferrell: I think we are on the same page. We should amplify the job that is being sold. In the spirit of transparency I also think that you should be able to look at these three things and discern what it's costing us to provide it, what we are spending and where we are headed. I agree with you.

Louise Mann, a citizen pointed out the benefits of the resolution and spoke in favor of it.

Upon roll call the motion passed unanimously.

Alderman Lewis thanked the EAC, Louise Mann and John Coleman for all their hard work.

Alderman Thiel commended Louise for her recycling work for years and finally getting to do something this exciting in Fayetteville.

Louise Mann: Thank you. I would say we need an adult education program so that more citizens understand all the implications. If we were doing adult education we could get that participation rate way up from 23%.

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

Resolution 19-11 as recorded in the office of the City Clerk.

Unmarked Unit Program Bid Waiver: An ordinance waiving the requirements of formal competitive bidding and approving the purchase of used vehicles for the Police Department unmarked unit program in an amount not to exceed \$25,000.00 per vehicle, and allowing existing unmarked units to be sold for trade-in value toward replacements.

City Attorney Kit Williams read the ordinance.

Police Chief Greg Tabor gave a brief description of the ordinance. We asked for this bid waiver because when you identify a used vehicle at a car lot it is hard to ask the dealer to hang onto it for however long it might take to bring it before Council. Secondly some of them are used as under cover vehicles and we do not want to put on paper what we are using for undercover vehicles.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5381 as Recorded in the office of the City Clerk

Buford Goff and Associates: An ordinance waiving the requirements of formal competitive bidding and approving a contract with Buford Goff and Associates in the total amount of \$219,705.00 for consulting services related to the City's Motorola radio project.

City Attorney Kit Williams read the ordinance.

Police Chief Greg Tabor gave a brief description of the ordinance. He explained why Buford Goff and Associates was selected. He stated they felt they had the expertise and all the background knowledge to make this project work.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: Chief, do you have any idea what they are looking at as far as a completion date on this radio system?

Police Chief Greg Tabor: One year from now we hope.

Alderman Lewis: This will only be a one year contract with them?

Police Chief Greg Tabor: This is just for the duration of the project.

Alderman Lewis: It seems like a very technologically oriented service. I just find it hard to believe that there aren't a lot of people that provide that service. Why is there only one other competitor?

Police Chief Greg Tabor: I do not know how many other competitors there are. We could only identify one other city in Arkansas that had done a project like this and used someone other than

Buford Goff and it didn't turn out very well for them. The State ended up bringing them in to complete that project. We felt they had the expertise that we needed.

Alderman Lewis: So you felt like there was enough comparison.

Police Chief Greg Tabor: We spoke to the cities project management team about the cost and we looked at the total cost of the project and the percentage that this was and they felt like it was right in line with what it should be.

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

Ordinance 5382 as Recorded in the office of the City Clerk

Washington County Jail Services Interlocal Agreement: A resolution approving an amendment to the jail services interlocal agreement with Washington County, Arkansas, setting fees at \$55.00 per booked prisoner for calendar year 2011.

Police Chief Greg Tabor: This is an amendment to the jail contract for 2011. This changes the booking fee \$50.00 per booking to \$55.00. The contract says a maximum increase of 10% per year and this is the 10% increase.

Alderman Ferrell: Does anyone have any indication of whether they plan to raise it again next year?

Police Chief Greg Tabor: There was a lot of discussion back in November about the amount per booking per day and what other cities pay. I would be very surprised if this does not come up again in the fall of 2011. We do believe there are some alternatives out there should it go to a per day fee as opposed to a per booking fee.

Alderman Ferrell: I am very happy to hear that.

Alderman Lewis: As a part of this agreement do they look at space and availability each year?

Police Chief Greg Tabor: I don't know how they do it. I think they look at their actual costs to house a prisoner per day.

Don Marr: In the County's discussion of the jail it has about a \$400,000 subsidy from their general fund so I think they are focused on looking at it to not be such a drain from their general fund. It's a discussion that we are watching closely. One of the primary issues is the rate the State currently pays. You are going to have two county discussions next year at budget time. One related to the road and millage split allocation and the other related to the jail service fees. We are planning for it.

Alderman Ferrell: As this goes along could we have a discussion item at an Agenda Session sometime if some facts come through ahead of budgeting?

Don Marr: We will work to try to arrange such an opportunity.

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

Resolution 20-11 as recorded in the office of the City Clerk.

Meeting adjourned at 7:10 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

Tentative Agenda City of Fayetteville Arkansas City Council Meeting February 01, 2011

A meeting of the Fayetteville City Council will be held on February 01, 2011 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

City Council Agenda Session Presentations:

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the January 18, 2011 City Council meeting minutes.
2. **Community Development Block Grant (CDBG):** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) agreement for 2011 when received in the estimated amount of \$700,000.00.

3. **Ranger's Pantry Pet Food Bank:** A resolution approving a budget adjustment in the total amount of \$1,861.55 representing donation revenue received for the Ranger's Pantry Pet Food Bank.
4. **Joe Perme Construction Inc. Change Order:** A resolution approving a change order to the contract with Joe Perme Construction Inc. in the amount of \$2,700.00 for Community Development Block Grant rehabilitation at 1932 South Garland.
5. **Pinkley Sales Company and Smith Two-Way Radio, Inc. Donation Revenue:** A resolution approving a budget adjustment in the amount of \$300.00 representing donation revenue received for the Fire Department's annual employee service awards events.
6. **Civil Service Trials Legal Representation:** A resolution to approve contracts with law firms selected by the Police and Fire Chiefs to represent them during any civil service trials in 2011 with options to renew.

B. Unfinished Business: None

C. New Business:

1. **VAC 10-3707 (Kum & Go):** An ordinance approving VAC 10-3707 submitted by CEI Engineering Associates, Inc. for property located at 2396 North College Avenue, to vacate an existing sewer easement on the property, as described herein.
2. **RZN 10-3724 (Boudreaux/Thiel, 120 & 124 Sycamore Street):** An ordinance rezoning that property described in rezoning petition RZN 10-3724, for approximately 1.28 acres, located at 120 and 124 Sycamore Street from R-O, Residential Office, to C-S, Community Services.
3. **Amend §71.170 Restriction of Type of Vehicles Allowed on City Trails:** An ordinance to amend §71.170 Restriction of Type of Vehicles Allowed on City Trails of the Fayetteville Code to allow some pedicab use and use of gas powered vehicles on limited segments of trails when necessary.
4. **Amend Title XV: ADM 09-3480 (Streamside Protection):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 155: Appeals, Chapter 156: Variances, and Chapter 168: Flood Damage Prevention Code in order to establish Streamside Protection Zones and adopt a Protected Streams map and Best Management Practices Manual.
5. **Huntingdon Heights Appeal:** An appeal of the City Engineer's determination regarding the driveway approach at 3172 Warwick Dr.

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

City of Fayetteville Staff Review Form

A. 2
Community Development Block
Grant (CDBG)
Page 1 of 84

City Council Agenda Items
and
Contracts, Leases or Agreements

2/1/2011

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Services

Division

Development Services

Department

Action Required:

Approval of Mayor's authority to execute the 2011 Community Development Block Grant (CDBG) Agreement upon receipt.

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	Community Services
			Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

01-14-2011
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

1-14-11
Date

Finance and Internal Services Director

1-14-2011
Date

Received in City
Clerk's Office

01-14-11A09:38 RCVD

Chief of Staff

1-18-11
Date

Received in
Mayor's Office

Mayor

1/18/11
Date



Staff recommends approval of Mayor's authority to execute the 2011 CDBG Agreement upon receipt.

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Jeremy Pate, Dir. Community Development 

From: Yolanda Fields, Dir. Community Services 

Date: January 11, 2011

Subject: 2011 Community Development Block Grant (CDBG)

PROPOSAL:

Fayetteville has been a Community Development Block Grant (CDBG) Entitlement City since 1975. Funding is based on a formula allocation that takes into account such factors as population, percent of low/moderate income persons and the number of housing units. This formula allocation process awards CDBG funding to the City of Fayetteville. Each year the Community Services Division submits a Consolidated Action Plan to the U.S. Department of Housing and Urban Development (HUD) outlining the proposed uses of the CDBG funding. If HUD approves the Action Plan a CDBG Agreement for that year is received. This Agreement must be executed, returned to the HUD Field Office in Little Rock and then sent to HUD in Washington D.C. for the release of funds.

Grant amounts vary each year dependent upon the funding levels authorized by Congress through the annual federal budget process. The estimated award for 2011 is \$700,000. The grant funding detail submitted to HUD in the 2011 Consolidated Action Plan is:

Administration	\$ 91,413
Housing Rehabilitation	385,954
Redevelopment	52,633
Big Brothers Big Sisters	10,000
Credit Counseling of Arkansas	15,929
Fayetteville Animal Services	9,000
Fayetteville Public Library	2,800
LifeSource (Services)	17,500
Peace at Home Family Shelter	7,111
UAMS Area Health Ed Center NW	7,660
Transportation Program	26,000
LifeSource (Facilities)	12,198
Lifestyles	44,442
NWA Free Health Center	<u>17,360</u>
	\$700,000

Approving the Mayor's authority to execute the 2011 CDBG Agreement upon receipt will reduce the waiting time for HUD to release the funds. This will allow for quicker start up of both internal and external programs to assist low and moderate income residents in Fayetteville. Any change in the awarded funding amount will be presented to the Council.

RECOMMENDATION:

Staff recommends that authority is given to the Mayor to execute the 2011 Community Development Block Grant (CDBG) Agreement upon receipt.

BUDGET IMPACT:

2011 estimated CDBG grant revenue - \$700,000.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT FOR 2011 WHEN RECEIVED IN THE ESTIMATED AMOUNT OF \$700,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to execute the Community Development Block Grant (CDBG) Agreement in the estimated amount of \$700,000.00 for 2011 when received, with allocation proposed as follows:

➤ Administration	\$91,413
➤ Housing Rehabilitation	\$385,954
➤ Redevelopment	\$52,633
➤ Big Brothers Big Sisters	\$10,000
➤ Credit Counseling of Arkansas	\$15,929
➤ Fayetteville Animal Services	\$9,000
➤ Fayetteville Public Library	\$2,800
➤ LifeSource (Services)	\$17,500
➤ Peace at Home Family Shelter	\$7,111
➤ UAMS Area Health Ed Center NW	\$7,660
➤ Transportation Program	\$26,000
➤ Lifestyles	\$44,442
➤ LifeSource (Facilities)	\$12,198
➤ NWA Free Health Center	\$17,360

PASSED and APPROVED this 1st day of February, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville Community Development Block Grant Proposed Action Plan 2011

ADMIN	91,413
(Funding cap of 20%)	

HOUSING PROGRAM	385,954
------------------------	---------

PUBLIC SERVICES

Big Brothers Big Sisters of NWA	10,000
Credit Counseling of Arkansas	15,929
Fayetteville Animal Services	9,000
Fayetteville Public Library	2,800
LifeSource International	17,500
Peace at Home Family Shelter	7,111
UAMS Area Health Ed Center NW	7,660
Transportation	26,000

(Funding cap of 15%)	96,000
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REDEVELOPMENT PROGRAM

CODE COMPLIANCE	52,633	
LAND ACQUISITION	-	
		52,633

PUBLIC FACILITIES

LifeSource International	12,198	
Life Styles	44,442	
NWA Free Health Center	17,360	
		74,000

TOTAL GRANT	\$ 700,000
--------------------	-------------------



Community Development Block Grant 2011 Action Plan

Community Services Division
Helping to Build a Better Community

Community Services Division

Yolanda Fields, CGFM
Community Services Director
125 W Mountain Street
Fayetteville Arkansas 72701

Phone 479 575 8260
Fax 479 444 3445
community_resources@ci.fayetteville.ar.us

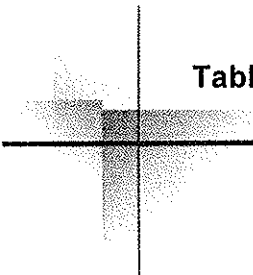


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Application for Federal Assistance SF-424		Version 02
*1. Type of Submission ☐ Preapplication ☒ Application ☐ Changed/Corrected Application		*2. Type of Application ☒ New ☐ Continuation ☐ Revision *If Revision, select appropriate letter(s): * Other (Specify)
*3. Date Received: 4. Application Identifier: B-11-MC-0001		
5a. Federal Entity Identifier:		*5b. Federal Award Identifier:
State Use Only:		
6. Date Received by State:		7. State Application Identifier:
8. APPLICANT INFORMATION:		
* a. Legal Name: City of Fayetteville		
* b. Employer/Taxpayer Identification Number (EIN/TIN): 71-6018462		*c. Organizational DUNS: 141-310578
d. Address:		
*Street1: 113 W Mountain Street 2: *City: Fayetteville County: Washington *State: AR Province: Country: USA *Zip/ Postal Code: 72701		
e. Organizational Unit:		
Department Name: Development Services Department		Division Name: Community Services Division
f. Name and contact information of person to be contacted on matters involving this application:		
Prefix: Ms. First Name: Yolanda Middle Name: *Last Name: Fields Suffix:		
Title: Community Services Director		
Organizational Affiliation:		
*Telephone Number: 479-575-8290		Fax Number: 479-444-3445
*Email: yfields@ci.fayetteville.ar.us		

Application for Federal Assistance SF-424

Version 02

9. Type of Applicant 1: Select Applicant Type: C. City or Township Government

Type of Applicant 2: Select Applicant Type:

- Select One -

Type of Applicant 3: Select Applicant Type:

- Select One -

*Other (specify):

*10. Name of Federal Agency:

U.S. Department of Housing and Urban Development

11. Catalog of Federal Domestic Assistance Number:

14.218

CFDA Title:

Community Development Block Grant/Entitlement Grant

*12. Funding Opportunity Number:

*Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Fayetteville, AR

*15. Descriptive Title of Applicant's Project:

Community Development Block Grant/Entitlement Grant

Attach supporting documents as specified in agency instructions.

Application for Federal Assistance SF-424

Version 02

16. Congressional Districts Of:

*a. Applicant
AR-003

*b. Program/Project:
AR-003

Attach an additional list of Program/Project Congressional Districts if needed.

17. Proposed Project:

*a. Start Date: January 1, 2011

*b. End Date: December 31, 2011

18. Estimated Funding (\$):

*a. Federal \$700,000.00

*b. Applicant

*c. State

*d. Local

*e. Other

*f. Program Income

*g. TOTAL \$700,000.00

*19. Is Application Subject to Review By State Under Executive Order 12372 Process?

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.

☒ c. Program is not covered by E.O. 12372

*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)

☐ Yes ☒ No

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

☒ **I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr

*First Name: Lioneld

Middle Name:

*Last Name: Jordan

Suffix:

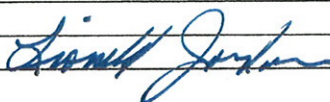
*Title: Mayor

*Telephone Number: 479-575-8331

Fax Number: 479-444-3445

*Email: ljordan@ci.fayetteville.ar.us

*Signature of Authorized Representative:



Date Signed: 11/1/10

Application for Federal Assistance SF-424

Version 02

*Applicant Federal Debt Delinquency Explanation

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.

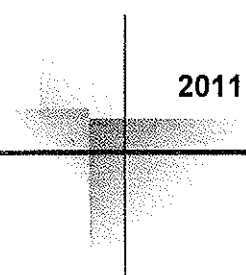
2011 Consolidated Action Plan | Introduction

This document serves as the City of Fayetteville's One-Year Consolidated Action Plan Submission for the use of 2010 Community Development Block Grant (CDBG) Program funds. The Action Plan describes how the City will address the priority needs and specific objectives identified in the five-year strategy outlined in the City of Fayetteville's 2011-2015 Five-Year Consolidated Plan. The One-Year Action Plan is a component of the Five-Year Consolidated Plan that is updated annually to reflect resource allocation changes.

The planning process for the development of this One-Year Action Plan began on July 18th and August 1st 2010 with published notices that the City was holding a mandatory subrecipient grant application workshop and accepting applications for GY2011 CDBG program funding. This notice of funding, in combination with the public hearing held on October 7, 2010, allowed agencies and interested citizens the opportunity to express concerns and share community needs. The public hearing announcement is included in Appendix B of this document.

Following the application submission period, 14 funding requests were received and reviewed by staff and the members of the grant prioritization committee. Applications were reviewed for compliance with application requirements. Proposed projects were also evaluated for fit with City Council adopted local community development objectives and consistency with the priorities and objectives contained in the 2011-2015 Consolidated Plan. CDBG funded activities must qualify by meeting at least one of the three national objectives: benefit low- and moderate-income individuals, prevent or eliminate blight and slums or meet urgent community development needs that pose a serious and immediate threat to the health or welfare of the community. In addition, each application was assessed for project readiness, financial leverage and other relevant concerns.

A summary of the proposed uses of CDBG funds recommended by staff was published in The Northwest Arkansas Times on September 22 and 26, 2010. It was also published in Spanish in the weekly paper La Prensa Libre for the week of September 27, 2010. These public notices provided the start and end dates of the 30-day public comment period. In addition, the public notices advised the general public of two locations that the proposed 2011 One-Year Action Plan was available for their review and comments. The draft One-Year Action Plan was then discussed at a public hearing held on October 7, 2010.



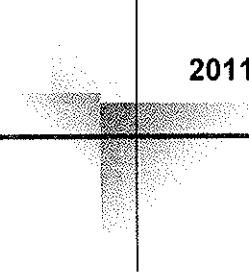
2011 Consolidated Action Plan

In order to receive its annual CDBG funding, the City of Fayetteville must develop and submit to the Department of Housing and Urban Development (HUD) its Consolidated Action Plan. This plan is the City's comprehensive planning document and application.

In the Consolidated Action Plan, the City identifies its goals for CDBG programs, which also serve as the criteria against which HUD will evaluate the City's performance in carrying out its goals. The Consolidated Plan promotes a comprehensive approach to local decisions by requiring cities to include all local residents interested in community development to help identify the needs of the community and formulate strategies for addressing those needs.

The concept behind the Consolidated Action Plan is to:

- Enable a community to view HUD programs not as isolated tools to solve narrow functional problems, but rather as an invitation to embrace a comprehensive vision of housing and community development;
- Create a comprehensive vision which includes affordable housing, fair housing, transportation, economic development and community rehabilitation;
- Enable communities to apply this comprehensive approach in helping the homeless in a continuum of care, a comprehensive system for moving individuals and families from homelessness to permanent housing;
- Improve program accountability and support results oriented management by establishing clear priority needs and goals; providing more timely and readable information on needs, goals and proposed projects to citizens; providing measurable indicators of progress; and reporting on progress against these measures;
- Facilitate citizen involvement and commitment in the planning process by increased community outreach;
- Partner with the local Public Housing Authority in comprehensive planning efforts to revitalize distressed neighborhoods and help low-income residents;
- Integrate efforts to identify and take measures to overcome impediments to fair housing, which is an integral part of comprehensive planning efforts. The programs covered by the Consolidated Plan all have in common the characteristic that expenditures must primarily benefit extremely low (0 to 30 percent of median income), very low (31 percent to 50 percent of median income), and low (51 percent to 80 percent of median income) income persons and households.



2011 Consolidated Action Plan

In addition, the goals are intended to meet the following three federal statutory objectives:

PROVIDE DECENT HOUSING | which includes:

assisting homeless persons obtain affordable housing; assisting persons at risk of becoming homeless; retention of affordable housing stock; increase the availability of affordable permanent housing in standard condition to low income and moderate income families, particularly to members of disadvantaged minorities without discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability; increasing the supply of supportive housing which includes structural features and services to enable persons with special needs (including persons with HIV/AIDS) to live in dignity and independence; and providing affordable housing that is accessible to job opportunities.

PROVIDE A SUITABLE LIVING ENVIRONMENT | which includes:

improving the safety and livability of neighborhoods; increasing access to quality public and private facilities and services; reducing the isolation of income groups within areas through spatial de-concentration of housing opportunities for lower income persons and the revitalization of deteriorating neighborhoods; restoring and preserving properties of special historic, architectural or aesthetic value; and conservation of energy resources.

EXPAND ECONOMIC OPPORTUNITIES | which includes:

job creation and retention; establishment, stabilization and expansion of small businesses (including micro businesses); the provision of public services concerned with employment; the provision of jobs to low-income persons living in areas affected by those programs and activities, or jobs resulting from carrying out activities under programs covered by the plan; availability of mortgage financing for low income persons at reasonable rates using non-discriminatory lending practices; access to capital and credit for development activities that promote the long term economic and social viability of the community; and empowerment and self sufficiency for low income persons to reduce generational poverty in federally assisted housing and public housing.



2011 Consolidated Action Plan Institutional Structure & Coordination

INSTITUTIONAL STRUCTURE and COORDINATION

Federal regulations require CDBG recipients to establish a common program year and identify a single lead agency to prepare and submit the Consolidated Action Plan. The task of preparing this Plan is assigned to the City of Fayetteville's Community Services Division. Annually, Community Services prepares the One-Year Action Plan as an update to the Five-Year Consolidated Plan. The Division addresses the various housing needs and strategies of the City of Fayetteville and administers the City's CDBG Program. It also functions as a program and services delivery unit to help address the community's needs for decent housing, a suitable living environment, and sustained economic health.

The Community Services Division has been in contact with an extensive network of governmental and non-profit agencies in developing this plan. Notices of funding availability were published in the local newspaper.

The delivery and financing of affordable/attainable housing involves organizations and participants from public agencies, businesses and private institutions, non-profits and community based organizations. The roles and responsibilities of the participants will vary depending on the project, required resources, leadership, levels of commitment, capacity, productivity and understanding of the issue. The Community Services Division will continue working with the various organizations as it implements the provisions of the 2011 One-Year Action Plan.

Staff also maintains relationships with state and federal partners and agencies to better link services to our targeted population. Community Services staff has assumed leadership and support roles with the Northwest Arkansas Housing Coalition, League of United Latin American Citizens, Hispanic Women's Organization and the University of Arkansas Community Relations Committee.

2011 Consolidated Action Plan Community Profile

COMMUNITY PROFILE

The City of Fayetteville is the county seat of Washington County and is located in the northwestern part of Arkansas. Washington County is the third most populous county in Arkansas and one of the fastest growing. Fayetteville is situated at the foothills of the Ozark Mountains. Fayetteville is the southernmost city in metropolitan Northwest Arkansas and is located approximately 185 miles northwest of Little Rock, Arkansas, 125 miles east of Tulsa, Oklahoma; 350 miles northeast of Dallas, Texas and 210 miles south of Kansas City, Missouri. Fayetteville and the Northwest Arkansas region have gained a national reputation as one of the best places in the country to live and raise a family. The City and the region are experiencing rapid population growth and an increasing number of visitors. Fayetteville's population has increased from approximately 20,000 in 1960 to 58,047 according to the 2000 census. A special census completed in June of 2006 showed the population to be 67,158 and the most recent U.S. Census Bureau estimates place the 2009 population at 77,143. The city is the third most populous in Arkansas and currently encompasses 34,153 acres.

The 2006 special census found that there were 67,158 people, 28,212 households and 13,773 families residing within the city. The special census numbers reflect increases from the 2000 census. They show a 14% increase in the number of people, 16% increase in households and a 12% increase in the number of families. There were 31,419 housing units this is an increase in housing units of 19% between the 2000 census and the 2006 special census. The racial makeup of the city was 82.9% White, 5.6% African American, 0.9% Native American, 2.9% Asian, 0.2% Pacific Islander, 4.3% Other races, 3.1% Two or more races. The 2006 special census showed that 6.5% of the community was Hispanic or Latino of any race.

The age distribution in the City was 19.2% under the age of 18, 26.2% from 18 to 24, 30.4% from 25 to 44, 16.9% from 45 to 64, and 7.3% were 65 years of age or older. The special census did not update the median income information therefore the following is utilizing information from the 2000 census. The median income for a household in the city was \$31,345, and the median income for a family was \$45,074. The per capita income for the city was \$18,311. 19.9% of the population and 11.4% of families were below the poverty line.

2011 Consolidated Action Plan Housing & Community Development Needs

HOUSING & COMMUNITY DEVELOPMENT NEEDS

HOUSING

The City of Fayetteville is committed to the development of programs which address the need for housing for Low and Moderate Income (LMI) persons and families. In response to priority needs revealed during the development of the City's five year Consolidated Plan in 2005, the City has focused on developing community partnerships with local entities with expertise in specialized housing activities. This cooperation will further the attainable housing effort in the City of Fayetteville. Attainable housing has become a topic of great concern for this division. Housing costs in Northwest Arkansas have increased at a considerable rate throughout the past 10 years according to the latest information from the 2000 Census. The cost of the median mortgage payment in the City of Fayetteville remains the highest in Northwest Arkansas at \$916, an increase of 45 percent. It is the highest median mortgage payment of any city in Northwest Arkansas and 24 percent higher than the state median of \$737.



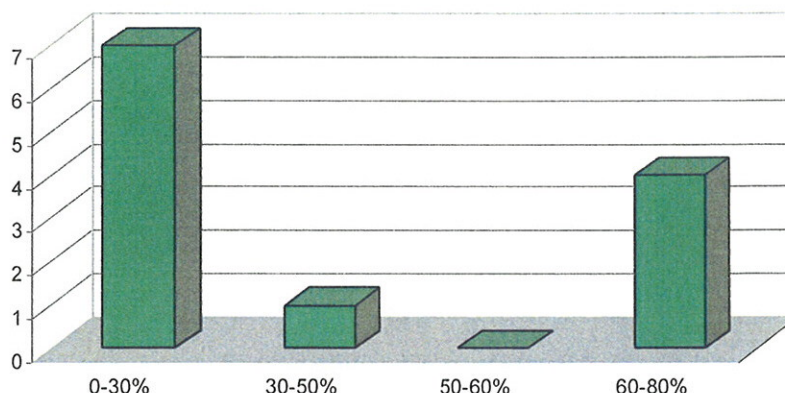
This home received housing rehabilitation with Community Development Block Grant funds. The moderate rehabilitation consisted of installing new windows to meet code, removing and replacing exterior doors, remove and replace insulations and gutters, new siding, soffit and fascia, replaced back porch and remove and patch s-rock in bathroom and fix sub-floor.

REHABILITATION

The City of Fayetteville has been helping homeowners with rehabilitation of their homes for approximately 31 years. The funding has allowed homeowners to stay in their homes and the improvements to their homes have acted as a catalyst for other, high quality renovations and new construction of housing in the project area. The majority of recipients have been very low income and/or elderly households. These owners have little or no funds available to repay a loan and typically have the greatest amount of deferred maintenance. The chart on the following page reflects the income levels of program participants from January 2010 - September 2010.

2011 Consolidated Action Plan Housing & Community Development Needs

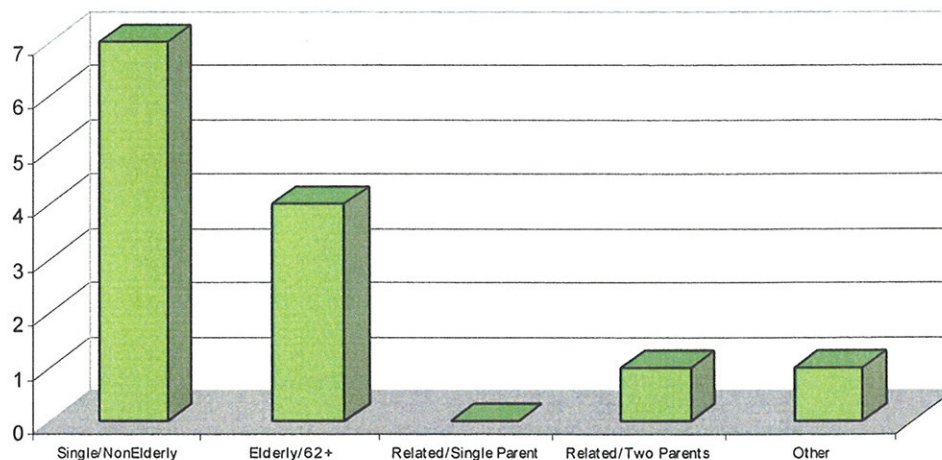
Housing Projects Completed | Income Limits



According to the U.S. Census Bureau approximately 7,722 homes were built prior to 1978 in the City of Fayetteville. Any rehabilitation activities of more than \$5,000 on homes constructed prior to 1978 will have Lead-Based Paint (LBP) testing done and actions taken to remove any identified hazards. Lead-based paint hazards consist of any condition that causes exposure to lead. To date in 2010, the program identified 5 homes in the housing rehabilitation program with LBP concerns. All of those homes have or will have those hazards corrected. (Note: some of those identified are projects currently in progress)

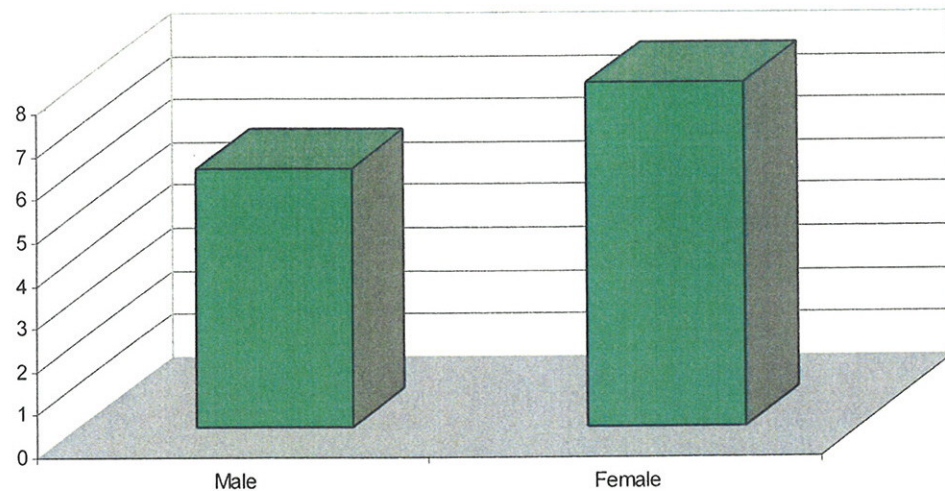
The 2006 Special Census reported 4,891 residents over the age of 65 in the City of Fayetteville. Homeowners in this age group are generally on a fixed income and often cannot afford to make any repairs on their homes or address making their homes energy efficient. The housing rehab program addresses both Lead-Based Paint issues and making the home energy efficient which can allow the homeowners to remain in the home longer than expected. The races of the households is 11 (85%) White and 2 (15%) African American. The following charts reflect the statistics on the participants that have been assisted in the first nine months of 2010. We have provided rehabilitation to 13 homes from January - September 2010.

Housing Projects Completed | Head of Household



2011 Consolidated Action Plan Housing & Community Development Needs

Housing Projects Completed | Sex of Household



PUBLIC SERVICES

Utilization of CDBG funds for the provision of public services, which serve LMI groups, has been and continues to be a focus of the Community Development Program. The Transportation Program has two components and provides assistance to LMI, disabled and/or elderly members of our community. The Transit Program provides qualifying LMI residents with bus passes through a partnership with Ozark Regional Transit to supplement their ability to get to appointments, jobs, etc. The Taxi Program provides supplemental transportation for elderly and/or disabled residents of Fayetteville in hopes of allowing them greater self-sufficiency. The Public Services component also includes the CDBG Subrecipient Grant Program which allows local nonprofits to apply for funding through a competitive grant application process.

PUBLIC FACILITIES

CDBG has historically supported Community Services Public Facilities projects in Fayetteville. CDBG dollars have assisted with construction, renovation and development of facilities for local non-profit organizations such as Fayetteville Public Library, Life Styles, NWAEDD/Fayetteville Senior Center and Northwest Arkansas Free Health Center, as well as renovations and improvements to streets, sidewalks and other infrastructure located in the designated target area.

2011 Consolidated Action Plan Housing & Community Development Needs

REDEVELOPMENT

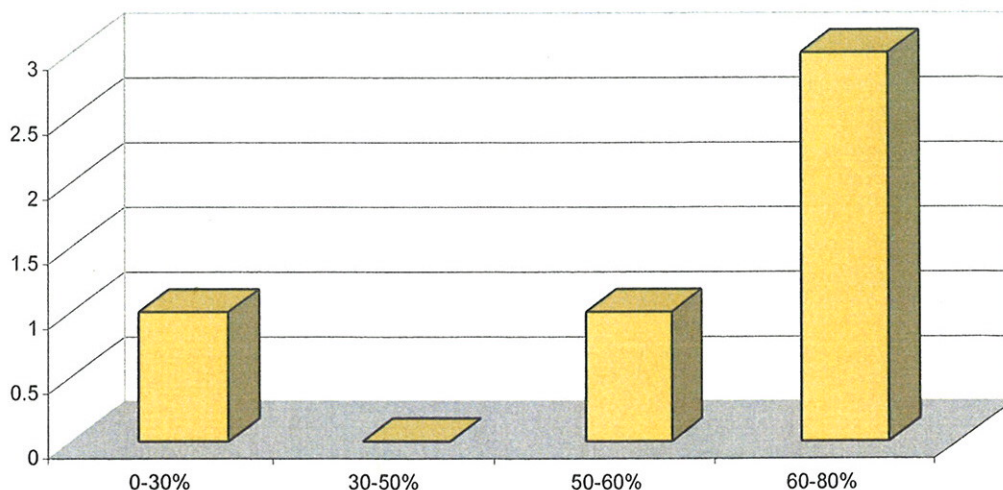
In 1992, a neighborhood within a low-to-moderate-income area of Fayetteville was designated as the Target Area. Prior to the creation of the program, Code Compliance efforts were placing an additional economic strain on the low- and moderate-income homeowners in the Target Area who are physically or financially unable to correct code violations. Thus, in 2004, the Redevelopment Program was established for the Target Area to assist in cleaning and revitalizing the deteriorating neighborhood.

According to the Community Sourcebook of Zip Code Demographics, 37.2% of the population makes less than \$25,000; 26.0% make \$25,000 to \$49,000; 24.3% make \$50,000 to \$99,000; 8.0% make \$100,000 to \$149,000; and 4.6% make \$150,000 or more. The Target Area is located within the 72701 zip code area, which is comprised of mainly low- and moderate-income residents.

With a high percentage making less than \$25,000 a year, it is evident that residents will often not have the resources to correct code violations on their property. Currently there are 22 active cases and 23 service requests in the Target Area. The Redevelopment Program assists residents with correcting code violations without creating additional economic strain.

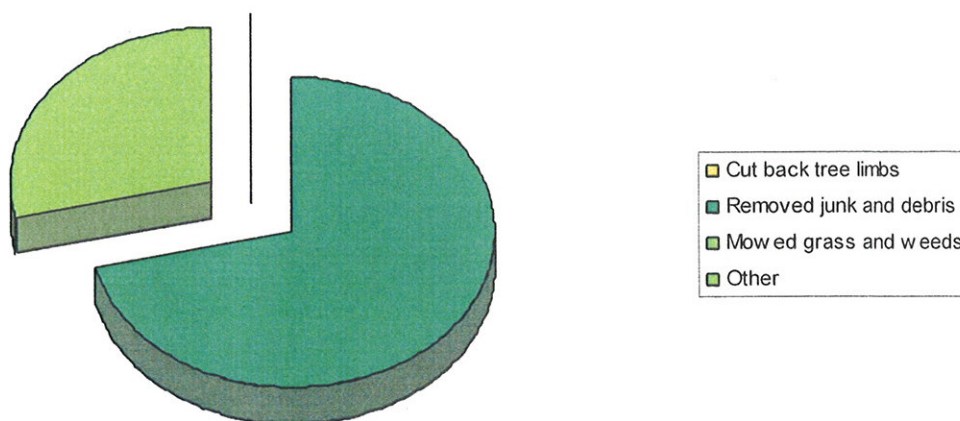
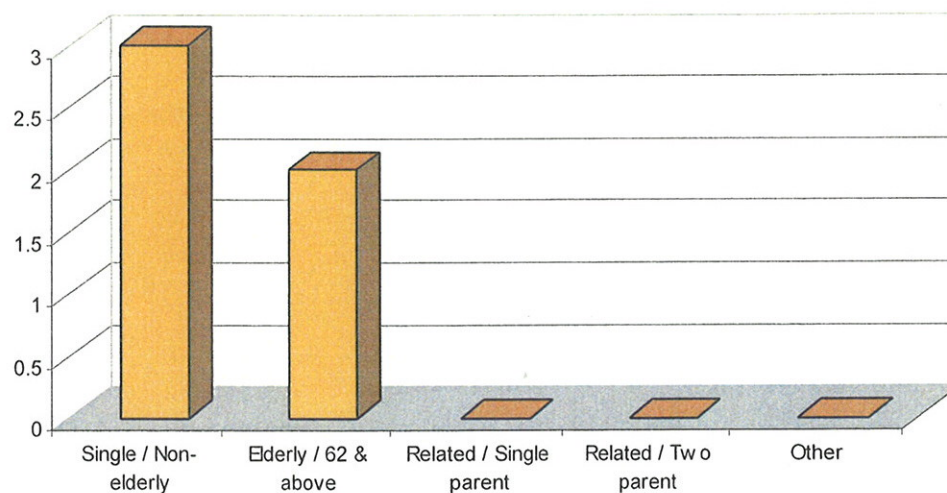
From January 2010 - September 2010, we have successfully assisted 5 households. The following charts provide statistics on the participants that were assisted.

Redevelopment Projects Completed | Income Limits



2011 Consolidated Action Plan Housing & Community Development Needs

Redevelopment Projects Completed | Head of Household



Redevelopment Projects Completed | Work Performed

In addition to identifying code violations in the Target Area, the Redevelopment Officer seeks opportunities to educate residents and local organizations in the Target Area on city ordinances and the Redevelopment Program. The goal of education is not just to educate the public but also to develop and maintain relationships.

2011 Consolidated Action Plan Available Resources & Public Access | Participation

AVAILABLE RESOURCES

FEDERAL | STATE The City of Fayetteville is an entitlement community and therefore receives a formula grant through the Department of Housing and Urban Development Community Development Block Grant Program. Private non-profit organizations in Fayetteville are funded through competitive state and federal allocations, the local United Way campaign, private foundation grants, other special competitive grants and private donations including fund-raising activities. The City anticipates the CDBG formula allocation in 2011 will be approximately \$700,000.

MUNICIPAL GOVERNMENT The City's Street Division has estimated \$108,651 for street overlay and repair of streets located in the designated Community Development Target Area.

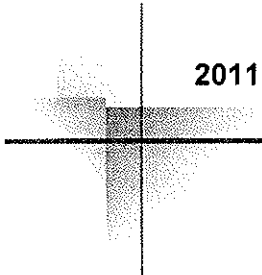
PUBLIC ACCESS & PARTICIPATION

CDBG Activities are designed and carried out based on local needs. Through public meetings, consultation with area public and non-profit service agencies, informal discussion with citizens, studies, city staff and special purpose committees; input from community stakeholders and resource holders is sought and integrated into designating action priorities.

One formal public hearing was held to present and discuss proposed CDBG activities for fiscal year 2011. Community Development staff were active in the presentation of program information.

In addition, a quarterly Community Services outreach publication serves to inform the community of current and future program projects and activities. Program literature in Spanish is also available in the office and at locations in the community. Staff continues to be active in the Northwest Arkansas Housing Coalition.

In accordance with Fayetteville's Citizen Participation Plan, the 2011 Consolidated Action Plan was made available for a 30 day citizen review period.



2011 Consolidated Action Plan Analysis of Impediments to Further Fair Housing & Section 3 Compliance

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING

The *Analysis of Impediments to Fair Housing* (AI) was completed in November 2010. CDBG Program regulations require recipient jurisdictions to "affirmatively further fair housing" as required by Section 808 of the Fair Housing Act.

The AI is part of the Community Services effort to affirmatively further fair housing choice by identifying impediments to fair housing which presently exist in the community, and to develop strategies and actions designed to reduce or eliminate the identified impediments. Further, the AI will foster the collaboration of stakeholders and resource providers in the public, non-profit and private sectors; thereby promoting relationship-building and consensus on fair housing issues. The AI process helps describe a clearer picture of housing conditions for LMI households in Fayetteville and aids in defining current and future housing directions.

The current AI identified four areas of action:

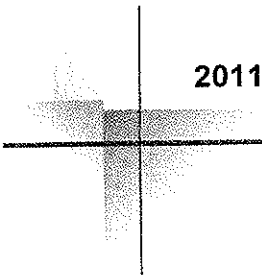
- Consider initiating a Fair Housing Committee within the Arkansas Community Development Association.
- Increase knowledge and understanding of fair housing and affirmatively furthering fair housing through utilization of education programs and materials provided by the Arkansas Fair Housing Commission (AFHC).
- Encourage AFHC to establish baseline and actual level and types of discrimination occurring in the community through audit testing activities.
- Continue to support and make referrals to local organizations that provide approved homebuyer education programs.

The Community Services CDBG administration program has responsibility for the efforts to affirmatively further fair housing.

SECTION 3

A condition of receiving HUD Community Planning and Development assistance is compliance with the requirements of Section 3. The Section 3 regulation is a directive for providing preference to low- and very low-income residents and businesses that substantially employ these persons for new employment, training and contracting opportunities resulting from HUD-funded projects that trigger Section 3.

The City of Fayetteville stays current on the Section 3 requirements and annually submits a Section 3 compliance report to HUD.



2011 One Year Action Plan

ONE-YEAR ACTION PLAN 2011

SUMMARY | USE OF FUNDS

The One-Year Action Plan for the 2011 program year illustrates the various programs, listings of projects and descriptions that will be implemented and funded under the CDBG federal program.

Comments regarding the 2011 Action Plan can be sent to:

City of Fayetteville
Attention: Yolanda Fields
Community Services Division
113 W Mountain Street
Fayetteville AR 72701

Title I of the Housing and Community Development Act of 1974 (Public Law 93-383) created the CDBG Program. Re-authorized in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act, local communities can use the resources of the CDBG Program to develop flexible, locally designed community development strategies to address the program's national objectives of:

1. Providing benefits to low and moderate income persons;
2. Eliminating slums and blight; and
3. Meeting an urgent community need.

Within the framework of these national objectives, the City of Fayetteville has also established the following local community development objectives:

1. Housing and neighborhood preservation;
2. Economic development through job enhancement;
3. Public facilities and improvements limited to the support of objectives 1 and 2;
4. Elimination of blight and blighting elements limited to the support of objectives 1 and 2; and
5. Special programs offering significant community benefit and in direct support of objectives 1 and 2.

2011 Consolidated Action Plan Administration | Housing | Redevelopment

ADMINISTRATION

Administration funds are used for the salary and benefits of the Community Services Director, administrative staff, office supplies, travel and training costs, some Fair Housing activities and other costs associated with administration of community development activities. CDBG funds allocated - \$91,413. Location: Development Services Building, 125 West Mountain Street, Fayetteville, Arkansas 72701.

HOUSING SERVICES

This allocation provides forgivable loans to low and moderate income persons for rehabilitation of owner-occupied housing. The rehabilitation services are offered up to \$25,000.

The program provides labor, materials, project management, Lead Based Paint (LBP) Hazard Control, and other associated costs to bring a home into compliance with State and City Housing Codes. Emphasis is placed on repairs that improve energy efficiency, alleviate deferred maintenance conditions, provide safety devices and/or replace principal fixtures and components. CDBG funds allocated - \$385,954 which includes salary and program delivery costs for management and oversight of all housing programs. Fifty households to be served.

Location: Citywide, when there is a waiting list applicants are prioritized according to established criteria to give highest priority to those most in need of services. Priority criteria include: very low income, elderly, disabled, single-parent household, lead-based paint hazards in home and homes located in the Target Area.

REDEVELOPMENT PROGRAM

Program activities conducted in the Target Area include code compliance, clearance and demolition, and land acquisition for attainable housing. Twenty-five households to be served. CDBG funds allocated - \$52,633. Location: The identified Target Area in southeast Fayetteville.

2011 Consolidated Action Plan Public Services

SUBRECIPIENT GRANT PROGRAM - Public Services

Big Brothers Big Sisters of Northwest Arkansas | \$10,000

Big Brothers Big Sisters Fayetteville Mentoring Program A portion of the costs associated with the site-based mentoring programs in Fayetteville. The program matches at-risk children with a high school or adult volunteer in a one-to-one mentoring relationship.

Credit Counseling of Arkansas, Inc. (CCOA) | \$15,929

Safe at Home Provision of free homebuyer education and foreclosure prevention counseling for low- and moderate-income households in Fayetteville. Funding requested for salaries/benefits, program outreach tools and materials and facilities.

Fayetteville Animal Services | \$9,000

Seniors for Seniors A program to improve the quality of life for senior citizens by paying the pet deposit fee at their rental property and the adoption fee for any suitable animal at the Fayetteville Animal Shelter.

Fayetteville Public Library | \$2,800

Letter of the Week Provides intensive tutoring for at-risk, low-income pre-kindergarten students. FPL volunteers will work with Head Start students on letter recognition and phonics to improve their kindergarten readiness skills. Funding will purchase the supplies for Letter of the Week.

LifeSource International | \$17,500

Kid's Life Summer Camp A portion of the costs associated with implementing the eight week day camp for at-risk youth. Emphasis is placed on education, health and nutrition and physical activity.

Peace at Home Family Shelter | \$7,111

Sustainable Employment and Housing through Self Sufficiency Plans The project will provide an employment assistance program to support homeless Fayetteville women obtain and maintain violence free homes.

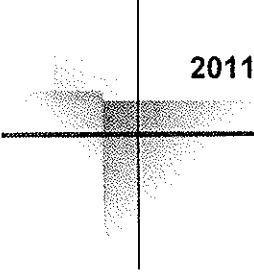
UAMS Area Health Education Center Northwest | \$7,660

Community Health Applied to Medical Public Service - CHAMPS A program for junior high students, providing hands-on experiences in health careers, health education and community service.

Transportation Program | \$26,000

Taxi Program Supplemental transportation for disabled and/or elderly residents to assist in creating greater self-sufficiency for program participants.

Transit Program Supplemental transportation assistance for qualifying low- and moderate-income residents.



2011 Consolidated Action Plan Public Facilities

SUBRECIPIENT GRANT PROGRAM - Public Facilities

LifeSource International | \$12,198

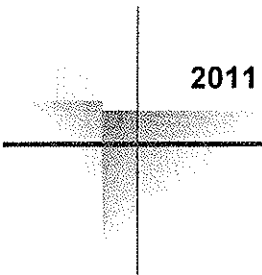
Kitchen Renovation LifeSource utilizes their kitchen to provide two meals and snacks daily during the summer camp program. It is also used to teach self-sufficiency skills to youth enrolled in their programs. Throughout the year it is used for outreach meals and senior lunches as well as adult education classes teaching nutrition and preparing meals on a budget. The kitchen renovation will include a convection oven, commercial food mixer, reach in freezer and a commercial microwave oven.

Life Styles | \$44,442

Life Styles Apartments on Sycamore Life Styles provides transitional housing to individuals with intellectual or other developmental disabilities at their apartments on Sycamore. Funding will replace the roofs on the two apartment buildings. It will also put siding on the two apartment buildings and the support center at the same location.

Northwest Arkansas Free Health Center | \$17,360

Relocation and Expansion of Northwest Arkansas Free Health Center The NWA Free Health Center will be relocating to a larger facility in 2011. This expansion will require the purchase of additional equipment. Funding will purchase a dental operatory (chair, light, hoses, vacuum kit), an exam table, a diagnostic wall mounted system and base cabinets.



2011 Consolidated Action Plan Monitoring

MONITORING

COMMUNITY DEVELOPMENT PROGRAMS will be monitored by the Community Development Division, State HUD staff and external auditors to ensure long-term compliance with federal, state and local regulations and statutes. Goals and objectives outlined in the Consolidated Plan will be reviewed periodically by the Community Development staff to ensure compliance to the plan.

HOUSING PROGRAMS will be monitored by the CDBG Housing Program staff and State HUD staff. When needed the City of Fayetteville Building Safety Division will provide monitoring for compliance to building ordinances. All building ordinances must be met prior to final payment on all housing rehabilitation projects. Follow-up visits will be made to all housing rehabilitation project sites.

PUBLIC SERVICE ACTIVITIES will be monitored by Community Services staff. Subrecipient agreements will be required for all public service activities. Monitoring includes assessment of program performance, financial performance and regulatory compliance. Subrecipient agreements will require documentation of activities and results. The subrecipient agreement will outline procedures to be followed in case a non-compliance situation may occur.

REDEVELOPMENT PROGRAMS will be monitored by Community Services staff, State HUD staff and external auditors. Code compliance issues are administered according to city ordinances and policy/procedures guidelines. Land acquired will be utilized for attainable housing in the Target Area. Program efforts will serve to advance the revitalization of the Target Area.

LEAD BASED PAINT hazard reduction will be monitored by CDBG Housing Program staff. Rehabilitation projects are evaluated and tested for lead-based paint hazards in accordance with the City of Fayetteville lead-based paint policy. The policy has been established based on current federal regulation for lead-based paint. This policy will be reviewed on an annual basis by CDBG staff.

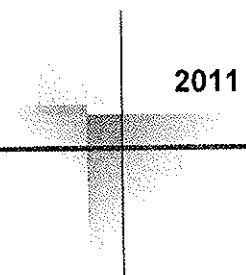
GRANTEE MONITORING Division staff continue to take all necessary steps to ensure compliance with program requirements. All activities are looked at on an individual basis to determine what regulations are applicable and how they should be met. Division staff receive on-going training to develop the knowledge and skills to operate and comply with program requirements.



Community Development Block Grant 2011 Action Plan

APPENDICES

Community Services Division
Helping to Build a Better Community



2011 Consolidated Action Plan Certifications

Appendix A *Certifications*



CPMP Non-State Grantee Certifications

Many elements of this document may be completed electronically, however a signature must be manually applied and the document must be submitted in paper form to the Field Office.

- ☐ This certification does not apply.
☒ This certification is applicable.

NON-STATE GOVERNMENT CERTIFICATIONS

In accordance with the applicable statutes and the regulations governing the consolidated plan regulations, the jurisdiction certifies that:

Affirmatively Further Fair Housing -- The jurisdiction will affirmatively further fair housing, which means it will conduct an analysis of impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard.

Anti-displacement and Relocation Plan -- It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and it has in effect and is following a residential antidisplacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG or HOME programs.

Drug Free Workplace -- It will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about --
 - a. The dangers of drug abuse in the workplace;
 - b. The grantee's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will --
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted --
 - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

Jurisdiction

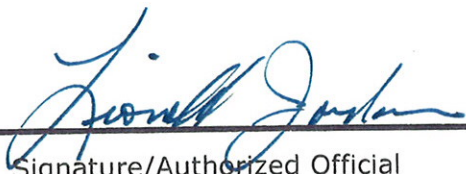
Anti-Lobbying -- To the best of the jurisdiction's knowledge and belief:

8. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
9. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
10. It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Authority of Jurisdiction -- The consolidated plan is authorized under State and local law (as applicable) and the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

Consistency with plan -- The housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

Section 3 -- It will comply with section 3 of the Housing and Urban Development Act of 1968, and implementing regulations at 24 CFR Part 135.


Signature/Authorized Official

11/11/10
Date

Lioneld Jordan

Name

Mayor City of Fayetteville

Title

113 W Mountain St

Address

Fayetteville/AR/72701

City/State/Zip

479-575-8331

Telephone Number

Jurisdiction

- ☐ This certification does not apply.
☒ This certification is applicable.

Specific CDBG Certifications

The Entitlement Community certifies that:

Citizen Participation -- It is in full compliance and following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.105.

Community Development Plan -- Its consolidated housing and community development plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that provide decent housing, expand economic opportunities primarily for persons of low and moderate income. (See CFR 24 570.2 and CFR 24 part 570)

Following a Plan -- It is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.

Use of Funds -- It has complied with the following criteria:

11. Maximum Feasible Priority - With respect to activities expected to be assisted with CDBG funds, it certifies that it has developed its Action Plan so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight. The Action Plan may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available);
12. Overall Benefit - The aggregate use of CDBG funds including section 108 guaranteed loans during program year(s) 2____, 2____, 2____, (a period specified by the grantee consisting of one, two, or three specific consecutive program years), shall principally benefit persons of low and moderate income in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period;
13. Special Assessments - It will not attempt to recover any capital costs of public improvements assisted with CDBG funds including Section 108 loan guaranteed funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements.

However, if CDBG funds are used to pay the proportion of a fee or assessment that relates to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds.

The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108, unless CDBG funds are used to pay the proportion of fee or assessment attributable to the capital costs of public improvements financed from other revenue sources. In this case, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. Also, in the case of properties owned and occupied by moderate-income (not low-income) families, an assessment or charge may be made against the property for public improvements financed by a source other than CDBG funds if the jurisdiction certifies that it lacks CDBG funds to cover the assessment.

Excessive Force -- It has adopted and is enforcing:

14. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
15. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;

Jurisdiction

Compliance With Anti-discrimination laws -- The grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 USC 2000d), the Fair Housing Act (42 USC 3601-3619), and implementing regulations.

Lead-Based Paint -- Its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K and R, of title 24;

Compliance with Laws -- It will comply with applicable laws.



Signature/Authorized Official

11/11/10

Date

Lioneld Jordan

Name

Mayor City of Fayetteville

Title

113 W Mountain St

Address

Fayetteville/AR/72701

City/State/Zip

479-575-8331

Telephone Number

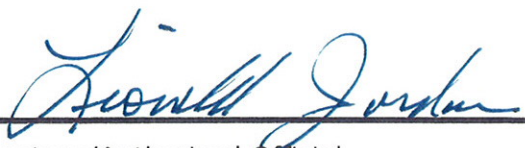
Jurisdiction

- ☒ This certification does not apply.
☐ This certification is applicable.

**OPTIONAL CERTIFICATION
CDBG**

Submit the following certification only when one or more of the activities in the action plan are designed to meet other community development needs having a particular urgency as specified in 24 CFR 570.208(c):

The grantee hereby certifies that the Annual Plan includes one or more specifically identified CDBG-assisted activities, which are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.



Signature/Authorized Official



Date

Lioneld Jordan

Name

Mayor City of Fayetteville

Title

113 W Mountain St

Address

Fayetteville/AR/72701

City/State/Zip

479-575-8331

Telephone Number

Jurisdiction

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☐ This certification is applicable.

Specific HOME Certifications

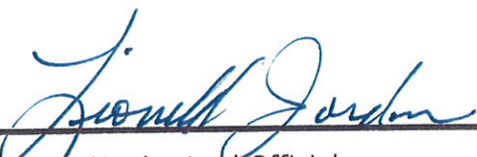
The HOME participating jurisdiction certifies that:

Tenant Based Rental Assistance -- If the participating jurisdiction intends to provide tenant-based rental assistance:

The use of HOME funds for tenant-based rental assistance is an essential element of the participating jurisdiction's consolidated plan for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing.

Eligible Activities and Costs -- it is using and will use HOME funds for eligible activities and costs, as described in 24 CFR § 92.205 through 92.209 and that it is not using and will not use HOME funds for prohibited activities, as described in § 92.214.

Appropriate Financial Assistance -- before committing any funds to a project, it will evaluate the project in accordance with the guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other Federal assistance than is necessary to provide affordable housing;


Signature/Authorized Official


Date

Lioneld Jordan

Name

Mayor City of Fayetteville

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113 W Mountain St

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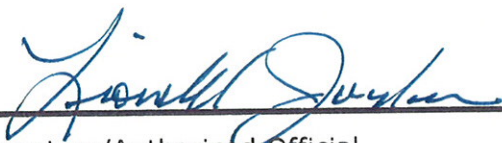
HOPWA Certifications

The HOPWA grantee certifies that:

Activities -- Activities funded under the program will meet urgent needs that are not being met by available public and private sources.

Building -- Any building or structure assisted under that program shall be operated for the purpose specified in the plan:

1. For at least 10 years in the case of assistance involving new construction, substantial rehabilitation, or acquisition of a facility,
2. For at least 3 years in the case of assistance involving non-substantial rehabilitation or repair of a building or structure.



Signature/Authorized Official

11/16/10

Date

Lioneld Jordan

Name

Mayor City of Fayetteville

Title

113 W Mountain St

Address

Fayetteville/AR/72701

City/State/Zip

479-575-8331

Telephone Number

- ☒ **This certification does not apply.**
☐ **This certification is applicable.**

ESG Certifications

I, n/a, Chief Executive Officer of Jurisdiction, certify that the local government will ensure the provision of the matching supplemental funds required by the regulation at 24 *CFR* 576.51. I have attached to this certification a description of the sources and amounts of such supplemental funds.

I further certify that the local government will comply with:

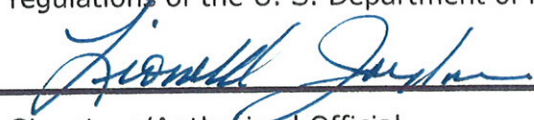
1. The requirements of 24 *CFR* 576.53 concerning the continued use of buildings for which Emergency Shelter Grants are used for rehabilitation or conversion of buildings for use as emergency shelters for the homeless; or when funds are used solely for operating costs or essential services.
2. The building standards requirement of 24 *CFR* 576.55.
3. The requirements of 24 *CFR* 576.56, concerning assurances on services and other assistance to the homeless.
4. The requirements of 24 *CFR* 576.57, other appropriate provisions of 24 *CFR* Part 576, and other applicable federal laws concerning nondiscrimination and equal opportunity.
5. The requirements of 24 *CFR* 576.59(b) concerning the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
6. The requirement of 24 *CFR* 576.59 concerning minimizing the displacement of persons as a result of a project assisted with these funds.
7. The requirements of 24 *CFR* Part 24 concerning the Drug Free Workplace Act of 1988.
8. The requirements of 24 *CFR* 576.56(a) and 576.65(b) that grantees develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted with ESG funds and that the address or location of any family violence shelter project will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter.
9. The requirement that recipients involve themselves, to the maximum extent practicable and where appropriate, homeless individuals and families in policymaking, renovating, maintaining, and operating facilities assisted under the ESG program, and in providing services for occupants of these facilities as provided by 24 *CFR* 76.56.
10. The requirements of 24 *CFR* 576.57(e) dealing with the provisions of, and regulations and procedures applicable with respect to the environmental review responsibilities under the National Environmental Policy Act of 1969 and related

Jurisdiction

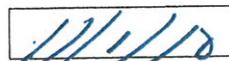
authorities as specified in 24 *CFR* Part 58.

11. The requirements of 24 *CFR* 576.21(a)(4) providing that the funding of homeless prevention activities for families that have received eviction notices or notices of termination of utility services will meet the requirements that: (A) the inability of the family to make the required payments must be the result of a sudden reduction in income; (B) the assistance must be necessary to avoid eviction of the family or termination of the services to the family; (C) there must be a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and (D) the assistance must not supplant funding for preexisting homeless prevention activities from any other source.
12. The new requirement of the McKinney-Vento Act (42 *USC* 11362) to develop and implement, to the maximum extent practicable and where appropriate, policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons. I further understand that state and local governments are primarily responsible for the care of these individuals, and that ESG funds are not to be used to assist such persons in place of state and local resources.
13. HUD's standards for participation in a local Homeless Management Information System (HMIS) and the collection and reporting of client-level information.

I further certify that the submission of a completed and approved Consolidated Plan with its certifications, which act as the application for an Emergency Shelter Grant, is authorized under state and/or local law, and that the local government possesses legal authority to carry out grant activities in accordance with the applicable laws and regulations of the U. S. Department of Housing and Urban Development.



Signature/Authorized Official



Date

Lioneld Jordan

Name

Mayor City of Fayetteville

Title

113 W Mountain St

Address

Fayetteville/AR/72701

City/State/Zip

479-575-8331

Telephone Number

Jurisdiction

- ☐ This certification does not apply.
☒ This certification is applicable.

APPENDIX TO CERTIFICATIONS

Instructions Concerning Lobbying and Drug-Free Workplace Requirements

Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Drug-Free Workplace Certification

- By signing and/or submitting this application or grant agreement, the grantee is providing the certification.
- The certification is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
- Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
- Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio stations).
- If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).
- The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant: Place of Performance (Street address, city, county, state, zip code) Check if there are workplaces on file that are not identified here. The certification with regard to the drug-free workplace is required by 24 CFR part 21.

Place Name	Street	City	County	State	Zip
City of Fayetteville	125 W Mountain St	Fayetteville	Washington	AR	72701

- Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules: "Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15); "Conviction" means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes; "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any

Jurisdiction

controlled substance; "Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including:

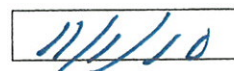
- a. All "direct charge" employees;
- b. all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and
- c. temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Note that by signing these certifications, certain documents must be completed, in use, and on file for verification. These documents include:

1. Analysis of Impediments to Fair Housing
2. Citizen Participation Plan
3. Anti-displacement and Relocation Plan



Signature/Authorized Official



Date

Lioneld Jordan

Name

Mayor City of Fayetteville

Title

113 W Mountain St

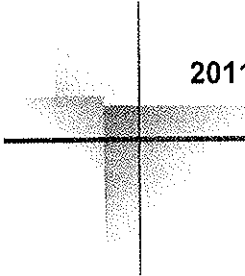
Address

Fayetteville/AR/72701

City/State/Zip

479-575-8331

Telephone Number



2011 Consolidated Action Plan Published Notices

Appendix B *Published Notices*

NORTHWEST ARKANSAS NEWSPAPERS_{LLC}

Northwest Arkansas Democrat Gazette
The Morning News of Springdale
The Morning News of Rogers
Northwest Arkansas Times
Benton County Daily Record

212 North East Avenue, Fayetteville Arkansas 72701/ PO Box 1607, 72702
PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Northwest Arkansas Newspapers LLC. Printed and published in Washington & Benton County, (Lowell), Arkansas and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville – CDBG- Application Request

July 28 & August 1, 2010

Publication Charge : \$ 205.45

Signed: Cathy Wiles

Subscribed and sworn to before me
This 24 day of August, 2010.

Notary Public J Mears

My Commission Expires:

Do not pay from Affidavit, an invoice will be sent

Jim Mears
Washington County
Commission Number 12374647
Notary Public - Arkansas
My Commission Expires Jan. 20, 2020

Fayetteville
ARKANSAS

Fayetteville Community Development Block Grant applications to request funding for program year 2011 will be available to attendees of the mandatory grant workshop. Applications may be picked up at the Mandatory Grant Application Workshop to be held on Tuesday, August 3, 2010 from 2:00 – 3:30 p.m. at the City Administration Building, 113 W Mountain Street, Room 326. The application deadline is Tuesday, August 31, 2010 at 5:00 p.m. Applications should be returned to the Community Services Division located at 125 W Mountain Street.

The Community Services Division will be holding a public hearing to obtain views of citizens, public agencies, and other interested parties that will or may be affected by program funds, such as minorities, persons with disabilities, residents of public and assisted housing developments, residents living in slum and blighted areas, residents in predominantly low-to-moderate income neighborhoods, particularly Southeast Fayetteville residents which is the targeted revitalization area. The public hearing will be held on Thursday, October 7, 2010 at 5:30 p.m. at 113 W Mountain St, Room 326.

For more information, please contact the Community Services Division at 479-575-8235 or kcoblebar@ci.fayetteville.ar.us or visit our offices in the Development Services Department at 125 W. Mountain St.

NORTHWEST ARKANSAS NEWSPAPERS
212 N. EAST AVENUE
FAYETTEVILLE, AR 72701
(479) 442-1700

TERMINAL ID: 00007104060
MERCHANT #: 00001213099

VISA FLEET

*****9575

CLK: TWALTERS EXP.: **/**

SALE

BATCH: 238 SQ: 007576

DATE: 07/28/10 TIME: 13:34:05

AV: Z - ZIP APPROVED: 020268

MANUAL

TOTAL \$ 205.45

* REPRINT *

I AGREE TO PAY ABOVE
TOTAL AMOUNT ACCORDING
TO CARD ISSUER AGREEMENT
(MERCHANT AGREEMENT
IF CREDIT VOUCHER)

SIGN X _____
CITY OF FAYETTEVILLE

CUSTOMER COPY

NORTHWEST ARKANSAS NEWSPAPERS_{LLC}

Northwest Arkansas Democrat Gazette
The Morning News of Springdale
The Morning News of Rogers
Northwest Arkansas Times
Benton County Daily Record

212 North East Avenue, Fayetteville Arkansas 72701/ PO Box 1607, 72702
PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Northwest Arkansas Newspapers LLC. Printed and published in Washington & Benton County, (Lowell), Arkansas and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville- CDBG- Housing Ad

September 22 & 26, 2010

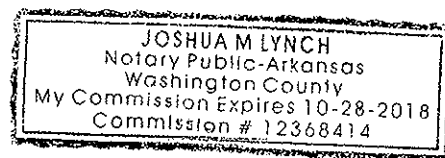
Publication Charge : \$ 410.90

Signed: Cathy Wiles

Subscribed and sworn to before me
This 21 day of October, 2010.

Notary Public Joshua M. Lynch

My Commission Expires: 10-28-2018



Do not pay from Affidavit, an invoice will be sent

The U.S. Department of Housing and Urban Development provides funding to the City through the Community Development Block Grant Program to develop projects and activities to improve housing, public and community facilities and to provide public services principally for low- and moderate-income residents in the City of Fayetteville. On or about Friday, November 12, 2010 the Community Development office will submit to HUD the 2011 Consolidated Action Plan for the CDBG Program. Copies of the Plan are available at the office of the City Clerk in the City Administration Building at 113 W Mountain St., and the Community Services Division office in the Development Services Building at 125 W Mountain St.



A Summary of the Action Plan and the Budget is presented below:

ADMINISTRATION	\$ 91,413.00
HOUSING	\$ 385,954.00
REDEVELOPMENT	\$ 52,633.00
PUBLIC SERVICES	\$ 96,000.00
Big Brothers Big Sisters of NWA	\$ 10,000.00
Credit Counseling of Arkansas	\$ 15,929.00
Fayetteville Animal Services	\$ 9,000.00
Fayetteville Public Library	\$ 2,800.00
LifeSource International	\$ 17,500.00
Peace at Home Family Shelter	\$ 7,111.00
UAMS Area Health Ed Center NW	\$ 7,660.00
Transportation Program	\$ 26,000.00
PUBLIC FACILITIES	\$ 74,000.00
LifeSource International	\$ 12,198.00
Life Styles	\$ 44,442.00
NWA Free Health Center	\$ 17,360.00
TOTAL	\$ 700,000.00

The Public comment period will be September 27 -October 26, 2010. A public hearing will be held Thursday, October 7, 2010 at 5:30 p.m. at 113 W Mountain Street in Room 326 to discuss the Consolidated Action Plan. All interested parties are invited to attend.

For more information, please contact the Community Services Division at 479-575-8260 or Community_Services@ci.fayetteville.ar.us or visit our offices in the Development Services Building at 125 W Mountain Street.

AFFIDAVIT OF PUBLICATION

I, Holly Egolf, do solemnly swear that I am the Legal Clerk for the Northwest Arkansas Newspapers, LLC, and do solemnly swear that the attached advertisement was published in the following weekly paper(s):

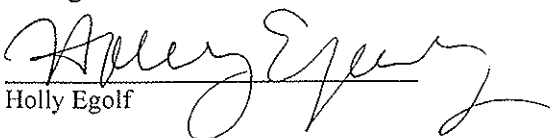
☐ McDonald County Press
☐ Washington County Enterprise
☐ Rogers Hometown News
☐ Bella Vista Weekly Vista
☐ The Times of NE Benton County (Pea Ridge)
☐ Siloam Springs Herald Leader
☐ Gentry Courier-Journal/Decatur Herald
☐ White River Valley News (Elkins)
☐ Gravette News Herald
☒ La Presnsa Libre

of general and bona fide circulation in
(WASHINGTON COUNTY, ARKANSAS)

CITY OF FAYETTEVILLE
CDBG-HUD

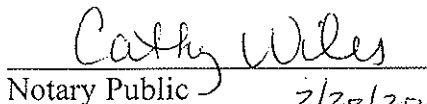
Date of Publication: September 30, 2010

Charges: \$ 96.00


Holly Egolf

Sworn to and subscribed before me

This 21 day of October, 2010.


Cathy Wiles

Notary Public

My Commission Expires:

2/20/2014
CATHY J. WILES
Benton County
My Commission Expires
February 20, 2014

NOTE Please do not pay from Affidavit. Invoice will be sent.

El Departamento de Casa y Desarrollo Urbano de E.U. provee financiamiento a la ciudad a través del Programa de Desarrollo de la Comunidad, para crear proyectos y actividades para mejorar la calidad de vida, lugares públicos y de la comunidad los cuales proveen servicios a Residentes de ingresos bajos y medios en la ciudad de Fayetteville. El Viernes 12 de Noviembre, 2010. La Oficina del Desarrollo de la Comunidad entregará a HUD el Plan de Acción de Consolidación para el programa CDBG. Copias de este plan estarán disponibles en la recepción del edificio de administración de la ciudad en 113 W Mountain St. y en el edificio de División de Servicios a la Comunidad en la oficina de Desarrollo de Servicio en 125 W Mountain St.

Un resumen del plan de acción y presupuesto esta presentado:

ADMINISTRACIÓN	\$91,413.00
HOUSING	\$385,954.00
DESARROLLO	\$52,633.00
SERVICIOS PUBLICOS	\$96,000.00
Big Brothers and Sisters of NWA	\$10,000.00
Consejo de crédito de Arkansas	\$15,929.00
Servicios a Animales de Fayetteville	\$9,000.00
Biblioteca Pública de Fayetteville	\$2,800.00
LifeSource International	\$17,500.00
UAMS Area de la Salud Cen. de Edu.	\$7,111.00
Programa de Transporte	\$7,660.00
SERVICIOS PUBLICOS	\$74,000.00
LifeSource International	\$12,198.00
Life Styles	\$44,442.00
Centro de Salud NWA	\$17,360.00
TOTAL	700,000.00



El período de comentarios públicos será del **27 de Septiembre – 26 de Octubre, 2010**. Se llevará a cabo una junta pública en **jueves 7 de Octubre, 2010** a las 5:30 p.m. en 113 W Mountain Street, en la sala 326, para discutir el Plan de Acción de Consolidación. Todas las personas interesadas están invitadas asistir.

Para más información por favor contacte la División de Servicios a la Comunidad al 479-575-8260 o Community_Services@ci.fayetteville.ar.us o visite nuestras oficinas de Servicio de Desarrollo en 125 W Mountain Street.

NORTHWEST ARKANSAS NEWSPAPERS
212 N. EAST AVENUE
FAYETTEVILLE, AR 72701
(479) 442-1700

TERMINAL ID: 00007104060
MERCHANT #: 00001213099

VISA FLEET

*****0098

CLK: TWALTERS EXP.: **/**

SALE

BATCH: SQ: 009730

DATE: 09/23/10 TIME: 15:07:35

AV: Z - ZIP APPROVED: 019248

MANUAL

TOTAL \$ 506.90

* REPRINT *

I AGREE TO PAY ABOVE
TOTAL AMOUNT ACCORDING
TO CARD ISSUER AGREEMENT
(MERCHANT AGREEMENT
IF CREDIT VOUCHER)

SIGN X _____
CITY OF FAYETTEVILLE COMM DEV

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NORTHWEST ARKANSAS NEWSPAPERS_{LLC}

Northwest Arkansas Democrat Gazette
The Morning News of Springdale
The Morning News of Rogers
Northwest Arkansas Times
Benton County Daily Record

212 North East Avenue, Fayetteville Arkansas 72701/ PO Box 1607, 72702
PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Northwest Arkansas Newspapers LLC. Printed and published in Washington & Benton County, (Lowell), Arkansas and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville – Notice of Finding

October 6 & 10, 2010

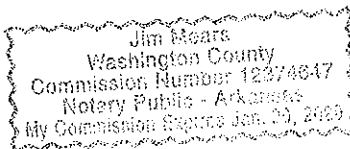
Publication Charge : \$ 629.56

Signed: Cathy Wiles

Subscribed and sworn to before me
This 13 day of October, 2010.

Notary Public Jim Moars

My Commission Expires:



Do not pay from Affidavit, an invoice will be sent

**NOTICE OF FINDING OF NO
SIGNIFICANT IMPACT
AND NOTICE OF INTENT TO
REQUEST RELEASE OF FUNDS**



October 6, 2011

City of Fayetteville
113 W Mountain Street, Fayetteville AR 72701
(479) 575-8260

The notices shall satisfy two separate, but related procedural requirements for activities to be undertaken by the City of Fayetteville, Community Development Program.

REQUEST FOR RELEASE OF FUNDS

On or about November 15, 2010, the City of Fayetteville will submit a request to the Department of Housing & Urban Development (HUD)/Arkansas for the release of Community Development Block Grant funds under Title I of the Housing and Community Development Act of 1974, as amended, to undertake the projects known as: Administration Program: Administration of the Community Development Block Grant Program (\$91,413). Housing Services Program: Provide grants and/or deferred forgivable loans for extremely-low to low-to-moderate income homeowners on a city-wide basis under the CDBG Housing Rehabilitation Program (\$385,954). Redevelopment Program: Activities conducted in the target area, included but not limited to code compliance, clearance and demolition (\$52,633). Public Services Program: Big Brothers Big Sisters of NWA, mentoring program for at-risk children (\$10,000); Credit Counseling of Arkansas, provision of free homebuyer education and foreclosure prevention counseling (\$15,929); Fayetteville Animal Services, program to assist community seniors in adopting suitable pets (\$9,000); Fayetteville Public Library, provision of intensive tutoring for at-risk, low-income prekindergarten students (\$2,800); LifeSource International, eight week summer day camp for at-risk youth in 2nd - 9th grades (\$17,500); Peace at Home Family Shelter, program offering employment assistance and support (\$7,111); UAMS Area Health Education Center Northwest, a program providing hands-on experiences in health careers, health education and community service (\$7,660); Transportation Program, provide supplemental transportation assistance to LMI, disabled and elderly citizens (\$26,000). Public Facilities Program: LifeSource International, kitchen renovation to provide meals and self-sufficiency skills to program participants (\$12,198); Life Styles, replace the roofs and siding on the Life Styles apartments on Sycamore (\$44,442); NWA Free Health Center, purchase of additional equipment for expansion to new facility (\$17,360).

FINDING OF NO SIGNIFICANT IMPACT

The City of Fayetteville, Community Development Program has determined that the projects will have no significant impact on the human environment; therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at the City of Fayetteville's Community Development Program; 125 W Mountain Street, Fayetteville AR 72701 and can be reviewed, examined or copied weekdays 8:00 a.m. to 5:00 p.m.

PUBLIC COMMENTS

Any individual, group or agency; disagreeing with this determination or wishing to comment on the projects may submit written comments to the City of Fayetteville Community Development Program, 113 W Mountain Street, Fayetteville AR 72701. All comments received by November 10, 2010 will be considered by the City of Fayetteville prior to submission of a Request for Release of Funds. Comments should specify which Notice is being addressed.

RELEASE OF FUNDS

The City of Fayetteville certifies to HUD/Arkansas that Lioneld Jordan, in his capacity as Mayor, consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD/Arkansas's acceptance of the certification satisfies its responsibilities under NEPA and allows the Community Development Program to use CDBG funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD/Arkansas will accept objections to its release of funds and the City of Fayetteville's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if it is on one of the following bases: (a) the certification was not executed by the Certifying Officer of the City of Fayetteville; (b) The City of Fayetteville has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient has incurred costs not authorized by 24 CFR Part 58 before approval of release of funds by HUD/Arkansas; (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to HUD/Arkansas Grant Administration Office at U.S. Department of Housing & Urban Development, Little Rock Field Office, 425 W Capitol Avenue, Suite 1000, Little Rock AR 72201. Potential objectors should contact HUD/Arkansas to verify the actual last day of the objection period.

Lioneld Jordan, Mayor City of Fayetteville

NORTHWEST ARKANSAS NEWSPAPERS
212 N. EAST AVENUE
FAYETTEVILLE, AR 72701
(479) 442-1700

TERMINAL ID: 00007104060
MERCHANT #: 00001213099

VISA FLEET

*****0098

CLK: CKIMBRO

EXP.: **/**

SALE

BATCH: 314

SQ: 010237

DATE: 10/08/10

TIME: 13:40:15

AV: Z - ZIP

APPROVED: 002168

MANUAL

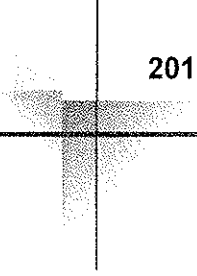
TOTAL \$ 629.56

* REPRINT *

I AGREE TO PAY ABOVE
TOTAL AMOUNT ACCORDING
TO CARD ISSUER AGREEMENT
(MERCHANT AGREEMENT
IF CREDIT VOUCHER)

SIGN X _____
CITY OF FAYETTEVILLE COMM DEV

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2011 Consolidated Action Plan Citizen Participation Plan

Appendix C *Citizen Participation Plan*

2011 Consolidated Action Plan Citizen Participation Plan

CITIZEN PARTICIPATION PLAN 24 CFR 91 (SEC. 91.105)

APPLICABILITY

The legislation which created the Community Development Block Grant (CDBG) Program and regulation implementing it encourages citizens participation in planning, carrying out and evaluating local CDBG activities.

As the regulation gives maximum feasible priority to activities which benefit low- and moderate-income persons, this Participation Plan especially provides for and encourages participation of low- and moderate-income families and individuals living in low and moderate income areas of the City of Fayetteville.

CITIZEN PARTICIPATION

The City will take whatever actions are appropriate to encourage its citizens including

- (a) Minorities and non-English speaking persons
- (b) Persons with disabilities
- (c) Residents of public and assisted housing developments
- (d) Extremely low, very low, low and moderate income individuals and families
- (e) Residents living in slum and blighted areas
- (f) Areas where CDBG funds are proposed to be used
- (g) Residents in predominantly low- and moderate-income neighborhoods, along with other low income residents of the City
- (h) Particularly residents in Southeast Fayetteville which is the targeted revitalization area.

The City encourages the participation of its residents in the process of developing the

- (a) Consolidated Plan
- (b) Substantial Amendments to the plan
- (c) The Annual Performance and Evaluation Report
- (d) The Citizen Participation Plan and any amendments to the plan.

The City shall make an effort to provide information to the Fayetteville Housing Authority about the Consolidated Plan activities so the Housing Authority can make this information available at its annual public hearing.

The City will provide citizens with an opportunity to comment on any substantial amendments to the Citizen Participation Plan.

2011 Consolidated Action Plan Citizen Participation Plan

ACCESS TO INFORMATION

The City will make available to citizens, public agencies and other interested parties the amount of assistance the City expects to receive from grants and program income.

The City will provide an estimated amount that will benefit persons whose income levels range from extremely low to low income levels.

Citizens, public agencies and other interested parties, especially those most affected, will have the opportunity to receive information, review and submit comments on any proposed submission concerning the proposed activities.

COMMENT PERIODS

The City encourages its citizens to comment during the development of the Consolidated Action Plan and on the proposed Consolidated Action Plan prior to submission.

A summary of all comments and views shall be attached to the final consolidated action plan.

The comment period from citizens and groups will be 30 days as listed in the Public Comment and Hearing advertisement for the Consolidated Action Plan that is published in the Northwest Arkansas Times & La Prensa Libre.

The City will consider any comments or views of citizens, received in writing or orally during the public comment period and at the public hearing, in preparing the final Consolidated Action Plan. The City will provide timely written replies to complaints and grievances within 15 days when practical.

PUBLISHING

A summary of the proposed Consolidated Action Plan will be published in the Northwest Arkansas Times and Le Prensa Libre. The summary shall describe the contents and the purpose of the Consolidated Action Plan and identify the locations where the entire proposed Consolidated Action Plan may be examined. Copies of the entire Consolidated Action Plan will be made available at the Community Services Office and the City Clerk's Office. A reasonable number of free copies of the plan will be made available to citizens or groups that request it.

AMENDMENTS

The City shall amend its approved plan whenever it makes one of the following decisions

- (a) A change in its allocation priorities
- (b) A change in its method of distribution of funds
- (c) To carry out a new activity using funds, from any program covered by the Consolidated Action Plan not previously described in the action plan
- (d) To change the purpose, scope, location or beneficiaries of an activity.

A substantial amendment is a change in the allocation of \$100,000.00 or greater and changes in the use of CDBG funds.

2011 Consolidated Action Plan Citizen Participation Plan

AMENDMENTS cont.

The City encourages its citizens to comment on substantial amendments to the plan.

A substantial amendment is a change in the allocation of \$100,000.00 or greater and changes in the use of CDBG funds from one eligible activity to another.

The City shall make the amendment available to the public.

The comment period from citizens will be 30 days per the dates published in the Northwest Arkansas Times and Le Prensa Libre.

The amendment will not be implemented until the 30 day comment period has elapsed.

The City shall consider all comments and views of citizens on the amendment submitted in writing or orally if a public hearing is held.

A summary of all comments and views, as well as, a summary of any comments and views not accepted and the reasons therefore, shall be attached to the substantial amendment of the Consolidated Action Plan.

The City shall notify the Department of Housing & Urban Development (HUD) that an amendment has been made. The letter transmitting the copy of any or all amendments shall be signed by the Mayor.

PERFORMANCE REPORTS

The City encourages its citizens to comment on performance reports.

The Consolidated Annual Performance and Evaluation Report will be made available to the public.

A notice will be published in the Northwest Arkansas Times & Le Prensa Libre that the performance report is available for comment at the Community Development Office.

The Community Development Office will accept comments for 15 days, with the dates specified in the notices published in the Northwest Arkansas Times and Noticias Libres.

The City shall consider all comments and views of citizens submitted in writing or orally during the comment period and at the public hearing if any, on preparing the performance report.

A summary of all comments and views shall be attached to the Consolidated Annual Performance and Evaluation Report.

PUBLIC HEARINGS

The City will provide a minimum of two public hearings during each program year, with one held before the proposed consolidated action plan is published for comment.

These hearings will be conveniently timed and located for people who might or will benefit from program funds.

The hearings will be held in an area that is accessible to people with disabilities.

The hearings will be adequately publicized.

The hearings will be held to obtain views of citizens, public agencies and other interested parties that will or may be affected by program funds.

In the case of a public hearing where a significant number of non-English speaking persons are expected a bilingual (English/Spanish) speaking person shall be present.

2011 Consolidated Action Plan Citizen Participation Plan

PROGRAM YEAR

Fayetteville's CDBG Program year runs from January 1 through December 31.

The citizens participation planning process begins in July for the next year, approximately five months before the start of the program year to be planned.

The process begins with an advertisement in the Northwest Arkansas Times and La Prensa Libre and leads to a public hearing facilitated by the Community Development Staff.

DISPLACEMENT

The City plans to minimize displacement of persons and will assist any persons displaced. The City expects no displacements to occur.

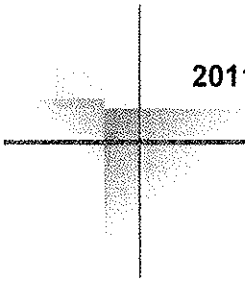
TECHNICAL ASSISTANCE

Technical assistance will be provided to groups that request assistance in developing a proposal under the consolidated submission. The assistance shall be provided by Community Development Program staff. A bilingual (English/Spanish) speaking person shall be made available to non-English speaking persons.

ADDRESS

All comments and complaints may be addressed to:

City of Fayetteville
Attn: Yolanda Fields
Community Services Division
113 W Mountain Street
Fayetteville, Arkansas 72701



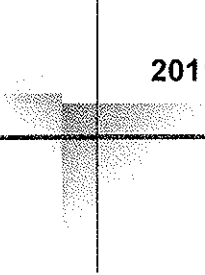
2011 Consolidated Action Plan Project Listing

Appendix D *Project Listing*

2011 Consolidated Action Plan Project Listing

Community Development Block Grant | 2011 Project Listing

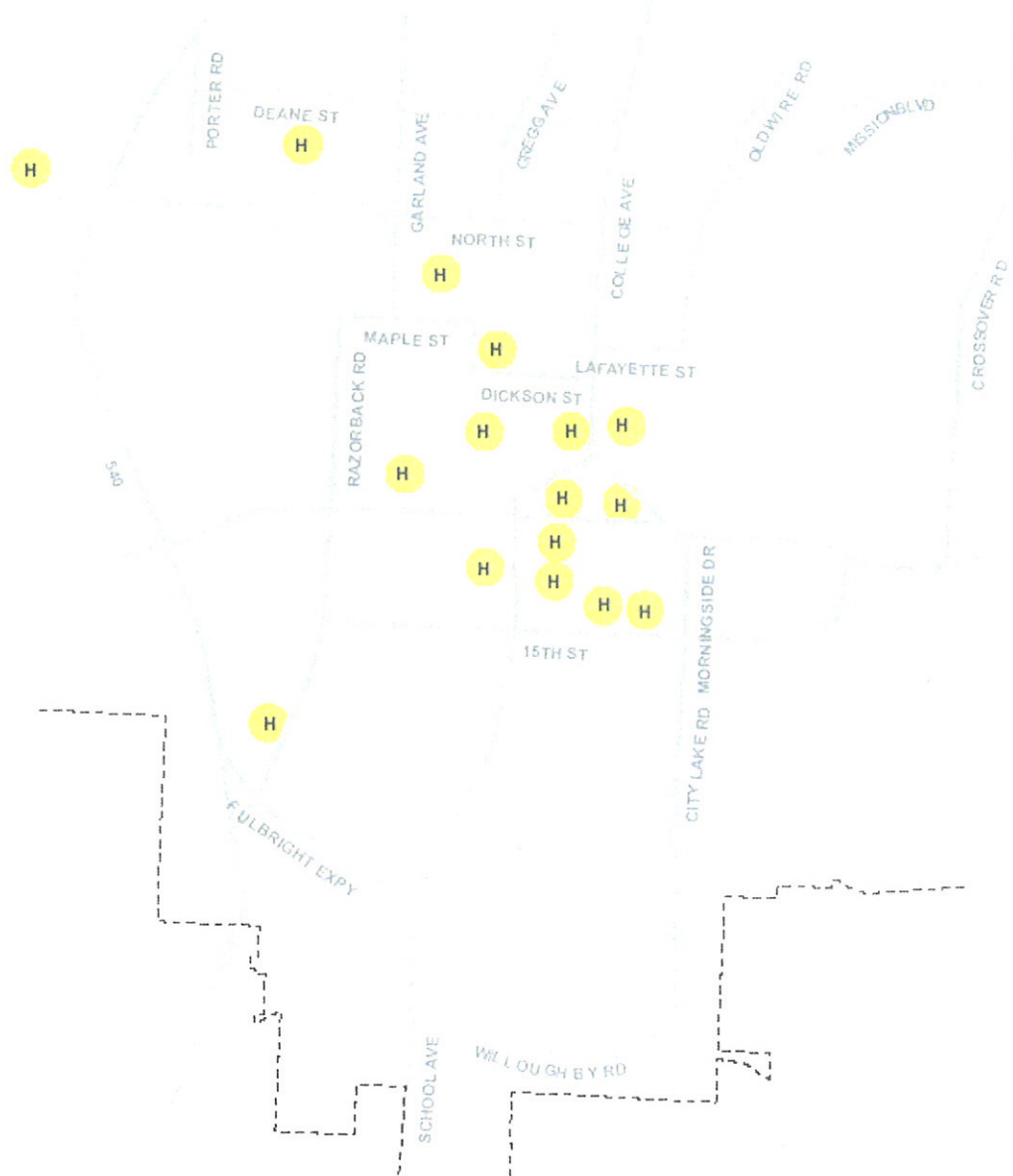
ADMINISTRATION		\$ 91,413.00
HOUSING		\$ 385,954.00
REDEVELOPMENT		\$ 52,633.00
PUBLIC SERVICES		\$ 96,000.00
Big Brothers Big Sisters NWA	\$ 10,000.00	
Credit Counseling of AR	\$ 15,929.00	
Fayetteville Animal Services	\$ 9,000.00	
Fayetteville Public Library	\$ 2,800.00	
LifeSource International	\$ 17,500.00	
Peace at Home Shelter	\$ 7,111.00	
UAMS Area Health Ed Ctr.	\$ 7,660.00	
Transportation Program	\$ 26,000.00	
PUBLIC FACILITIES		\$ 74,000.00
LifeSource International	\$ 12,198.00	
Life Styles	\$ 44,442.00	
NWA Free Health Center	\$ 17,360.00	
TOTAL		\$ 700,000.00



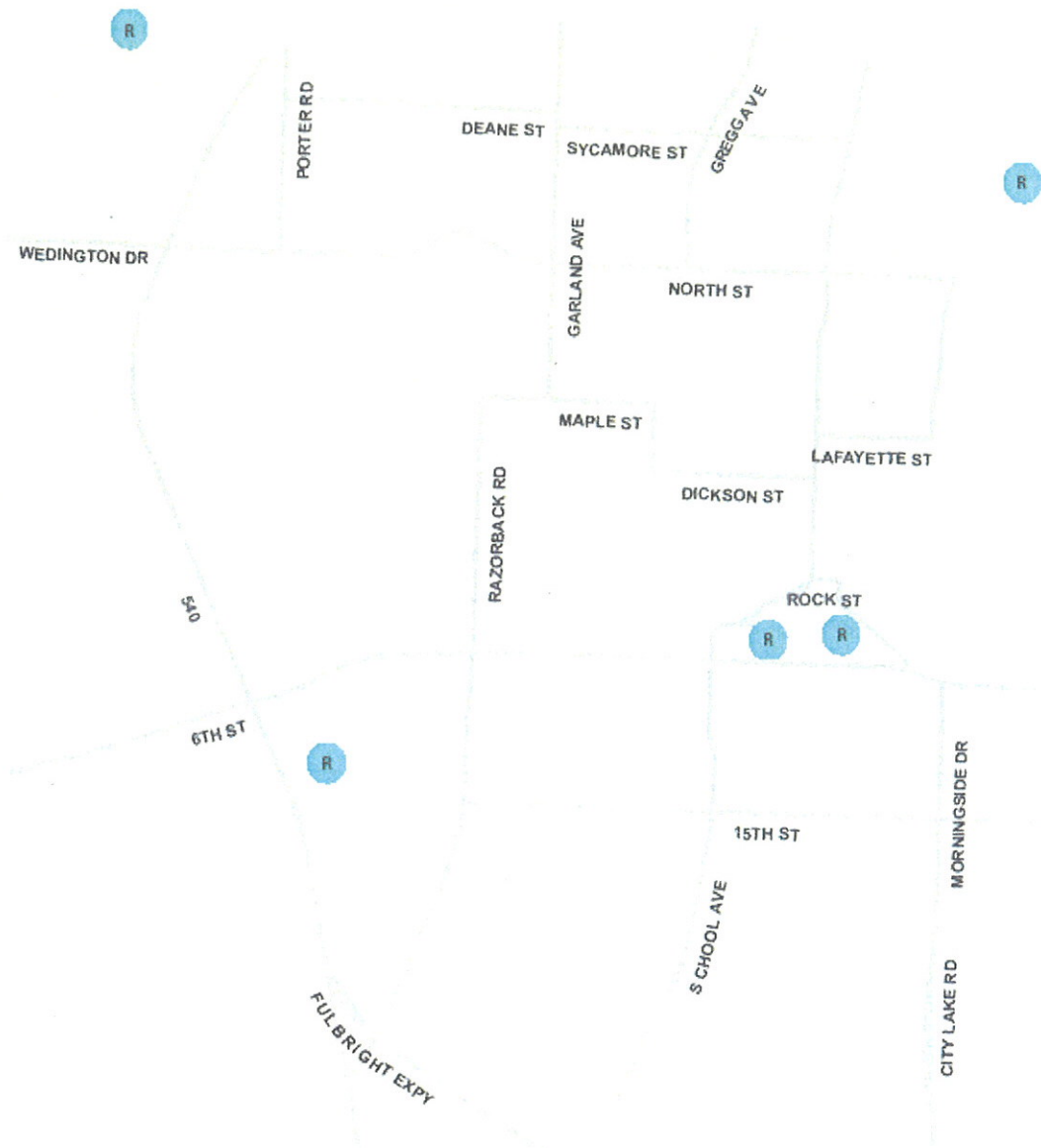
2011 Consolidated Action Plan Maps

Appendix E *Maps*

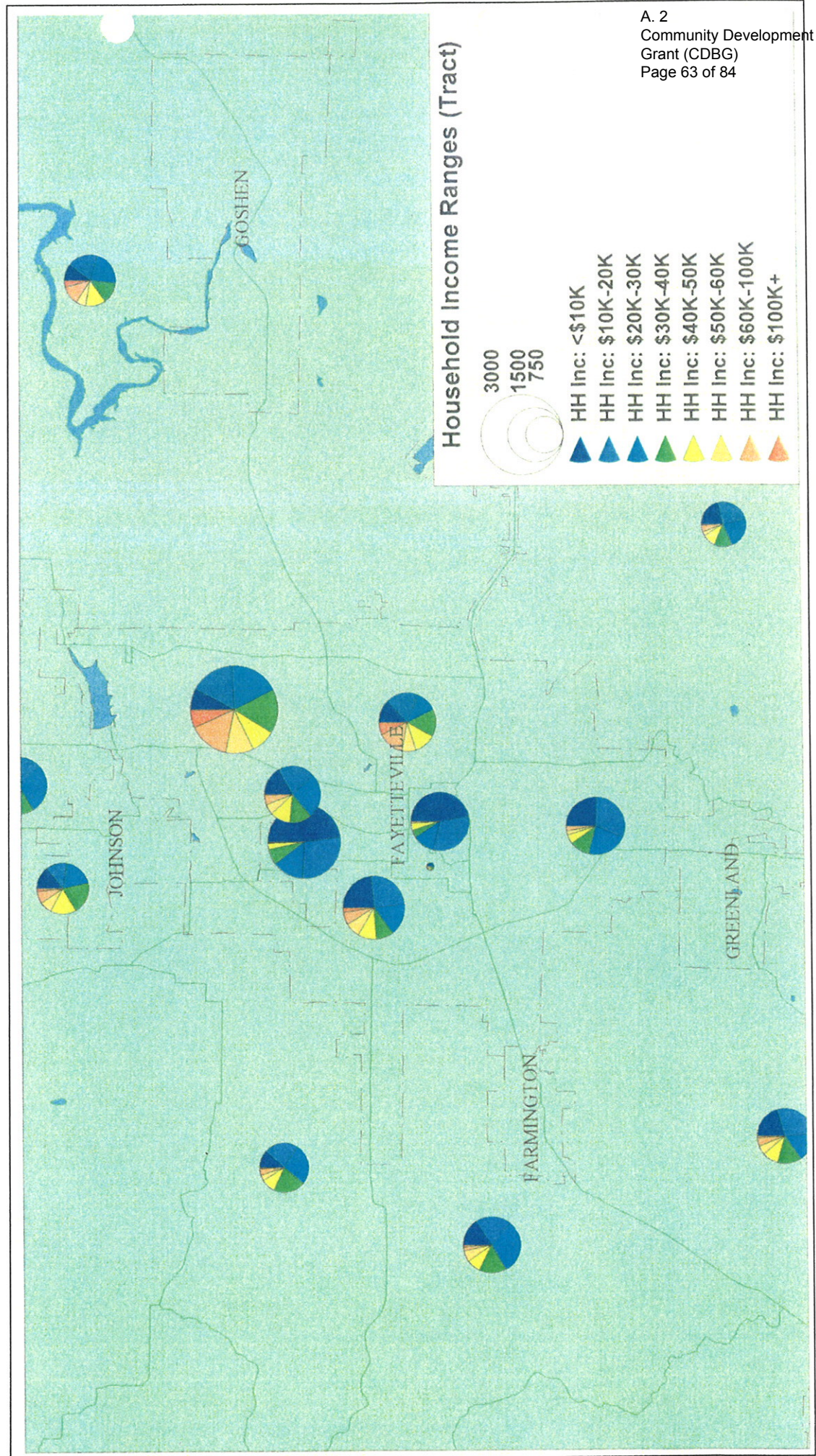
2011 Consolidated Action Plan Housing Rehabilitation Project Map



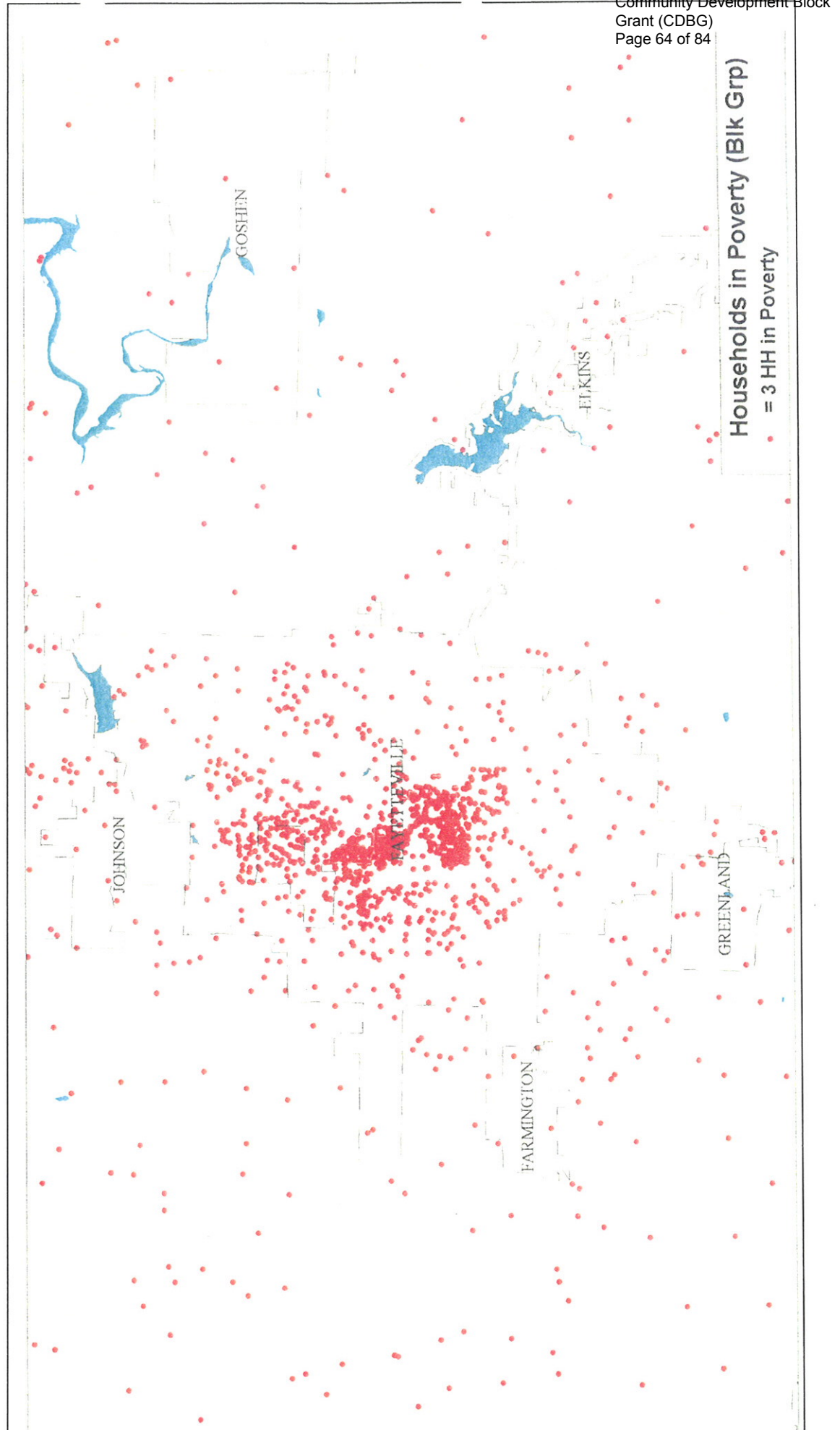
2011 Consolidated Action Plan Redevelopment Project Map



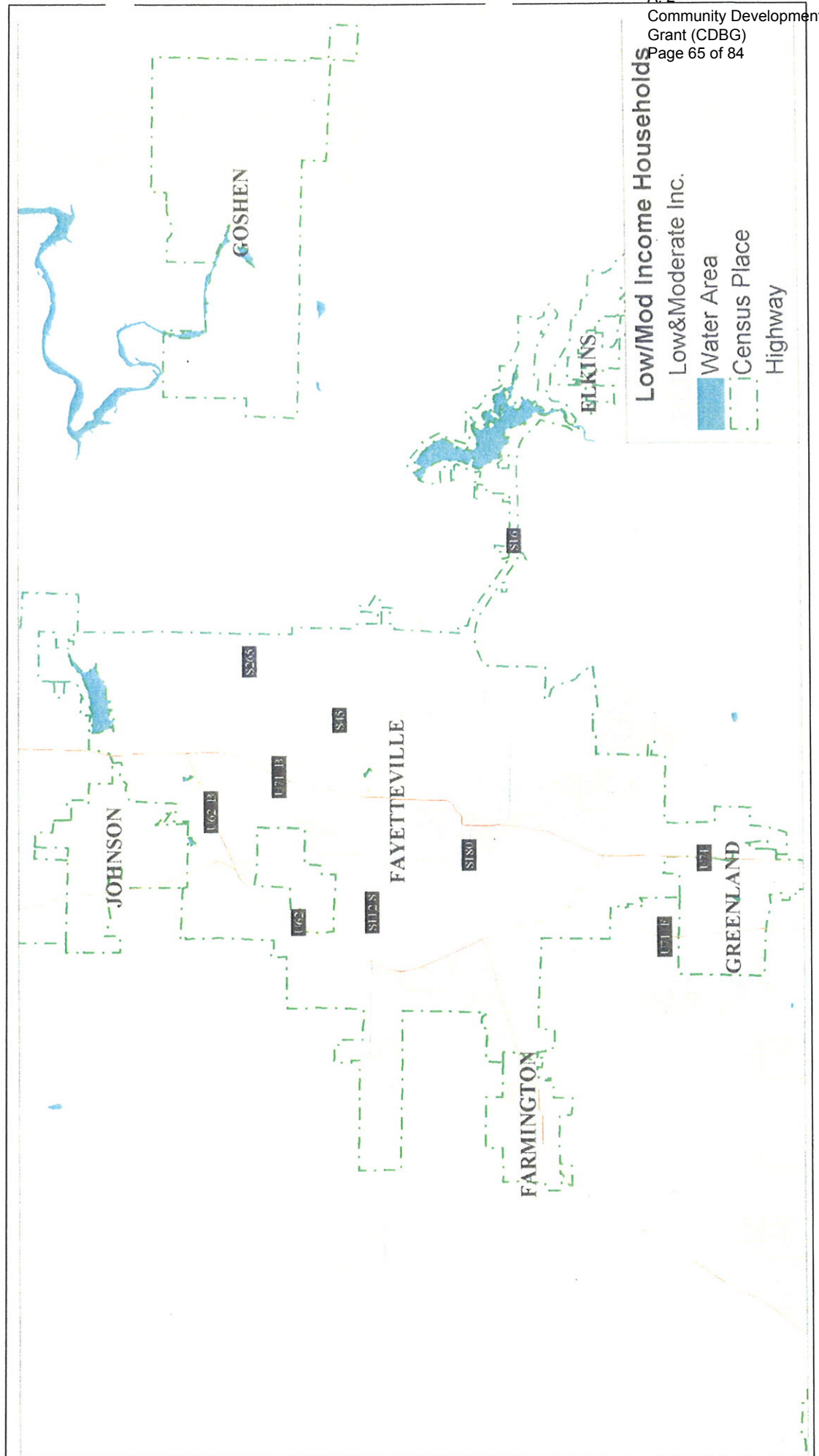
HOUSEHOLD INCOME RANGES



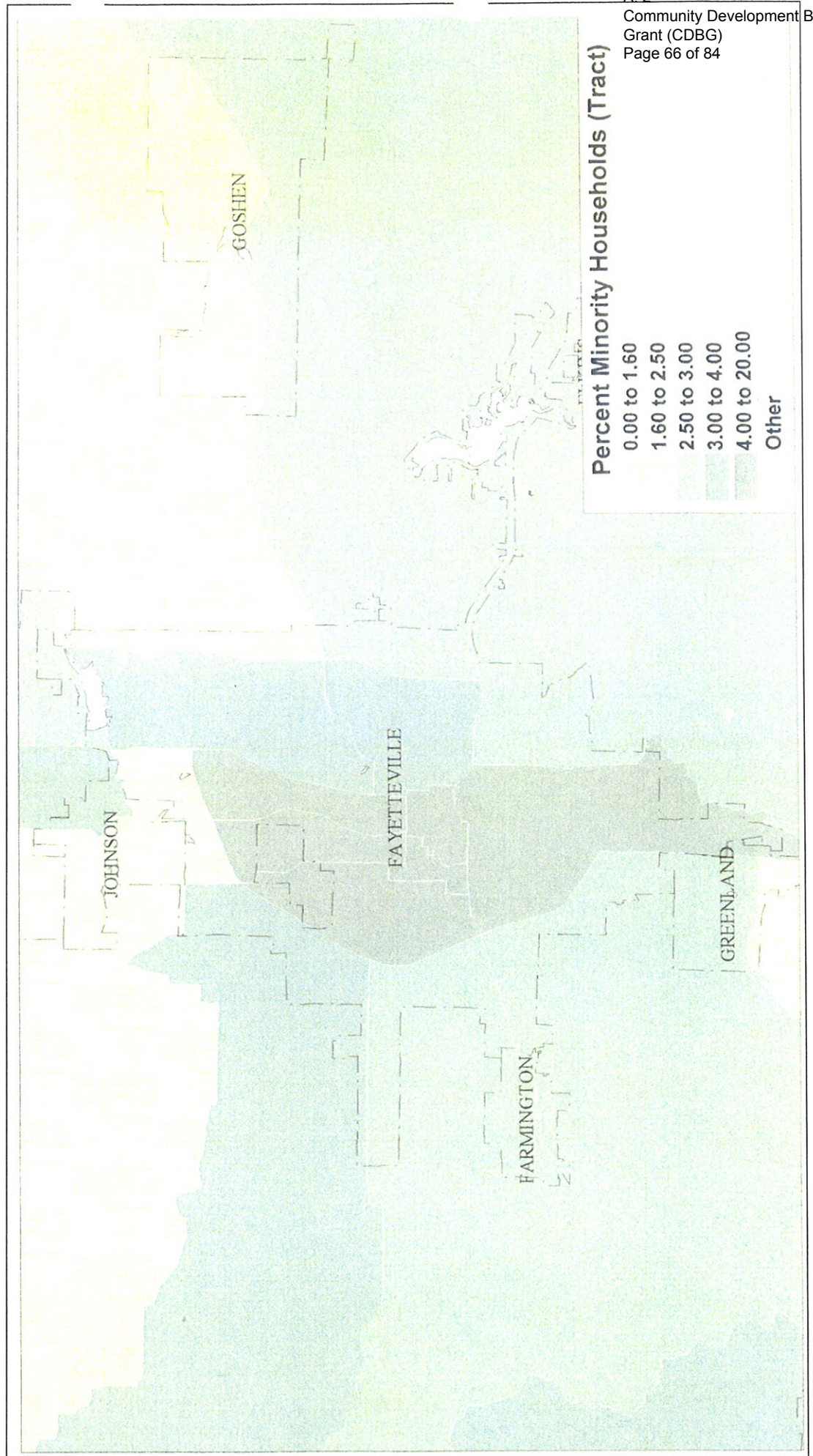
HOUSEHOLDS IN POVERTY

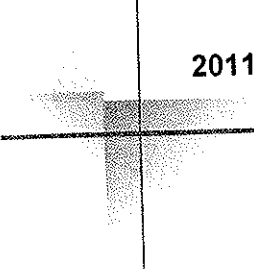


LOW/MODERATE INCOME HOUSEHOLDS



PERCENT MINORITY HOUSEHOLDS



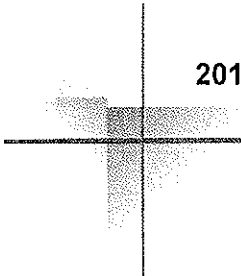


2011 Consolidated Action Plan Comments

Appendix F *Comments*

October 7, 2010

[illegible]



2011 Consolidated Action Plan Comments

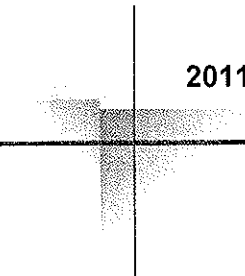
One public comment was received.

"I am pleased to see some of the projects being funding by the '11 CDBG Block Grant Program.

In particular, I would like to mention the Free Health Center funding as we refer some of our students to the clinic. Dental care, in particular, is very important. I was also pleased to see that Rebuilding Together will receive money for construction of wheelchair ramps. This is a very necessary thing for someone who may be disabled and in a chair. Most don't have the money to install a ramp, thus enabling them to enter their house and live more independently. CCOA is a great service; we do several referrals to them each year.

I also love the concept of the Animal Services program to help senior citizens in adopting a pet. What a great idea! Deposits and additional costs required by rental properties are often a limitation for seniors wishing to adopt a dog or cat. They are so much company to an elderly person. This program will also assist the shelter in finding homes for more animals who deserve to be loved and cared for.

Great job with funding ideas for next year. Congratulations on a job well done!"



2011 Consolidated Action Plan Tables

Appendix G *Tables*

U.S. Department of Housing
and Urban Development

OMB Approval No. 2506-0117
(Exp. 4/30/2011)

Table 3C
Consolidated Plan Listing of Projects

Jurisdiction's Name City of Fayetteville

Priority Need
High – Planning/Administration

Project
City of Fayetteville CDBG Administration

Activity
CDBG Administration

Description
Administration costs include salary and benefits for the Community Services Director and administrative staff; office supplies, travel and training costs, fair housing activities and other costs associated with the administration of CDBG activities.

Objective category: ☐ Suitable Living Environment ☐ Decent Housing ☐ Economic Opportunity
Outcome category: ☐ Availability/Accessibility ☐ Affordability ☐ Sustainability

Location/Target Area:

113 W Mountain St
Fayetteville AR 72701

Specific Objective Number	Project ID CD 11-01	Funding Sources: CDBG 91,413 ESG HOME HOPWA Total Formula Prior Year Funds Assisted Housing PHA Other Funding Total 91,413
HUD Matrix Code 21A	CDBG Citation 570.206	
Type of Recipient Local Government	CDBG National Objective n/a	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/2011	
Performance Indicator	Annual Units	
Local ID	Units Upon Completion	

The primary purpose of the project is to help: ☐ the Homeless ☐ Persons with HIV/AIDS ☐ Persons with Disabilities ☐ Public Housing Needs

Table 3C
Consolidated Plan Listing of Projects

Jurisdiction's Name City of Fayetteville

Priority Need

High – Owner Occupied Housing

Project

City of Fayetteville Housing Rehabilitation Program

Activity

Rehabilitation of Low and Moderate Income Owner Occupied Housing

Description

Bring low and moderate income owner occupied residences in Fayetteville up to city code, increase energy efficiency and address lead based paint issues.

Objective category: ☐ Suitable Living Environment ☒ Decent Housing ☐ Economic Opportunity
Outcome category: ☐ Availability/Accessibility ☐ Affordability ☒ Sustainability

Location/Target Area:

113 W Mountain St
Fayetteville AR 72701

Specific Objective Number	Project ID CD 11-02	Funding Sources: CDBG 385,954 ESG HOME HOPWA Total Formula Prior Year Funds Assisted Housing PHA Other Funding Total 385,954
HUD Matrix Code 14A	CDBG Citation 570.202	
Type of Recipient Local Government	CDBG National Objective LMH	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/2011	
Performance Indicator # of houses	Annual Units	
Local ID	Units Upon Completion	

The primary purpose of the project is to help: ☐ the Homeless ☐ Persons with HIV/AIDS ☐ Persons with Disabilities ☐ Public Housing Needs

U.S. Department of Housing
and Urban Development

OMB Approval No. 2506-0117
(Exp. 4/30/2011)

Table 3C
Consolidated Plan Listing of Projects

Jurisdiction's Name City of Fayetteville

Priority Need
High – Owner Occupied Housing

Project
City of Fayetteville Redevelopment Program

Activity
Code Compliance Assistance

Description
Code compliance assistance provided to low and moderate income owner occupied properties in the City of Fayetteville.

Objective category: ☒ Suitable Living Environment ☐ Decent Housing ☐ Economic Opportunity
Outcome category: ☐ Availability/Accessibility ☐ Affordability ☒ Sustainability

Location/Target Area:

113 W Mountain St
Fayetteville AR 72701

Specific Objective Number	Project ID CD 11-03	Funding Sources: CDBG <u>52,633</u> ESG <u> </u> HOME <u> </u> HOPWA <u> </u> Total Formula <u> </u> Prior Year Funds <u> </u> Assisted Housing <u> </u> PHA <u> </u> Other Funding <u> </u> Total <u>52,633</u>
HUD Matrix Code 15	CDBG Citation 570.202 (c)	
Type of Recipient Local Government	CDBG National Objective LMC	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/2011	
Performance Indicator # of houses	Annual Units	
Local ID	Units Upon Completion	

The primary purpose of the project is to help: ☐ the Homeless ☐ Persons with HIV/AIDS ☐ Persons with Disabilities ☐ Public Housing Needs

U.S. Department of Housing
and Urban Development

OMB Approval No. 2506-0117
(Exp. 4/30/2011)

Table 3C
Consolidated Plan Listing of Projects

Jurisdiction's Name City of Fayetteville

Priority Need
High – Public Services

Project
Big Brothers Big Sisters of NWA

Activity
Big Brothers Big Sisters Fayetteville Mentoring Program

Description
A portion of the costs associated with the site-based mentoring programs in Fayetteville. The program matches at-risk children with a high school or adult volunteer in a one-to-one mentoring relationship.

Objective category: ☒ Suitable Living Environment ☐ Decent Housing ☐ Economic Opportunity
Outcome category: ☒ Availability/Accessibility ☐ Affordability ☐ Sustainability

Location/Target Area:

610-A E Emma Ave, Suite D
Springdale AR 72764

Specific Objective Number	Project ID CD 11-04	Funding Sources: CDBG <u>10,000</u> ESG HOME HOPWA Total Formula Prior Year Funds Assisted Housing PHA Other Funding Total <u>10,000</u>
HUD Matrix Code 05D	CDBG Citation 570.201 (e)	
Type of Recipient Subrecipient	CDBG National Objective LMC	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/2011	
Performance Indicator # of people	Annual Units	
Local ID	Units Upon Completion	

The primary purpose of the project is to help: ☐ the Homeless ☐ Persons with HIV/AIDS ☐ Persons with Disabilities ☐ Public Housing Needs

The primary purpose of the project is to help: ☐ the Homeless ☐ Persons with HIV/AIDS ☐ Persons with Disabilities ☐ Public Housing Needs

U.S. Department of Housing
and Urban Development

OMB Approval No. 2506-0117
(Exp. 4/30/2011)

Table 3C
Consolidated Plan Listing of Projects

Jurisdiction's Name **City of Fayetteville**

Priority Need
High – Public Services

Project
Fayetteville Animal Services

Activity
Seniors for Seniors

Description
Seniors for Seniors is a program to improve the quality of life for senior citizens by paying the pet deposit fee at their rental property and the adoption fee for any suitable animal at the Fayetteville Animal Shelter.

Objective category: ☒ Suitable Living Environment ☐ Decent Housing ☐ Economic Opportunity
Outcome category: ☒ Availability/Accessibility ☐ Affordability ☐ Sustainability

Location/Target Area:

1640 S Armstrong Ave
Fayetteville AR 72701

Specific Objective Number	Project ID CD11-06	Funding Sources: CDBG 9,000 ESG HOME HOPWA Total Formula Prior Year Funds Assisted Housing PHA Other Funding Total 9,000
HUD Matrix Code 05A	CDBG Citation 570.201 (e)	
Type of Recipient Subrecipient	CDBG National Objective LMC	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/2011	
Performance Indicator # of people	Annual Units	
Local ID	Units Upon Completion	

The primary purpose of the project is to help: ☐ the Homeless ☐ Persons with HIV/AIDS ☐ Persons with Disabilities ☐ Public Housing Needs

Specific Objective Number	Project ID CD 11-07	Funding Sources: CDBG 2,800 ESG HOME HOPWA Total Formula Prior Year Funds Assisted Housing PHA Other Funding Total 2,800
HUD Matrix Code 05D	CDBG Citation 570.201 (e)	
Type of Recipient Subrecipient	CDBG National Objective LMC	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/201	
Performance Indicator # of people	Annual Units	
Local ID	Units Upon Completion	

U.S. Department of Housing
and Urban Development

OMB Approval No. 2506-0117
(Exp. 4/30/2011)

Table 3C
Consolidated Plan Listing of Projects

Jurisdiction's Name **City of Fayetteville**

Priority Need
High – Public Services

Project
LifeSource International

Activity
Kid's Life Summer Camp

Description
A portion of the costs associated with implementing the eight week day camp for at-risk youth in 2nd-9th grades. Emphasis is placed on education, health, nutrition and physical activity.

Objective category: ☒ Suitable Living Environment ☐ Decent Housing ☐ Economic Opportunity
Outcome category: ☒ Availability/Accessibility ☐ Affordability ☐ Sustainability

Location/Target Area:

602 S School Ave
Fayetteville AR 72701

Specific Objective Number	Project ID CD 11-08	Funding Sources: CDBG 17,500 ESG HOME HOPWA Total Formula Prior Year Funds Assisted Housing PHA Other Funding Total 17,500
HUD Matrix Code 05D	CDBG Citation 570.201 (e)	
Type of Recipient Subrecipient	CDBG National Objective LMC	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/2011	
Performance Indicator # of people	Annual Units	
Local ID	Units Upon Completion	

The primary purpose of the project is to help: ☐ the Homeless ☐ Persons with HIV/AIDS ☐ Persons with Disabilities ☐ Public Housing Needs

U.S. Department of Housing
and Urban Development

OMB Approval No. 2506-0117
(Exp. 4/30/2011)

Table 3C
Consolidated Plan Listing of Projects

Jurisdiction's Name **City of Fayetteville**

Priority Need
High – Public Services

Project
Peace at Home Family Shelter

Activity
Sustainable Employment and Housing through Self Sufficiency Plans

Description
The project will provide an employment assistance program to support homeless Fayetteville women obtain and maintain violence free homes.

Objective category: ☒ Suitable Living Environment ☐ Decent Housing ☐ Economic Opportunity
Outcome category: ☒ Availability/Accessibility ☐ Affordability ☐ Sustainability

Location/Target Area:

3045 Ivey Lane
Springdale AR 72764

Specific Objective Number	Project ID CD 11-09	Funding Sources: CDBG 7,111 ESG _____ HOME _____ HOPWA _____ Total Formula _____ Prior Year Funds _____ Assisted Housing _____ PHA _____ Other Funding _____ Total 7,111
HUD Matrix Code 05G	CDBG Citation 570.201 (e)	
Type of Recipient Subrecipient	CDBG National Objective LMC	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/2011	
Performance Indicator # of people	Annual Units	
Local ID	Units Upon Completion	

The primary purpose of the project is to help: ☐ the Homeless ☐ Persons with HIV/AIDS ☐ Persons with Disabilities ☐ Public Housing Needs

U.S. Department of Housing
and Urban Development

OMB Approval No. 2506-0117
(Exp. 4/30/2011)

Table 3C
Consolidated Plan Listing of Projects

Jurisdiction's Name City of Fayetteville

Priority Need
High – Public Services

Project
University of Arkansas Medical School Area Health Education Center Northwest

Activity
Community Health Applied to Medical Public Service - CHAMPS

Description
A program for junior high students, providing hands-on experiences in health careers, health education and community service.

Objective category: ☒ Suitable Living Environment ☐ Decent Housing ☐ Economic Opportunity
Outcome category: ☒ Availability/Accessibility ☐ Affordability ☐ Sustainability

Location/Target Area:

1125 N College Ave
Fayetteville AR 72703

Specific Objective Number	Project ID CD 11-10	Funding Sources: CDBG 7,660 ESG HOME HOPWA Total Formula Prior Year Funds Assisted Housing PHA Other Funding Total 7,660
HUD Matrix Code 05D	CDBG Citation 570.201 (e)	
Type of Recipient Subrecipient	CDBG National Objective LMC	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/2011	
Performance Indicator # of people	Annual Units	
Local ID	Units Upon Completion	

The primary purpose of the project is to help: ☐ the Homeless ☐ Persons with HIV/AIDS ☐ Persons with Disabilities ☐ Public Housing Needs

U.S. Department of Housing
and Urban Development

OMB Approval No. 2506-0117
(Exp. 4/30/2011)

Table 3C
Consolidated Plan Listing of Projects

Jurisdiction's Name City of Fayetteville

Priority Need
High – Public Facilities

Project
LifeSource International

Activity
Kitchen Renovation

Description
LifeSource utilizes their kitchen to provide meals during the summer camp program and to teach self-sufficiency skills. It is also used for outreach meals, senior lunches and adult education classes. The kitchen renovation will include a convection oven, commercial food mixer, reach in freezer and a commercial microwave oven.

Objective category: ☒ Suitable Living Environment ☐ Decent Housing ☐ Economic Opportunity
Outcome category: ☒ Availability/Accessibility ☐ Affordability ☐ Sustainability

Location/Target Area:

602 S School Ave
Fayetteville AR 72701

Specific Objective Number	Project ID CD 11-12	Funding Sources: CDBG 12,198 ESG HOME HOPWA Total Formula Prior Year Funds Assisted Housing PHA Other Funding Total 12,198
HUD Matrix Code 03	CDBG Citation 570.201 (c)	
Type of Recipient Subrecipient	CDBG National Objective LMC	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/2011	
Performance Indicator # of people	Annual Units	
Local ID	Units Upon Completion	

The primary purpose of the project is to help: ☐ the Homeless ☐ Persons with HIV/AIDS ☐ Persons with Disabilities ☐ Public Housing Needs

Specific Objective Number	Project ID CD 11-13	Funding Sources: CDBG 44,442 ESG HOME HOPWA Total Formula Prior Year Funds Assisted Housing PHA Other Funding Total 44,442
HUD Matrix Code 03B	CDBG Citation 570.201 (c)	
Type of Recipient Subrecipient	CDBG National Objective LMC	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/2011	
Performance Indicator # of participants	Annual Units	
Local ID	Units Upon Completion	

Specific Objective Number	Project ID CD 11-14	Funding Sources: CDBG 17,360 ESG HOME HOPWA Total Formula Prior Year Funds Assisted Housing PHA Other Funding Total 17,360
HUD Matrix Code 03P	CDBG Citation 570.201 (c)	
Type of Recipient Subrecipient	CDBG National Objective LMC	
Start Date (mm/dd/yyyy) 01/01/2011	Completion Date (mm/dd/yyyy) 12/31/2011	
Performance Indicator # of people	Annual Units	
Local ID	Units Upon Completion	

City of Fayetteville Staff Review Form

A. 3
 Ranger's Pantry Pet Food Bank
 Page 1 of 4

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

2/1/2011

City Council Meeting Date
 Agenda Items Only

Yolanda Fields

Submitted By

Community Services

Division

Development Services

Department

Action Required:

Approval of Budget Adjustment recognizing the Donation revenue received from citizens for the Ranger's Pantry Pet Food Bank in the amount of \$1361.55, and Donation revenue received from the Fraternal Order of Police for the Senior Giving Tree event in the amount of \$500.00.

_____	\$ _____	_____
Cost of this request	Category / Project Budget	Program Category / Project Name
_____	\$ _____	_____
2180.4945.5390.01	Funds Used to Date	Program / Project Category Name
Account Number	_____	_____
_____	\$ _____	Community Services
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Yolanda Fields
 Department Director

01-10-2011
 Date

Previous Ordinance or Resolution # _____

Jim Kelley
 City Attorney

1-12-11
 Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Butler
 Finance and Internal Services Director

1-12-2011
 Date

Received in City Clerk's Office 01-11-11 P03:20 RCVD
CWO

Don Man
 Chief of Staff

1-12-2011
 Date

Received in
 Mayor's Office



Frederick J. Parker
 Mayor

1/14/11
 Date

Staff recommends approval of the Budget Adjustment.

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Jeremy Pate, Dir. Community Development 

From: Yolanda Fields, Dir. Community Services 

Date: December 27, 2010

Subject: Approval of a Budget Adjustment for the Community Services Division

PROPOSAL:

Community Services would like to recognize donation revenue that was received from citizens for the Ranger's Pantry Pet Food Bank, and donation revenue from the Fraternal Order of Police for the Senior Giving Tree event.

RECOMMENDATION:

Staff recommends approval of a budget adjustment to budget the Community Services Donation Revenue for Ranger's Pantry Pet Food Bank and the Senior Giving Tree.

BUDGET IMPACT:

Increase the Community Outreach Projects account by \$1361.55 for Ranger's Pantry Pet Food Bank, and \$500.00 for the Senior Giving Tree event.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE TOTAL
AMOUNT OF \$1,861.55 REPRESENTING DONATION REVENUE
RECEIVED FOR THE RANGER'S PANTRY PET FOOD BANK

**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, a copy of which is attached as Exhibit "A", in the total amount of \$1,861.55
representing donation revenue received for the Ranger's Pantry Food Bank.

PASSED and APPROVED this 1st day of February, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

2010

A. 3
Ranger's Pantry Pet Food Bank

Page 4 of 4

Budget Year 2009 2010	Department: Operations Division: Community Resources Program: Redevelopment	Date Requested 12/27/2010	Adjustment Number
--	---	------------------------------	-------------------

Project or Item Added/Increased:
Increase Community Outreach Projects account by \$1861.

Project or Item Deleted/Reduced:
Increase in revenue from citizen donations for Ranger's Pantry in the amount of \$1361 and Fraternal Order of Police donation for Senior Giving Tree in the amount of \$500.

Justification of this Increase:
To recognize revenue from donations.

Justification of this Decrease:

Increase Budget								
Account Name	Account Number				Amount	Project Number		
	2180	4945	5390	01	1,861			
Decrease Budget								
Account Name	Account Number				Amount	Project Number		
Donations	2180	0918	4809	00	1,861			

Division Head [Signature] 1/3/11 Date

Budget Director [Signature] 1-13-11 Date

Department Director [Signature] 01-10-2011 Date

Finance Director Paul A. Behr 01-13-2011 Date

Chief of Staff [Signature] 1-13-11 Date

V.090403

Budget & Research Use Only

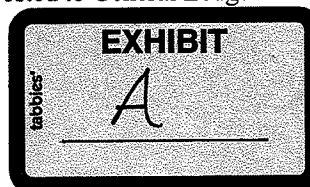
Type: A B C D E

Requested By _____ Rachel

General Ledger Date _____

Posted to General Ledger _____

Initial _____ Date _____



City of Fayetteville Staff Review Form

A. 4
 Joe Perme Construction
 Inc. Change Order
 Page 1 of 14

City Council Agenda Items
 and
 Contracts, Leases or Agreements

2011

2/1/2010

City Council Meeting Date
 Agenda Items Only

Yolanda Fields

Submitted By

Community Services

Division

Development Services

Department

Action Required:

Approval of change order for Public Facility Building as part of the Community Development Block Grant subrecipient program

\$ 2,700.00

Cost of this request

\$ 25,100.00

Category / Project Budget

Program Category / Project Name

2180.4990.5390.27

Account Number

\$ 13,332.52

Funds Used to Date

Program / Project Category Name

\$ 11,767.48

Remaining Balance

Community Development

Fund Name

Budgeted Item

☐

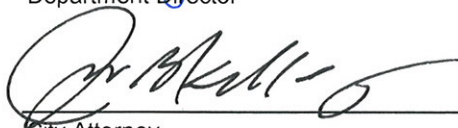
Budget Adjustment Attached

☐

 Department Director

 01-10-2011
 Date

Previous Ordinance or Resolution #


 City Attorney

 1-12-11
 Date

Original Contract Date:

Original Contract Number:


 Finance and Internal Services Director

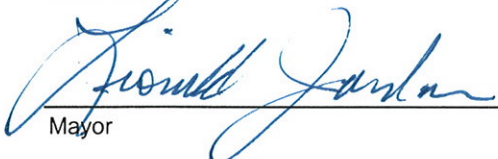
 1-13-2011
 Date

 Received in City
 Clerk's Office 01-11-11P03:20 RCVD


 Chief of Staff

 1-13-11
 Date

 Received in
 Mayor's Office


 Mayor

 1/14/11
 Date

 ENTERED
 1/13/11 BRP

Comments: Staff recommends approval of change order



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Development Services Department Director

From: Yolanda Fields, Community Services Director

Date: January 7, 2010

Subject: CDBG Public Facility Program- Approval of Change Order at 1932 S. Garland

PROPOSAL:

A contract with Joe Perme Construction Inc. for the moderate rehabilitation of 1932 S. Garland was approved on June 1, 2010, (resolution #93-10). Once work on the project began, it was determined that a change order would be needed in order to complete the rehabilitation of the property due to the discovery of some unexpected problems.

The original scope of work dated April 18, 2010 called for removal of all existing flooring and replacement with carpet and vinyl flooring. Upon removal of existing flooring it was discovered that some subflooring and decking had become rotten. If this problem is left uncorrected it will cause the effected areas of flooring to sag and eventually give way causing a safety concern. There are four areas that were discovered with rotting floor or underlayment. To repair these areas the rotting subfloor or underlayment must be removed and replace with new pressure treated material.

RECOMMENDATION:

Staff recommends approval of change order for Public Facility Project located 1932 S. Garland

BUDGET IMPACT:

Change Order Cost is approximately \$2,700

RESOLUTION NO. _____

A RESOLUTION APPROVING A CHANGE ORDER TO THE CONTRACT
WITH JOE PERME CONSTRUCTION INC. IN THE AMOUNT OF \$2,700.00
FOR COMMUNITY DEVELOPMENT BLOCK GRANT REHABILITATION
AT 1932 SOUTH GARLAND

**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 change order to the contract with Joe Perme Construction Inc, in the amount of \$2,700.00 for community development block grant rehabilitation at 1932 South Garland. A copy of the change order is attached to this Resolution as Exhibit "A".

PASSED and APPROVED this 1st day of February, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

CHANGE ORDER AUTHORIZATION

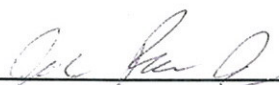
Property Location: 1932 S. Garland Fayetteville AR, 72701

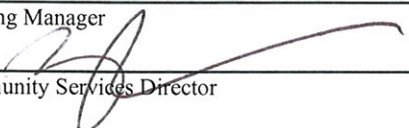
Contractor: Joe Perme Construction Inc.

The following is a Change Order to the original Resolution No. 93-10 passed and approved on June 1st, 2010. This Change Order is made to modify or change the work under the above-captioned Resolution and this Change Order is made part of the Resolution. This Change Order supersedes any previous drawings, specifications and agreements. Work shall be completed no later than 14 days after approval of change order. All work shall be performed in a workmanlike manner according to common construction practices, according to the specifications set forth in the Community Services Program's General Specification Manual, and with adherence to city, state and national codes.

CHANGES:

Original Contract Sum	\$21,800.00
Contractor Sum Paid-To-Date	\$13,332.52
Due on Original Contract	\$8,467.48
Change Order #1	\$3,300.00
Amount of This Change Order	\$2,700.00
Total Due	\$27,800.00


 Contractor _____

 Housing Manager _____

 Community Services Director _____
 Mayor _____

1-7-2011
 Date _____
 1-7-2011
 Date _____
 1/7/11
 Date _____
 Date _____



Joe Perme Construction Inc.

1874 S. Doral
 Fayetteville, Ar 72701-7794

Estimate

Date	Estimate #
1/6/2011	126

Name / Address
City of Fayetteville 1932 Garland

Project

Description	Rate	Amount	Markup	Total
Remove 150 sq ft. rotten underlayment, patch floor and install new underlayment at beginning of hall. Remove 200 sq ft of subfloor and decking, repair floor joist where necessary, install new decking and subfloor in bedroom. Remove and replace rotten subfloor around toilet in front bathroom. Remove 20 sq. ft rotten subfloor and decking, repair floor joist where necessary, install new decking and subfloor in back bathroom. Repair floor under kitchen cabinet area. Perform necessary floor prep where flooring repairs meet old floor. Add 1/4" underlayment at end of hall to level floor. Use floor leveling compound in kitchen to float uneven floor.	0.00	0.00	2,700.00	2,700.00
			Total	\$2,700.00

Phone #	Fax #	E-mail
479-659-3416	479-439-0811	joe@joepermeconstruction.com



Highland Home Builder, Inc.

Bruce Kerr 479-903-0966

Community Services Spec writer

brucegkerr@netzero.com

Community Services Division

Energy Efficiency Rehabilitation Project

Scope of Project: Replace all flooring, replace some interior doors. Drywall, paint, and trim specified areas. Demo old cabinets. Replace kitchen cabinets, sinks, and counter tops. Replace bathroom vanities, mirrors, and toilets. Replace light fixtures and add GFCI outlets. Add new entry decks.

Owner's Name: City of Fayetteville (Office Building, formerly a women's shelter)

Project Location: 1932 S Garland, Fayetteville, AR

Project # 09029-1002

Administrator: Brent Johnson **Phone:** 479-575-8240 **Fax:** 479-444-3445

Contractors Description of Work:

Minimum requirements for bidder: Proof of current Arkansas Residential Contractor's license (or Commercial Contractor's license if required by law) which is provided by the State of Arkansas Contractors Licensing Board, Certificate of Liability Insurance, and a statement of Completion of EPA/HUD Approved Lead Safety Training if applicable.

GENERAL:

The contractor will be responsible for all aspects of the construction, installation, repairs, and cleanup as stated in the Scope of Work and Specifics at the project location stated above.

Each bidder will be responsible for a complete inspection of the property at the project location before submitting bid. All the distances, measurements, procedures, and listed materials should be verified before submitting your bid to complete the work. The requirements listed here, in the description of work, are general requirements and it will be the responsibility of the winning bidder to assure the City of Fayetteville that the finished project is in compliance with all applicable codes and standards and achieves the goal of raising the efficiency of the building.

The contractor's duties and responsibilities include, but are not limited to, the following:

- 1) Purchasing of all materials.
- 2) Supervision of all employees and subcontractors.
- 3) Coordination with the City of Fayetteville CDBG Administrator, the City of Fayetteville Code Compliance Office and owners.
- 4) Project design.
- 5) Clean up and restoration of all lawns, planters, walking and driving surfaces to their original condition.
- 6) Keep job site safe for others and practice safe working practices as required.

SPECIFICS:

A: ELECTRICAL

- A - 1 Replace all interior light fixtures with white surface mount fixtures, except for fan in office 4. Lights in offices and living rooms should be 3 bulb fixtures. Replace light fixtures in bathrooms. All bulbs should be energy efficient compact florescent light bulbs (CLS's). Some lights may need different solutions to optimize lighting plan.
- A - 2 Add ground fault plugs in kitchen by the sink Per. code 210.50 B.3, 2008 National Electric Code
- A - 3 Add any missing covers on switches or plugs.
- A - 4 Remove kitchen stove plug and vent hood and cap off electricity for addition of cabinets.

B: INTERIOR DOORS

- B - 1 Remove and replace the doors entering the following numbered offices. 1,9,10,11,12,13,14,16,17.
- B - 2 Remove and replace the doors entering the following numbered bathrooms. 2,3,4
- B - 3 Replace or add closet doors in the following numbered offices. 9,10,11,13,17.
- B - 4 Remove and replace the two full size closet doors in hallway number 19. Do not replace the half doors.
- B - 5 Reinstall all old door knobs.

C : KITCHEN REMODEL AND STORAGE CABINETS

- C - 1 Tear out all kitchen cabinets and storage cabinets or shelves in the following numbered offices: 1,4,6,7.
- C - 2 Tear out all ceiling soffits in kitchen.
- C - 3 Add 10 feet of new base cabinets in kitchen in area where sink is now. Install new upper cabinets over the base cabinets (when area is exluded because of the window the uppers are about a total of 6 ft. (there will be no stove area)
- C - 4 Install and plumb new sink and faucet under window. (Similar sink to what is in now)

D: DRYWALL

- D - 1 Remove shinny white wall paneling in hallway #19. Repair possible existing drywall behind paneling or redrywall the walls if not existing. Drywall the ceiling. The whole hallway should have a uniform look.

- D - 2 Repair the drywall in areas that had the cabinets or shelves removed.

E: INTERIOR TRIM AND PAINT

- E - 1 Trim all added doors. Add trim against any ceilings that were drywalled that have paneling on the walls. Add baseboards to any rooms that do not have them.
- E - 2 Paint all interior doors that have been added and paint old doors that have not been painted very recently.
- E - 3 Paint all newly added or repaired drywalled areas.
- E - 4 Paint the ceilings in the kitchen and in the following numbered offices. 4,10,12,13,14. Room number 10 needs the one ceiling tile tacked up straight before painting. Paint the ceiling in bathrooms 3 and 4.
- E - 5 Paint or replace the few bad looking ceiling duct vents.

F: BATHROOM REPAIRS

- F - 1 Remove and replace all toilets with new ones. (In bathroom # 5 install full size toilet)
- F - 2 Replace all bath vanity cabinets and tops. In bathroom # 5 install full size pedestal sink.
- F - 3 Install and plumb new vanity faucets
- F - 4 Remove old mirrors and install new ones over sinks.

G: FLOORING

- G - 1 Remove all existing carpet. Remove all existing hard flooring unless the new flooring can be installed over it in a smooth way.
- G - 2 Install new commercial carpet in all offices, living rooms, and storage rooms. (Approximately 2700 square feet)
- G - 3 Install new commercial vinyl flooring or similar product in the kitchen, utility room, both hall ways, and all bathrooms. (Approximately 1092 square feet)

H: ENTRY DECKS

- H - 1 Remove the two entry decks and steps on the east side and replace them with new treated lumber.

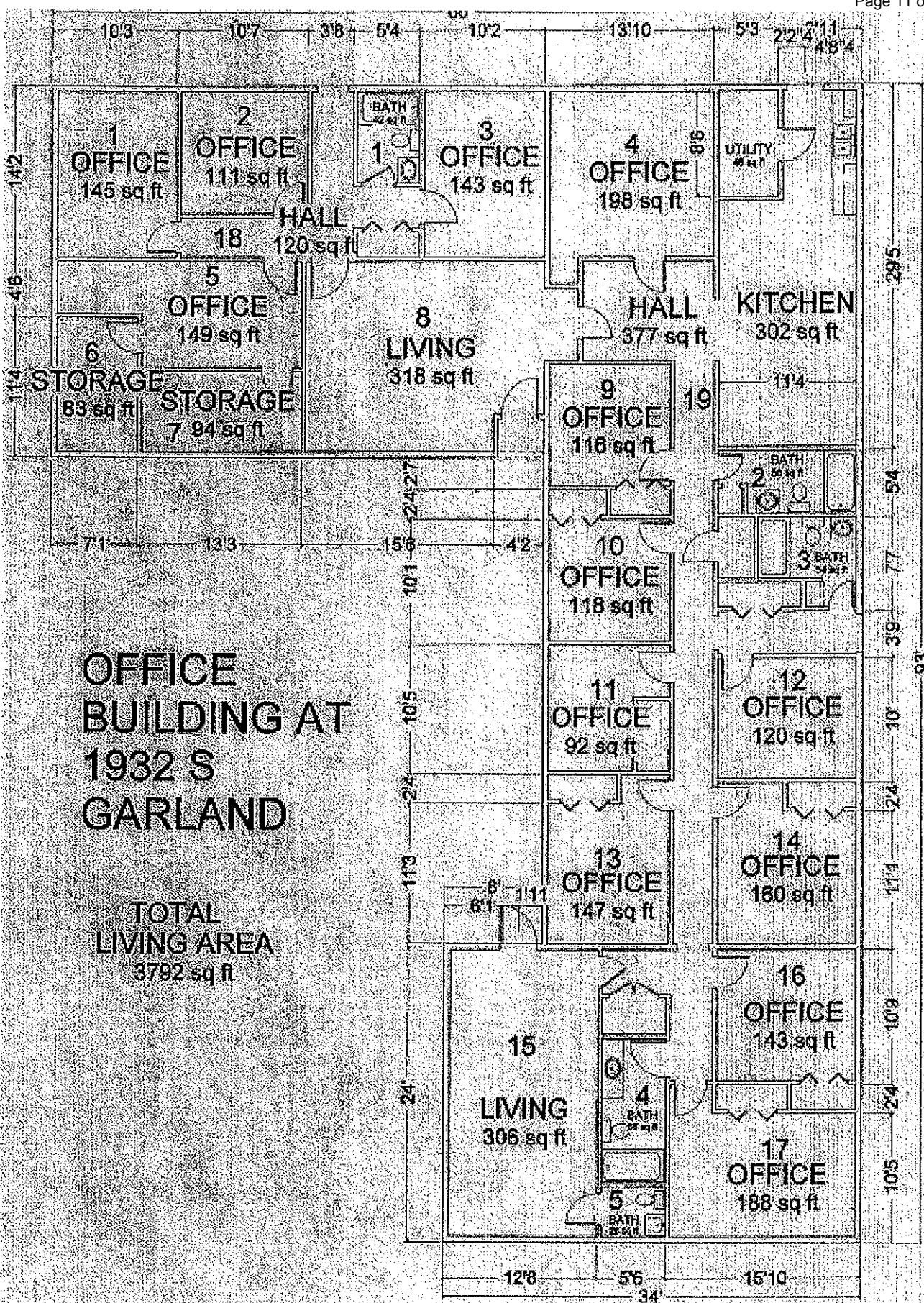
I: CLEANUP

- I - 1 All new, used, and excess construction materials that relate to the job or a change order(s) belongs to the contractor and can be removed from the property by the contractor as needed during the project and shall be removed at completion.

- I - 2 All trash shall be hauled off by contractor and preferably recycled if possible.
- I - 3 All affected areas shall be left broom clean.
- I - 4 If lead paint is present, cleanup will be compliant with EPA/HUD Approved Lead Safety standards.

J: OTHER

- J - 1 All work or materials which are not directly noted in the Scope of Work and Specifics, but are necessary for the proper carrying out of the obvious intentions thereof, are to be understood as implied work and will be provided for by the contractor as if specifically described or drawn.
- J - 2 All work shall be performed in a workmanlike manner according to common construction practices, according to the specifications set forth in the Community Services Program's General Specification Manual, and with adherence to city, state, and national codes.
- J - 3 Any damage to the dwelling or property caused by the contractor, his/her worker(s) or delivery person, and/or their vehicles during the project shall be repaired to like new conditions.
- J - 4 Where applicable, all plumbing work shall be performed by a Arkansas State licensed plumbing contractor with adherence to the current Arkansas Plumbing Code.
- J - 5 Where applicable, all electrical work shall be performed by a Arkansas State licensed electrical contractor with adherence to the current National Electrical Code.
- J - 6 Where applicable, all HVAC work shall be performed under the supervision of a licensed HVAC contractor with adherence to all codes.



COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

RECEIPT OF BIDS

OWNER(S): City of Fayetteville _____

ADDRESS: 1932 S. Galand _____ PROJECT No: 09029-1002 _____

PROJECT TITLE: 1932 S. Garland Moderate Rehab _____

BID CLOSING DAY/DATE/TIME: Monday, 4:00 PM, May 3, 2010 _____

CONTRACTOR: Joe Perme construction. BID AMOUNT: 21,800.00

CONTRACTOR: _____ BID AMOUNT: _____

CONTRACTOR: _____ BID AMOUNT: _____

CONTRACTOR: _____ BID AMOUNT: _____

CONTRACTOR: _____ BID AMOUNT: _____

Certified by: Rachel H. B. Date: 5/3/10

Witness: [Signature] Date: 5-3-10

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

STANDARD BID PROPOSAL FORM

PROJECT NUMBER: 09029-1002

DATE ISSUED: 04-18-10

DATE AND TIME OF OPENING: Monday, 4:00 pm, May 3, 2010

OWNER'S NAME: City of Fayetteville

PROJECT ADDRESS: 1932 S. Garland Ave. Fayetteville, AR

ATTENTION

The City has the right to select which of the items listed below will be completed based on the amount of funds available.

*In blanks below please quote price for each item and the total for project at the bottom.

A) Electrical:

2000⁰⁰

B) Interior Doors:

~~1800~~ 4000⁰⁰

C) Kitchen Remodel and Storage Cabinets:

1800⁰⁰

D) Drywall:

1200⁰⁰

E) Interior Trim and Paint:

1800⁰⁰

F) Bathroom Repairs:

1500⁰⁰

G) Flooring:

6800⁰⁰

H) Entry Decks:

1200⁰⁰

I) Cleanup:

500⁰⁰

J) Other:

600⁰⁰

MY TOTAL BID PRICE FOR THIS PROJECT IS \$

21,900⁰⁰

Upon signing this Bid, the bidder certifies that they have viewed the property, read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent information regarding the articles being bid on, and agree to furnish these articles at the prices stated.

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Complete Business Address:

Name of Firm: Perme Construction Phone # 479-409-1121

Street address or P O Box 1874 S. Doral Dr.

City / State / Zip Code Fayetteville, Ar 72701

Printed Name: Joe Perme

Signature: [Signature] Title: Vice-President

City of Fayetteville Staff Review Form

A. 5
 Pinkley Sales Company and Smith Two-
 Way Radio, Inc. Donation Revenue
 Page 1 of 4

City Council Agenda Items
 and
 Contracts, Leases or Agreements

February 1, 2011

City Council Meeting Date
 Agenda Items Only

David Dayringer
 Submitted By

Fire
 Division

Fire
 Department

Action Required:

A resolution approving a budget adjustment in the amount of \$300.00 to recognize donation revenue from Pinkley Sales Company and Smith Two-Way Radio, Inc. to be allocated for funding of the Fayetteville Fire Department's annual employee service awards event.

\$ -
 Cost of this request

\$ 950.00
 Category / Project Budget

Donations - Fire
 Program Category / Project Name

1010.3020.5329.00
 Account Number

\$ -
 Funds Used to Date

Donations
 Program / Project Category Name

06029 / 1
 Project Number

\$ 950.00
 Remaining Balance

General
 Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

David Dayringer 1-12-11
 Department Director Date

Previous Ordinance or Resolution # _____

Chris Skelley 1-13-11
 City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Becher 1-13-2011
 Finance and Internal Services Director Date

Received in City 01-13-11A11:26 RCvd
 Clerk's Office

Don Mann 1-17-11
 Chief of Staff Date

Kim J.

Donnell Jordan 1/18/11
 Mayor Date

Received in
 Mayor's Office

ENTERED
 1/13/11 BRP

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: David Dayringer, Fire Chief

Date: February 1, 2011

Subject: Recognition and acceptance of donations to the Fayetteville Fire Department

PROPOSAL:

Each year, the City of Fayetteville Fire Department receives donations from various businesses and private donors to support the department's employee recognition program. The funds are typically utilized to cover expenses associated with an employee service awards banquet, during which the firefighters are honored and recognized for achievements which took place throughout the year.

RECOMMENDATION:

Staff recommends a resolution approving the acceptance of a \$200.00 donation from Pinkley Sales Company and a \$100.00 donation from Smith Two-Way Radio, Inc. to the Fayetteville Fire Department and a budget adjustment to recognize the aforementioned donation revenue.

BUDGET IMPACT:

These funds have been deposited into revenue account number 1010.0001.4809.00 06029/1 – Donations and will be reallocated to expense account number 1010.3020.5329.00 06029/1 – Employee Recognition upon City Council approval to recognize and accept this donation.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE
AMOUNT OF \$300.00 REPRESENTING DONATION REVENUE RECEIVED
FOR THE FIRE DEPARTMENT'S ANNUAL EMPLOYEE SERVICE
AWARDS EVENT

**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, a copy of which is attached as Exhibit "A", in the amount of \$300.00
representing donation revenue received for the fire department's annual employee service awards
event.

PASSED and APPROVED this 1st day of February, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

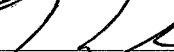
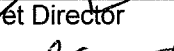
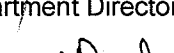
A. 5
Pinkley Sales Company, Inc. Smith Two-
Way Radio, Inc. Donation Revenue

Page 4 of 4
Adjustment Number

Recognize \$300.00 in donation revenue to be allocated towards funding of the Fire Department employee service awards event.



Requested By Ginny Gundlach

Division Head		1-12-11
Budget Director		Date
Department Director		1-12-11
		Date
Finance Director	Paul a. Behn	1-13-2011
		Date
Chief of Staff		1-18-11
		Date
Mayor		1/18/11
		Date

Budget & Research Use Only

Type: A B C D E

Description: _____ 0

General Ledger Date

Posted to General Ledger	Initial	Date

	Initial	Date
Posted to Project Accounting		

TOTAL BUDGET ADJUSTMENT

AGENDA REQUEST

FOR: COUNCIL MEETING OF FEBRUARY 1, 2011

FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve Contracts With Law Firms Selected By The Police And Fire Chiefs To Represent Them During Any Civil Service Trials In 2011 With Options To Renew

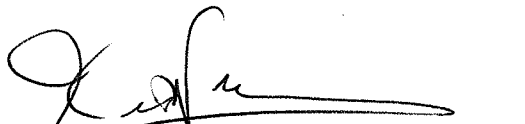
APPROVED FOR AGENDA:


David Dayringer, Fire Chief

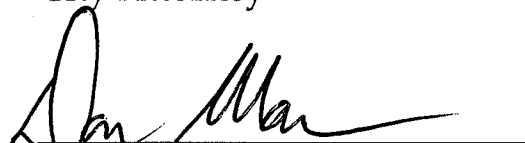
1-18-11
Date


Greg Tabor, Police Chief

1-18-11
Date


City Attorney

1-18-2011
Date


Chief of Staff

1-18-2011
Date


Mayor Jordan

1/18/11
Date

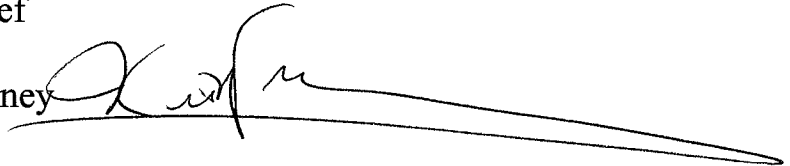
Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Don Marr, Chief of Staff
Greg Tabor, Police Chief
David Dayringer, Fire Chief

FROM: Kit Williams, City Attorney



DATE: January 18, 2011

RE: Legal representation for Police Chief and Fire Chief
during Civil Service Commission trials

A.C.A. §14-51-206 authorizes the hiring of outside counsel as needed for the Police and Fire Chief when their disciplinary decision has been challenged. I cannot represent the Chiefs as I am representing and advising the Civil Service Commission which conducts the trial.

The City sent out a Request For Qualifications and appointed a Professional Selection Committee that included Alderman Adella Gray, Police Chief Greg Tabor, Fire Chief David Dayringer, myself, and city staff. We carefully reviewed the qualifications and experience of the applicants and selected Benson and Wood, P.L.C. and Hall Estill, Attorneys-at-Law as the most qualified and experienced law firms to represent the Police Chief or Fire Chief.

I then negotiated contracts with both firms which agreed to reduce their normal hourly rate fee to \$140.00 per hour as a public service to Fayetteville. The Professional Selection Committee and both Chiefs recommend approval of these contracts.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE CONTRACTS WITH LAW FIRMS
SELECTED BY THE POLICE AND FIRE CHIEFS TO REPRESENT THEM
DURING ANY CIVIL SERVICE TRIALS IN 2011 WITH OPTIONS TO
RENEW

WHEREAS, A.C.A. §14-51-206 states that “the City Attorney shall act as attorney for the (civil service) commission in all trials” and that the “city shall hire, on an annual basis, independent legal counsel to represent the city and the department head when the (chief’s) ... decisions are brought for review before the commission and in all trials”; and

WHEREAS, a City Professional Selection Committee made up of both the Fire Chief and Police Chief, an alderman and several city staff carefully considered applications from several law firms and chose Benson & Wood, P.L.C. and Hall Estill, Attorney-at-Law as the preferred law firms.

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 attached contracts with Benson & Wood, P.L.C. and Hall Estill, Attorneys-at-Law to supply attorney services as needed for the Fayetteville Police Chief and Fire Chief in 2011, with up to four one year renewals and authorizes Mayor Jordan to authorize both Chiefs to sign the contracts for the City.

PASSED and APPROVED this 1st day of February, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

**CONTRACT FOR LEGAL SERVICES AS NEEDED
FOR THE FAYETTEVILLE FIRE CHIEF AND POLICE CHIEF**

Benson & Wood, PLC has been selected as one of two law firms that will represent the Fire Chief or Police Chief during any Civil Service Trials if a police officer or firefighter appeals a disciplinary action for the year of 2011.

If such an appeal occurs, the Police Chief or Fire Chief may contact Brian Wood to represent the Chief in such an appeal. (The City Attorney represents the Civil Service Commission both during the trial and for any appeal of the Civil Service Commission Decision.)

The Police Chief and Fire Chief have agreed to pay and Brian Wood of Benson & Wood, PLC has agreed to accept an hourly fee of One Hundred Forty Dollars (\$140.00) for legal services needed for such Civil Service Trial.

This annual contract may be renewed upon the consent of both parties up to four additional years without the need for another professional selection committee, but another professional selection must be accomplished for the year 2016.

In agreement to all the terms above, we signify our approval by signing below.

BENSON & WOOD, PLC

By: _____

Brian Wood

DAVID DAYRINGER

By: _____

David Dayringer, Fire Chief

GREG TABOR

By: _____

Greg Tabor, Police Chief

**CONTRACT FOR LEGAL SERVICES AS NEEDED
FOR THE FAYETTEVILLE FIRE CHIEF AND POLICE CHIEF**

Hall Estill Attorneys at Law has been selected as one of two law firms that will represent the Fire Chief or Police Chief during any Civil Service Trials if a police officer or firefighter appeals a disciplinary action for the year of 2011.

If such an appeal occurs, the Police Chief or Fire Chief may contact Robert K. Rhoads to represent the Chief in such an appeal. (The City Attorney represents the Civil Service Commission both during the trial and for any appeal of the Civil Service Commission Decision.)

The Police Chief and Fire Chief have agreed to pay and Robert K. Rhoads of Hall Estill has agreed to accept an hourly fee of One Hundred Forty Dollars (\$140.00) for legal services needed for such Civil Service Trial.

This annual contract may be renewed upon the consent of both parties up to four additional years without the need for another professional selection committee, but another professional selection must be accomplished for the year 2016.

In agreement to all the terms above, we signify our approval by signing below.

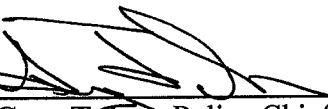
HALL ESTILL, Attorneys at Law

By: 
Robert K. Rhoads

DAVID DAYRINGER

By: 
David Dayringer, Fire Chief

GREG TABOR

By: 
Greg Tabor, Police Chief

City of Fayetteville Staff Review Form

C. 1
VAC 10-3707 (Kum & Go)
Page 1 of 12

City Council Agenda Items and Contracts, Leases or Agreements

2/1/2011

City Council Meeting Date
Agenda Items Only

Dara Sanders
Submitted By

Planning
Division

Development Services
Department

Action Required:

VAC 10-3707: (Kum & Go, 329): Submitted by CEI Engineering Associates, Inc. for property located at 2396 North College Avenue. The property is zoned C-2, Thoroughfare Commercial. The request is to vacate a sewer easement on the 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 ☐

Wally C. Pate
Department Director

1-26-2011
Date

Previous Ordinance or Resolution # _____

K. W. Pate
City Attorney

Jan 14, 2011
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Beebe
Finance and Internal Services Director

1-14-2011
Date

Received in City Clerk's Office 01-14-11 P01:38 RCVD

Don Mann
Chief of Staff

1-18-11
Date

Received in Mayor's Office



Frederick Jordan
Mayor

1/18/11
Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director &

From: Dara Sanders, Current Planner

Date: January 6, 2011

Subject: VAC 10-3707 Kum and Go

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance vacating a sewer easement on the subject property (VAC 10-3707).

BACKGROUND

The subject project boundary is made up of three separate lots and is bound by three public streets - Township Street, College Avenue, and Jane Avenue. On November 8, 2010, the Planning Commission approved the applicant's Conditional Use Permit (CUP 10-3688) and Large Scale Development (LSD 09-3495) requests to construct a 10-pump gas station and a 4,958 sq. ft. convenience store on the subject property. During staff's review of the proposed development request, an existing sewer easement along the eastern and southern portions of the subject property was discovered by the applicant, as this easement was not included in the City's GIS database.

The applicant's request is to vacate an existing sewer easement on the subject property in order to allow for the construction of the convenience store. This easement does not contain utilities, and the applicant is to dedicate an easement along the southern property line that is adequate to serve the subject property and all adjacent properties.

DISCUSSION

On December 20, 2010 the Planning Commission forwarded this request to the City Council with a recommendation for approval with a vote of 6-0-1 (Commissioner Hoskins recused).

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 10-3707 SUBMITTED BY CEI ENGINEERING ASSOCIATES, INC. FOR PROPERTY LOCATED AT 2396 NORTH COLLEGE AVENUE, TO VACATE AN EXISTING SEWER EASEMENT ON THE PROPERTY, AS DESCRIBED HEREIN.

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted sewer easement is not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following utility easement as described in Exhibit B (attached).

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached 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:

1. The vacation of the existing 10' sewer easement shall not be accepted until the required 15' sewer easement is dedicated along the southern property line.

PASSED and APPROVED this 18th day of January, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

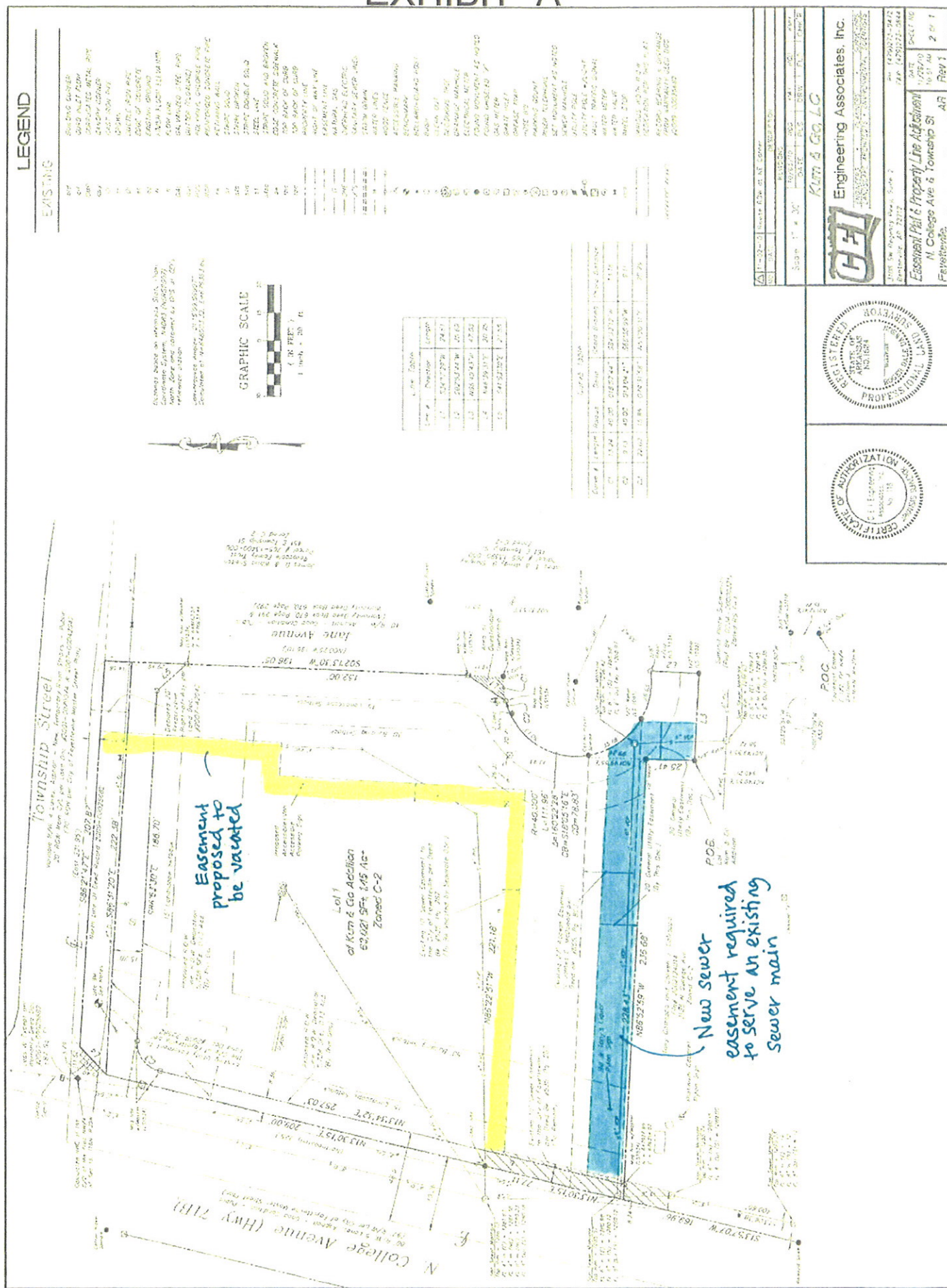


EXHIBIT "B"
VAC 10-3707

10' SEWER RIGHT-OF-WAY VACATION

A PORTION OF THE 10' SEWER RIGHT-OF-WAY DEDICATED TO THE CITY OF FAYETTEVILLE AS RECORDED IN DEED BOOK 535, PAGE 287 IN THE PUBLIC RECORDS OF WASHINGTON COUNTY, ARKANSAS, LYING IN THE E 1/2 OF THE FRACTIONAL NW 1/4 OF SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST, BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS: COMMENCING AT THE CALCULATED NORTHWEST CORNER OF SAID E 1/2; THENCE ALONG THE NORTH LINE OF SAID SECTION 16, SOUTH 86°21'47" EAST, A DISTANCE OF 5.79 FEET TO THE NORTHWEST CORNER OF DEED DOCUMENT #2009-00025682; THENCE CONTINUING ALONG SAID LINE, SOUTH 86°21'47" EAST, A DISTANCE OF 171.56 FEET TO THE NORTHWEST CORNER OF SAID 10' SEWER RIGHT-OF-WAY FOR THE POINT OF BEGINNING; THENCE CONTINUING ALONG AFOREMENTIONED NORTH LINE, SOUTH 86°21'47" EAST, A DISTANCE OF 10.00 FEET TO THE NORTHEAST CORNER OF SAID 10' SEWER RIGHT-OF-WAY; THENCE ALONG THE EASTERLY LINE OF SAID 10' SEWER RIGHT-OF-WAY THE FOLLOWING THREE COURSES:

1. SOUTH 03°37'09" WEST, A DISTANCE OF 98.82 FEET;
2. NORTH 86°22'51" WEST, A DISTANCE OF 17.93 FEET;
3. SOUTH 03°10'06" WEST, PASSING THROUGH THE COMMON LINE OF SAID DEED DOCUMENT #2009-00025682 AND DEED DOCUMENT #2009-00031355 AT A DISTANCE OF 122.20 FEET, AND CONTINUING FOR A TOTAL DISTANCE OF 132.20 FEET;

THENCE NORTH 86°22'51" WEST, A DISTANCE OF 194.71 FEET; THENCE NORTH 13°30'15" EAST, A DISTANCE OF 10.15 FEET; THENCE ALONG AFOREMENTIONED COMMON LINE, SOUTH 86°22'51" EAST, A DISTANCE OF 182.90 FEET, BEING 1.80 FEET WEST OF A CHISELED "X"; THENCE ALONG THE WESTERLY LINE OF AFOREMENTIONED 10' SEWER RIGHT-OF-WAY THE FOLLOWING THREE COURSES:

1. NORTH 03°12'09" EAST, A DISTANCE OF 132.20 FEET;
2. SOUTH 86°22'51" EAST, A DISTANCE OF 18.00 FEET;
3. NORTH 03°37'09" EAST, A DISTANCE OF 88.82 FEET TO THE POINT OF BEGINNING, CONTAINING 4,333 SQUARE FEET OR 0.10 ACRES, MORE OR LESS, AND BEING SUBJECT TO ANY COVENANTS, EASEMENTS, OR RIGHTS-OF-WAYS OF RECORD OR PRESCRIPTION.



PC Meeting of December 20, 2010

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, Development Services Director
DATE: December 8, 2010

VAC 10-3707: Vacation (SE CORNER COLLEGE & TOWNSHIP, 329): Submitted by CEI ENGINEERING ASSOCIATES, INC. for property located at 2396 N. COLLEGE AVENUE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.22 acres. The request is to vacate a utility easement within the property.
Planner: Dara Sanders

Findings:

Property Description: The subject project boundary is made up of three separate lots and is bound by three public streets - Township Street, College Avenue, and Jane Avenue. On November 8, 2010, the Planning Commission approved the applicant's Conditional Use Permit (CUP 10-3688) and Large Scale Development (LSD 09-3495) requests to construct a 10-pump gas station and a 4,958 convenience store on the subject property. During staff's review of the proposed development request, an existing sewer easement along the eastern and southern portions of the subject property was discovered by the applicant, as this easement was not included in the City's GIS database.

Request: The applicant's request is to vacate an existing sewer easement on the subject property in order to allow for the construction of the convenience store.

The applicant has submitted the required notification forms to the City Utilities Department with the result summarized below.

CITY OF FAYETTEVILLE:

Water/Sewer

RESPONSE

No Objections, granted that a 15' easement is dedicated for an existing sewer main located along the southern property line of the project boundary.

Public Comment: No public comment has been received.

Recommendation: Finding that the easement to be dedicated along the southern property line is adequate to serve the subject property and all adjacent properties, staff

recommends forwarding **VAC 10-3707** to the City Council with a recommendation of approval with the following conditions:

Condition of Approval:

1. The vacation of the existing 10' sewer easement shall not be accepted until the required 15' sewer easement is dedicated along the southern property line.
-

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: x Forwarded ☐ Denied ☐ Tabled

Date: December 13, 2010

Motion: Cabe

Second: Chesser

Vote: 6-0-1 (Hoskins recused)

Note:

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 11.30.10

UTILITY COMPANY: CITY OF FAYETTEVILLE

APPLICANT NAME: KUM + GO LLC / CEI APPLICANT PHONE: 479.273.9472
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**)

** 2388 N. COLLEGE AVE

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.

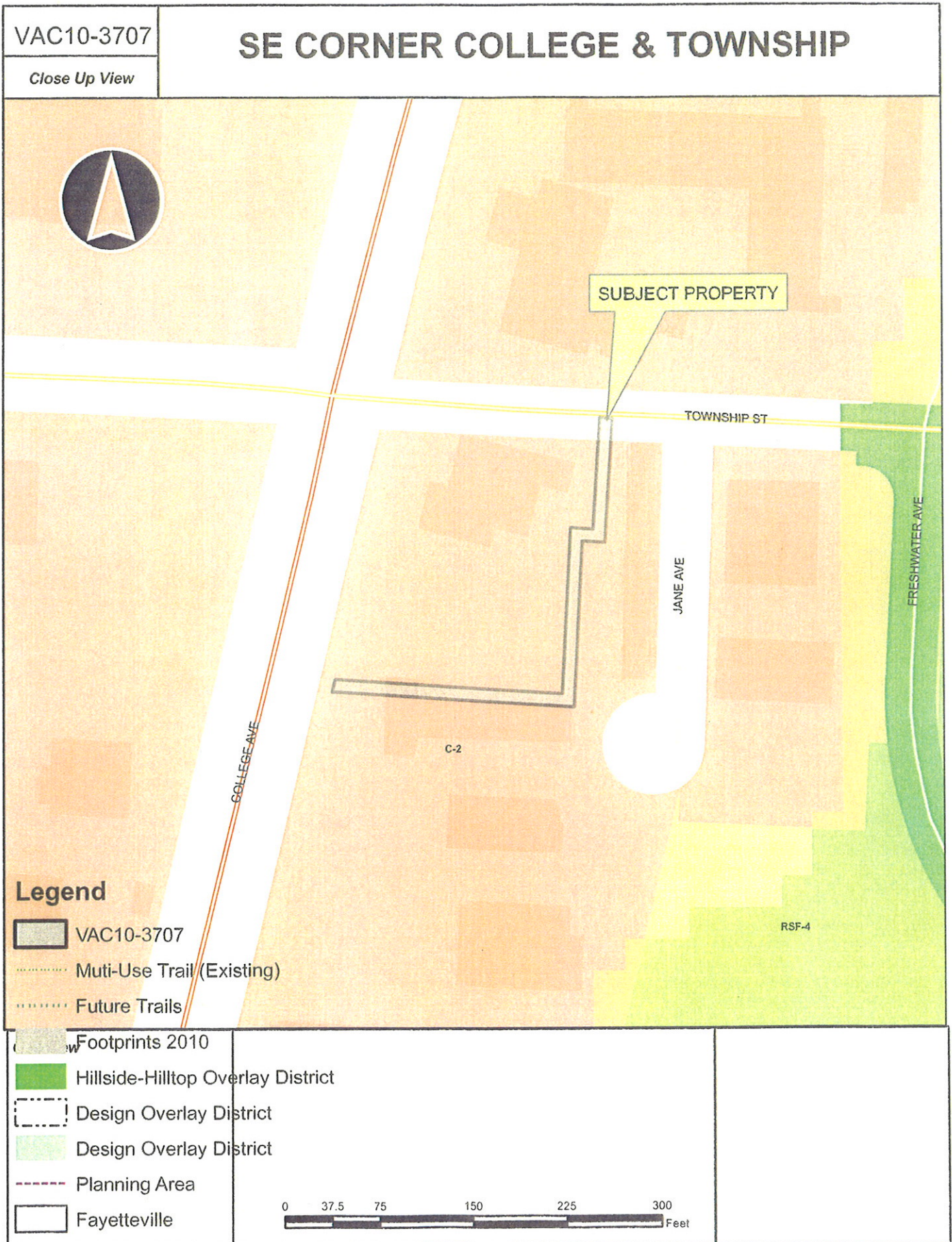
☒ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

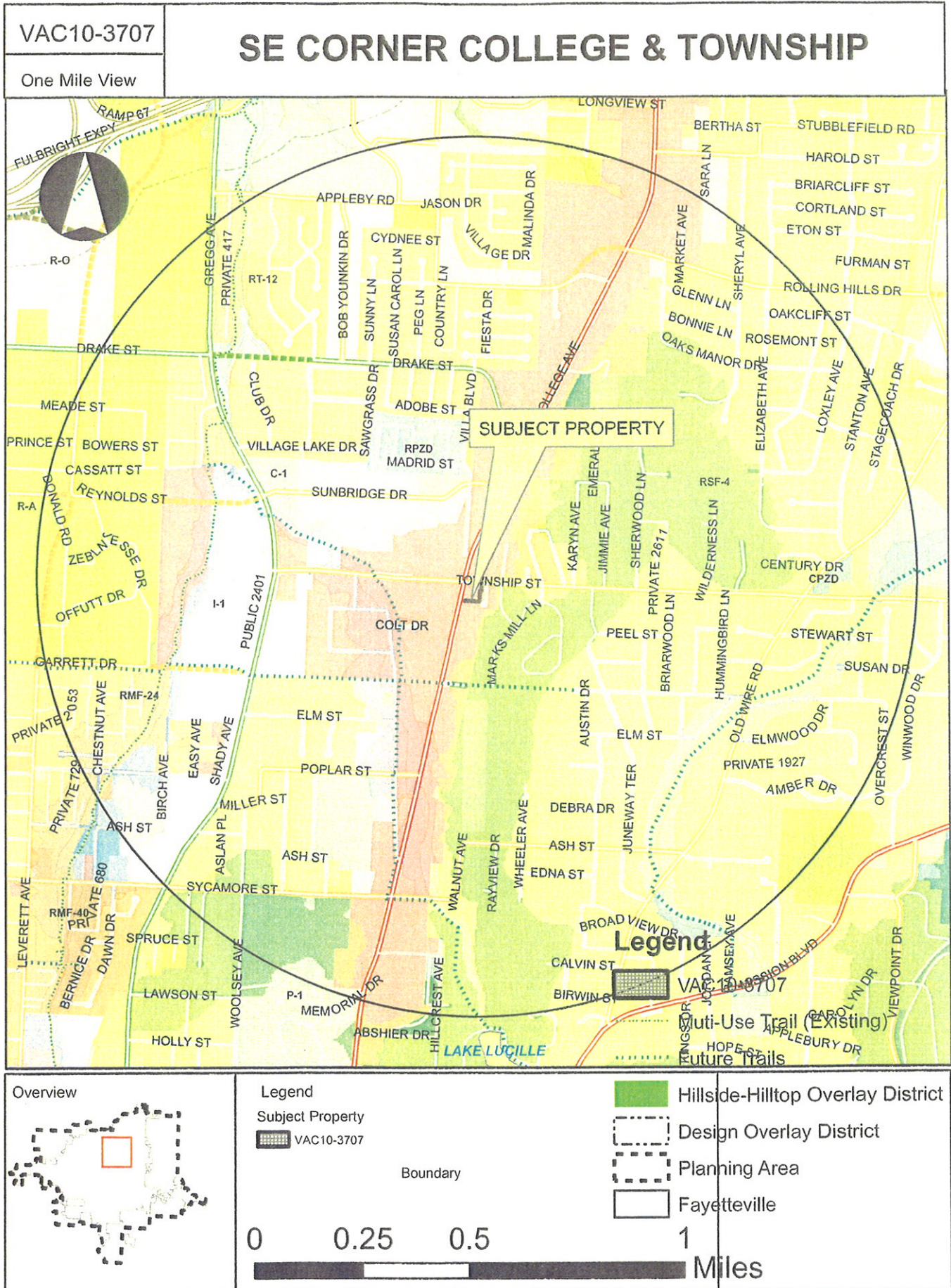
Vacate easement as shown on attached drawing in exchange for
15 ft Easement for existing sewer main at South end of Property.

- No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

Project & Contract Engineer
Title





City of Fayetteville Staff Review Form

C. 2
RZN 10-3724 (Boudreaux/Thiel,
120 & 124 Sycamore Street)
Page 1 of 16

City Council Agenda Items
and
Contracts, Leases or Agreements

2/1/2011

City Council Meeting Date
Agenda Items Only

Dara Sanders
Submitted By

Planning
Division

Development Services
Department

Action Required:

RZN 10-3724: (Boudreaux/Thiel, 120 & 124 Sycamore Street, 368): Submitted by BRENDA BOUDREAUX for property located at 120 & 124 SYCAMORE STREET. The property is zoned R-O, Residential-Office and contains approximately 1.28 acres. The request is to rezone the subject property to CS, Community Services.

_____	\$ _____ -	_____
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 ☐

Jimmy C. Pate 01-14-2011
Department Director Date

Joe Kelly 1-14-11
City Attorney Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Paul A. Beiler 1-14-2011
Finance and Internal Services Director Date

Received in City 01-14-11A08:26 RCVD
Clerk's Office

Don Man 1-18-11
Chief of Staff Date

Received in
Mayor's Office

Leonell Jordan 1/18/11
Mayor Date

Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

C. 2
RZN 10-3724 (Boudreaux/Thiel,
120 & 124 Sycamore Street)
Page 2 of 16

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director 

From: Dara Sanders, Current Planner

Date: January 13, 2011

Subject: RZN 10-3724 (Boudreaux)

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance rezoning the property from R-O, Residential Office, to CS, Community Services (RZN 10-3724).

BACKGROUND

The subject property is located west of College Avenue and Sycamore Street and is developed with two single-family dwellings that were constructed in 1925 and 1940. The surrounding land uses include commercial to the east and multi-family to the west.

The applicant has submitted an application to rezone the property from R-O, Residential Office to CS, Community Services.

DISCUSSION

On January 10, 2011 the Planning Commission forwarded this request to the City Council with a recommendation for approval with a vote of 9-0-0.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 10-3724, FOR APPROXIMATELY 1.28 ACRES, LOCATED AT 120 AND 124 SYCAMORE STREET FROM R-O, RESIDENTIAL OFFICE, TO CS, COMMUNITY SERVICES

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

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

From R-O, Residential Office to CS, Community Services, 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 , 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

C. 2
RZN 10-3724 (Boudreaux/Thiel,
120 & 124 Sycamore Street)
Page 4 of 16

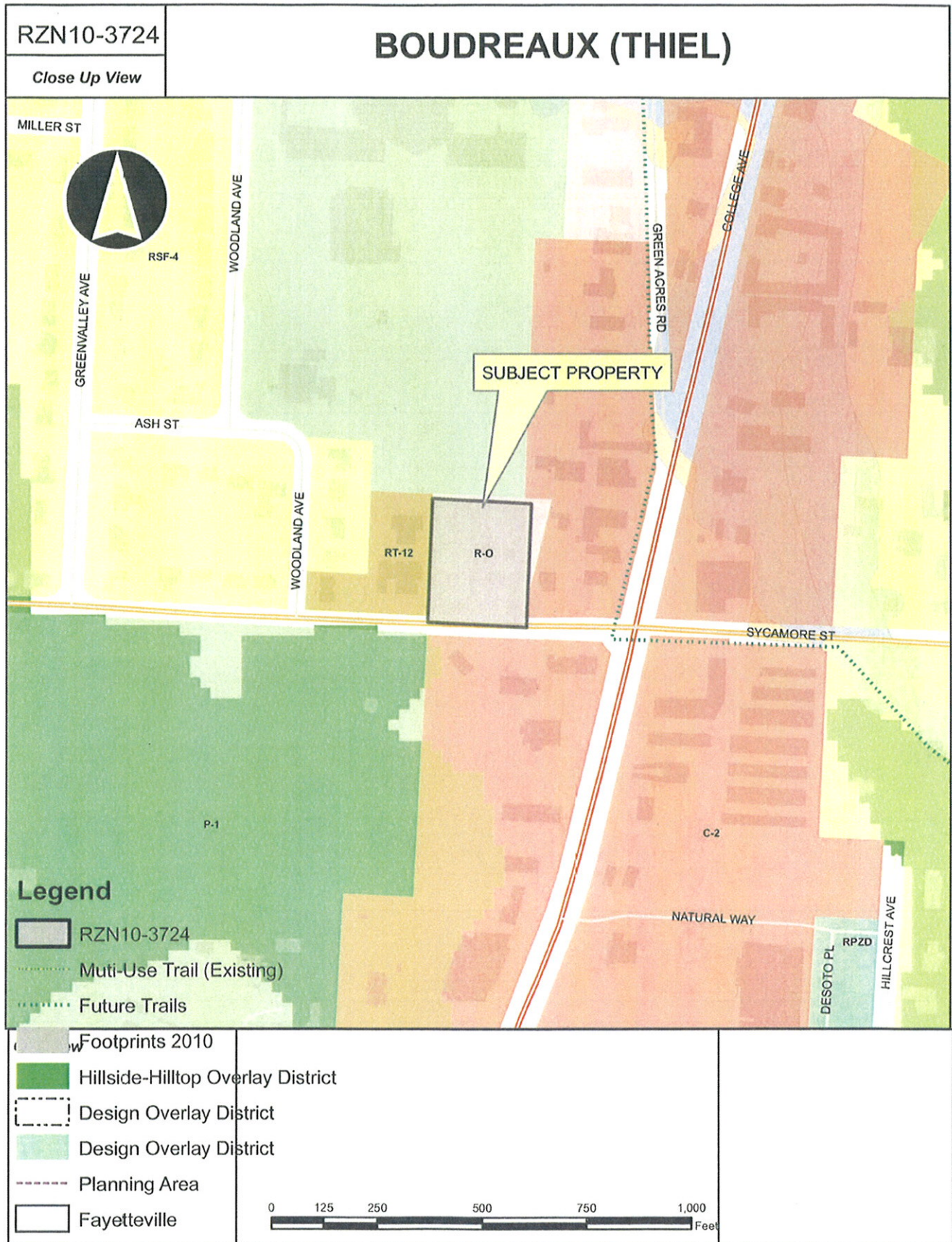


EXHIBIT "B"
RZN 10-3724

A PART OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION THREE (3), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING BRASS CAP IN SYCAMORE STREET; THENCE N01°03'40"E 295.17 FEET ALONG THE WEST LINE OF SAID 40 ACRES TRACT TO A EXISTING IRON REBAR; THENCE S88°20'15"E 237.08 FEET TO A SET ½" IRON REBAR; THENCE S01°03'40"W 295.17 FEET TO A SET COTTON SPINDLE ON THE SOUTH LINE OF SAID 40 ACRE TRACT, SAID POINT BEING IN SYCAMORE STREET; THENCE N88°20'15"W 237.08 FEET TO THE POINT OF BEGINNING, CONTAINING 1.61 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 1.61 ACRE TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF SYCAMORE STREET ALONG THE ENTIRE SOUTH BOUNDARY AND ANY OTHER EASEMENTS AND/OR RIGHTS-OF-WAY WHETHER OR NOT OF RECORD.



PC Meeting of January 10, 2011

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~January 3, 2011~~ Updated January 13, 2011

RZN 10-3724: Rezoning (BOUDREAUX (THIEL), 368): Submitted by BRENDA BOUDREAUX (THIEL) for property located at 120 AND 124 SYCAMORE STREET. The property is zoned R-O, RESIDENTIAL-OFFICE and contains approximately 1.28 acres. The request is to rezone the subject property to CS, Community Services. Planner: Dara Sanders

BACKGROUND:

The subject property is located west of College Avenue and Sycamore Street and is developed with two single-family dwellings that were constructed in 1925 and 1940. Surrounding land uses are shown in Table 1.

Table 1: Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Woodland Junior High	P-1, Institutional
South	Vacant commercial building, medical office	C-2, Thoroughfare Commercial
East	Office building, vacant restaurant space	C-2, Thoroughfare Commercial
West	Multi-family residential	RT-12, Residential Two- and Three-family

Proposal: The applicant has submitted an application to rezone the property from R-O, Residential Office to CS, Community Services.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Staff recommends forwarding RZN 10-3724 to the City Council with a recommendation of approval based on findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: 01-10-11	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Kennedy	Second: Cabe	Vote: 9-0-0	
CITY COUNCIL ACTION:		Required <u>YES</u>	
		☐ Approved	☐ Denied
Date:			

INFRASTRUCTURE:

Streets: The site has access to Sycamore St. Sycamore St. is a fully improved two lane city street in this location. Street improvements will be evaluated at the time of development.

Water: Public water is available to the property. There is an 8" public main located along the north side of Sycamore St. adjacent to this property. Public water main improvements may need to be extended through the property to provide domestic and fire flow for any proposed development.

Sewer: Sanitary sewer is available to the site. There is a 6" public main located along the east and north sides this property. Public mains may need to be extended through the property to serve any proposed development. The capacity of the existing mains may need to be evaluated with any proposed development.

Drainage: Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

Police: The Fayetteville Police Department has not objected to this request.

Fire: The Fayetteville Fire Department has not objected to this request.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as **Urban Center Area**, which is a mixed use area that contains taller buildings and has the most intense and dense development patterns within the City.*

FINDINGS OF THE STAFF

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

Finding: Staff finds that the Community Services (CS) zoning district is consistent with the City's planning policies and City Plan 2025 to convert commercial nodes to

mixed-use centers (see Goal 1); to discourage suburban sprawl (Goal 2); to make traditional town form the standard (Goal 3); and to densify in highly walkable areas along logical future transit routes (see Goal 3).

Staff also finds that the proposed zoning is consistent with the City's Urban Center Area land use designation to encourage a mixture of uses in a more efficient and traditional development pattern. The CS zoning district allows for all residential types (single- to multi-family) and a variety of non-residential uses in an urban form with a build-to zone and a minimum buildable street frontage of 65%, which requires that the majority of street frontage be constructed with a primary facade.

It is staff's opinion that the applicant's proposal will provide an appropriate transition between the C-2 zoning district to the east, which allows a wide variety of intense and commercial uses, and the residential neighborhood to the west.

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

Finding: Staff finds that a rezoning request for the subject property is not needed at this time, as the property could be redeveloped under the R-O zoning district as any of the nonresidential permitted and conditional uses listed in the attached zoning regulations, which would allow for businesses such as a professional office, a retail store, and a restaurant without a drive-thru. Therefore, considering the permitted and conditional uses allowed with the underlying R-O zoning district, staff finds that the current zoning does not prohibit reasonable use of the subject property and can potentially provide goods and services to the surrounding neighborhoods.

However, staff also finds that development of the subject property in conformance with the bulk and area requirements of the underlying R-O zoning district would continue the conventional, suburban development pattern in close proximity to a commercial node along College Avenue that is likely to redevelop in the near future due to the age and condition of the surrounding structure. Because the proposed CS zoning district would require the property to develop in a traditional and urban form with the building at the street and permit a mixture of residential dwelling types in conformance with the goals and objectives of City Plan 2025, staff finds that the proposal is justified.

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

Finding: It is expected that a rezoning from R-O to CS could create an increase in traffic compared with that allowed under the existing zoning. Access to and from the subject property will be reviewed at the time of development and will be subject to the access and curb cut distance requirements outlined in Chapter 166.08,

Street Design and Access Management Standards.

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 the proposed zoning would not result in adverse impacts to public services, as the subject property is located adjacent to a fully improved street and has access to public utilities.**

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

Finding: **Not applicable. Staff is recommending approval.**

ENGINEERING DIVISION COMMENTS:

RZN 10-3724: Rezoning (BOUDREAUX (THIEL), 368): Submitted by BRENDA BOUDREAUX (THIEL) for property located at 120 AND 124 SYCAMORE STREET. The property is zoned R-O, RESIDENTIAL-OFFICE and contains approximately 1.28 acres. The request is to rezone the subject property to CS, Community Services.

Planner: Dara Sanders

Public water is available to the property. There is an 8" public main located along the north side of Sycamore St. adjacent to this property. Public water main improvements may need to be extended through the property to provide domestic and fire flow for any proposed development.

Sanitary sewer is available to the site. There is a 6" public main located along the east and north sides this property. Public mains may need to be extended through the property to serve any proposed development. The capacity of the existing mains may need to be evaluated with any proposed development.

The site has access to Sycamore St. Sycamore St. is a fully improved two lane city street in this location. Street improvements will be evaluated at the time of development.

Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain.



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

C. 2
RZN 10-3724 (Boudreaux/Thiel,
120 AND 124 SYCAMORE STREET)
Page 11 of 16

Zoning Review

To: Dara Sanders

From: Terry Lawson, Fire Marshal

Date: January 13, 2011

Re: RZN 10-3724: Rezoning (BOUDREAUX (THIEL), 368): Submitted by BRENDA BOUDREAUX (THIEL) for property located at 120 AND 124 SYCAMORE STREET

This development will be protected by Engine 2 located at 120 and 124 Sycamore Street. It is 2 miles from the station with an anticipated response time of 3 minutes to the beginning of the development. The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

If you have any questions please feel free to contact me.

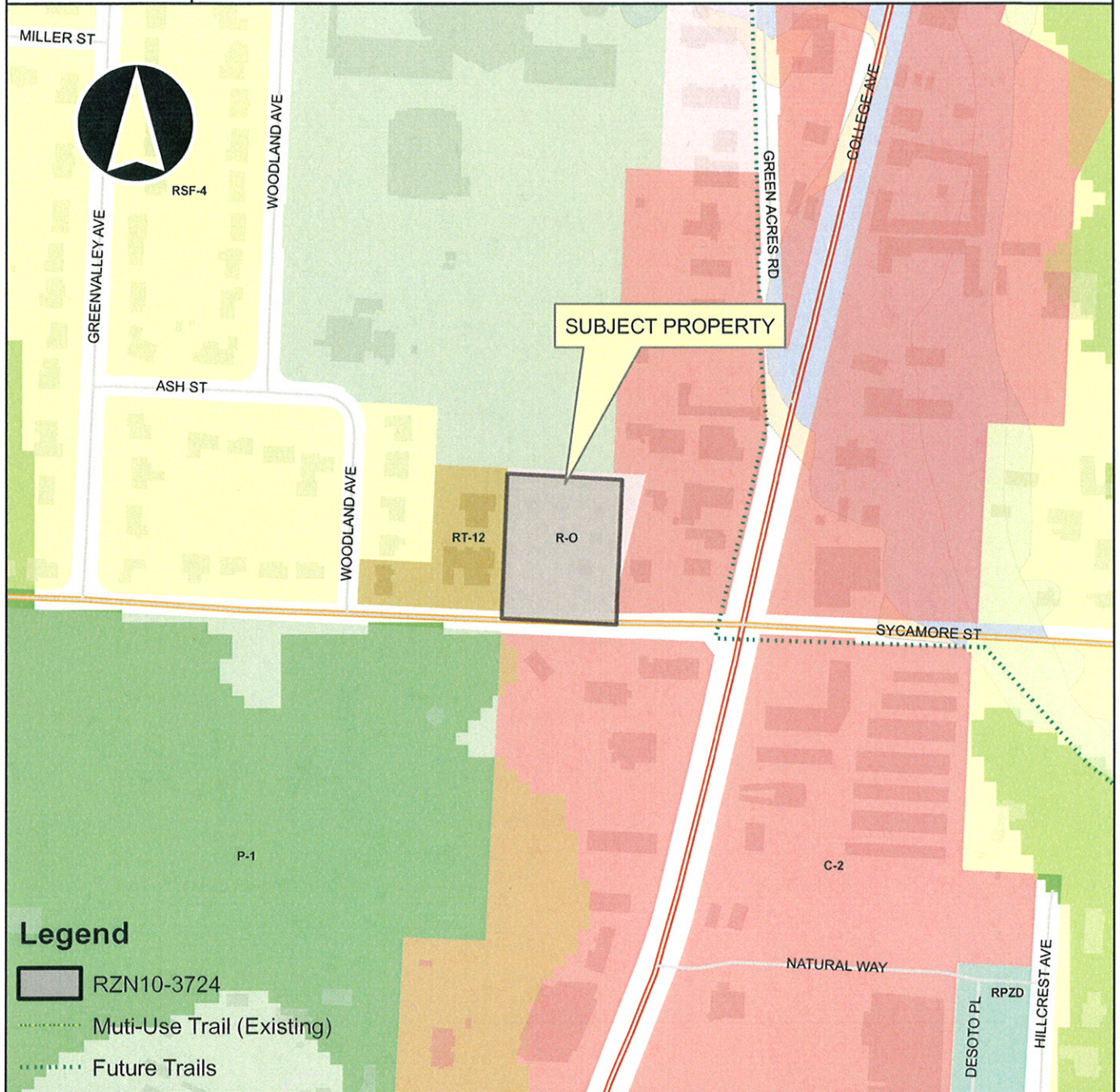
Fayetteville Fire Department

Honor, Commitment, Courage;
Our people make the difference!

RZN10-3724

BOUDREAUX (THIEL)

Close Up View



Legend

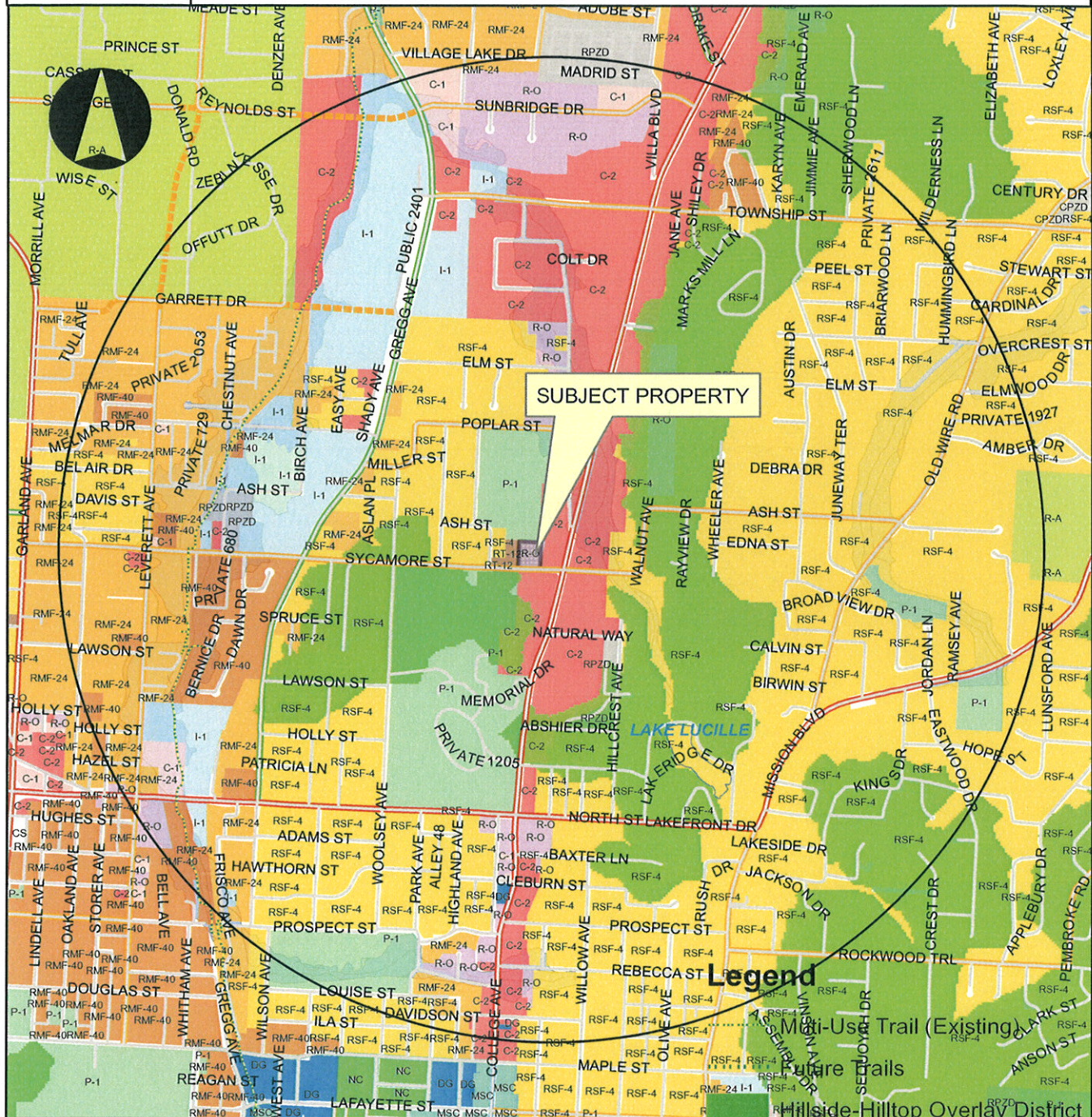
- RZN10-3724
- Multi-Use Trail (Existing)
- Future Trails
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area
- Fayetteville

0 125 250 500 750 1,000 Feet

RZN10-3724

One Mile View

BOUDREAUX (THIEL)



Overview



Legend

Subject Property

RZN10-3724

Boundary

0 0.25 0.5



RZN10-3724



Design Overlay District



Planning Area



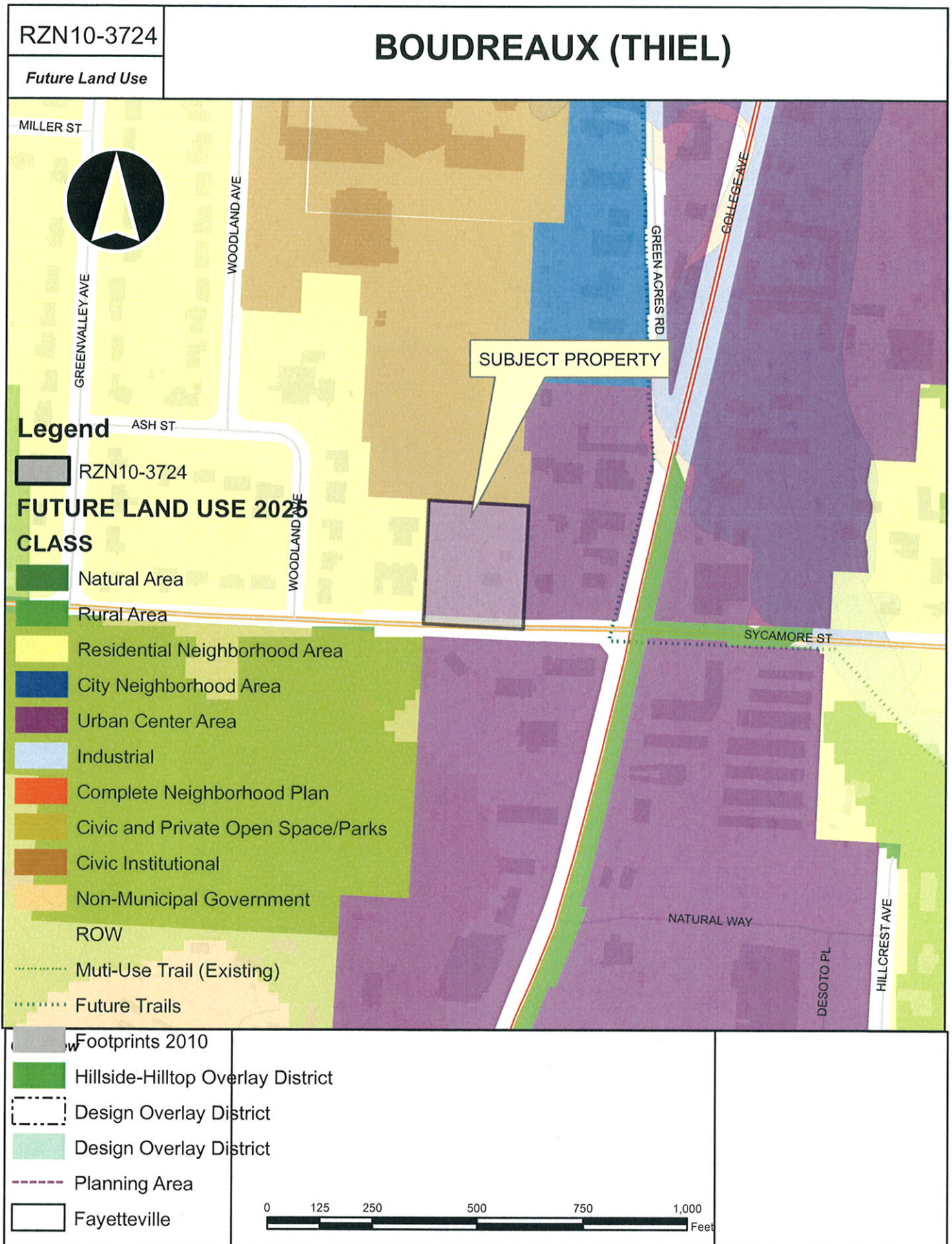
Fayetteville

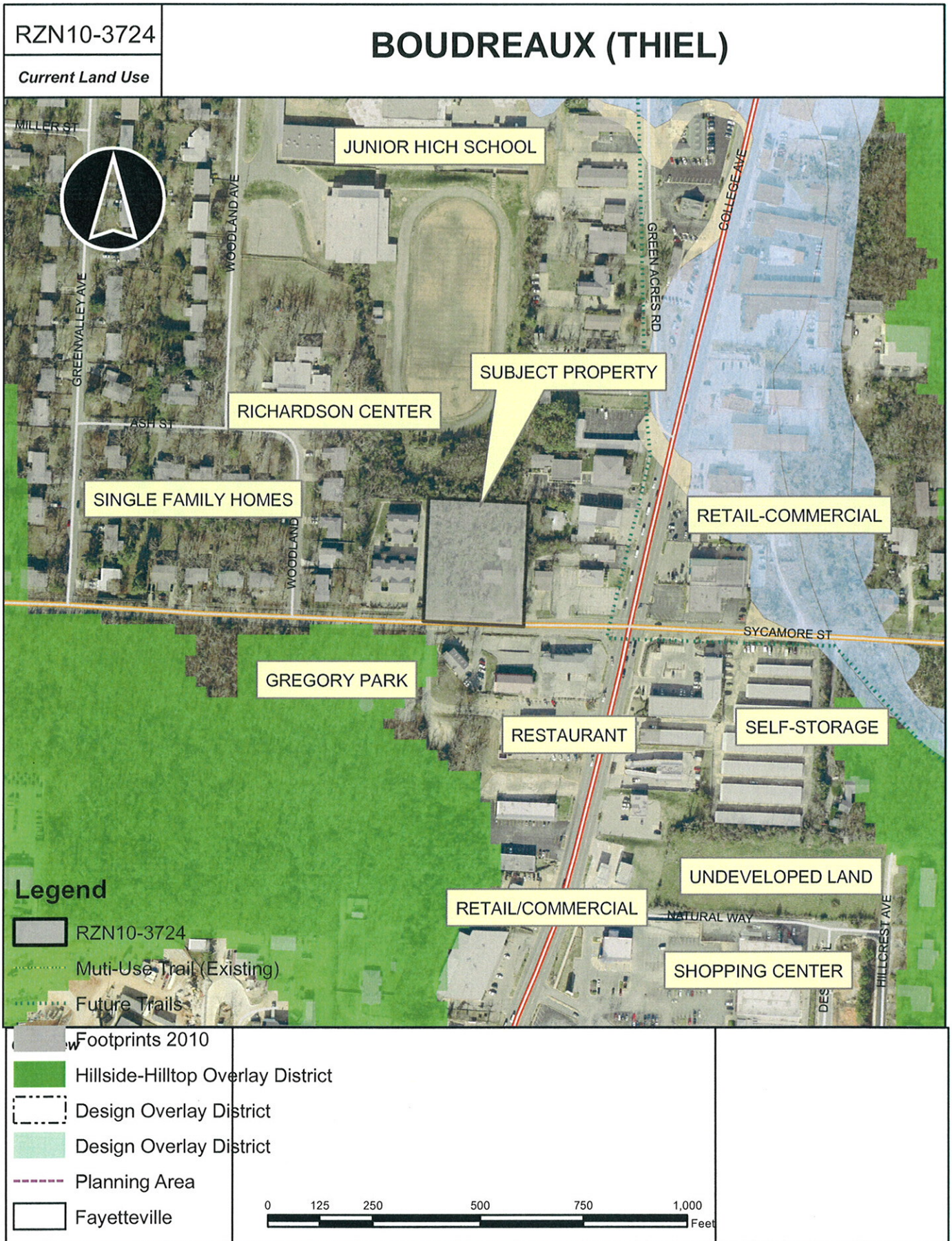
1 Miles

Multi-Use Trail (Existing)

Future Trails

Hillside-Hilltop Overlay District





City of Fayetteville Staff Review Form

C. 3
Amend §71.170 Restriction of Type
of Vehicles Allowed on City Trails
Page 1 of 8

City Council Agenda Items
and
Contracts, Leases or Agreements

2/1/2011

City Council Meeting Date
Agenda Items Only

Matt Mihalevich

Submitted By

Engineering

Division

Development Services

Department

Action Required:

An amendment to ordinance no. 5182 - Operation of Vehicles and use of City Trails in chapter 71.17 Traffic Rules of the Fayetteville City Code to allow vehicle use on a new trail that is designed and designated as a shared-use facility.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

Department Director

01.14.2011
Date

Previous Ordinance or Resolution # # 5182

City Attorney

Jan 14, 2011
Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

1-14-2011
Date

Received in City 01-14-11 A08:30 RCVD
Clerk's Office

Chief of Staff

1-18-11
Date

Received in
Mayor's Office

Mayor

1/18/11
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director *JP*
Chris Brown, City Engineer *CB*

From: Matt Mihalevich, Trails Coordinator *MM*

Date: January 13th, 2010

Subject: Vehicle use on City Trails – Proposed Amendment

PROPOSAL:

In October of 2008, ordinance number 5182 was enacted to restrict the type of vehicles allowed on City trails and create rules of the road for Fayetteville trails. This ordinance states that the only gas powered vehicles allowed on City trails are city maintenance and emergency vehicles.

As the City continues to complete the remaining 100 miles of the Fayetteville Alternative Transportation and Trails Master Plan, challenging locations arise with steep topography, tight corridor and existing access easements. In some of these challenging locations a separated trail is not feasible and a shared-use facility can be the best solution to provide the necessary connection. In these specific and limited cases, staff requests the flexibility to design a shared-use bike facility with vehicle use. This shared-use facility will only be used on new trail construction where the facility can be properly designed to safely accommodate pedestrian, bicycle and vehicle use and not utilized on an existing trail. In order to design trails in this way, a revision to ordinance 5182 is necessary to allow vehicle access where the above conditions occur. Specific examples are detailed below.

City staff has been working on a highly requested west trail connection across the University of Arkansas Agricultural Research and Extension Center Property. This 2.3 mile trail will extend from Scull Creek Trail west under I-540 to connect to the newly installed bike lanes along Mt. Comfort Road. A section of this trail is planned to be located on an existing gravel road that is used by the Washington County Fair Association for overflow parking only during the annual Washington County Fair (see attached exhibit). Utilizing this existing road will significantly reduce the cost for trail construction; additionally, the existing road is the only location the University of Arkansas will agree to have the trail constructed. The trail will be constructed 16 feet wide where it is shared with vehicles to safely accommodate both trail users and vehicles.

Staff is currently designing Clear Creek Trail from Scull Creek Trail to Lake Fayetteville as part of the new Razorback Regional Greenway and there is a tight area between a steep bluff and Locomotion where an existing gravel road is the only option for the trail connection (see attached exhibit). This existing gravel road has an

access easement over it to provide access a parcel of land with a small cabin. Due to the very limited vehicle traffic, staff does not foresee a conflict; however the current ordinance prohibits this necessary connection.

RECOMMENDATION:

An amendment to ordinance no. 5182 - Operation of Vehicles and use of City Trails in chapter 71.17 Traffic Rules of the Fayetteville City Code to allow vehicle use on a new trail that is designed and designated as a shared-use facility.

BUDGET IMPACT:

None.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §71.170 RESTRICTION OF TYPE OF VEHICLES ALLOWED ON CITY TRAILS OF THE FAYETTEVILLE CODE TO ALLOW SOME PEDICAB USE AND USE OF GAS POWERED VEHICLES ON LIMITED SEGMENTS OF TRAILS WHEN NECESSARY

WHEREAS, pedicabs are about the size of golf carts, but have been allowed on city trails with certain restrictions by §117.102(D) of the Fayetteville Code and should therefore be referenced in this section; and

WHEREAS, in order to secure the necessary right-of-way from the University of Arkansas and the Washington County Fair Board, a portion of the trail from the Porter Road underpass to connect with Scull Creek Trail must be placed upon an existing gravel road with County Fair traffic allowed to use the trail during the County Fair; and

WHEREAS, a Clear Creek Trail connection from Highway 71 B to the Lake Fayetteville Trail would be much less expensive and much more feasible and practical if it utilized an existing driveway to a cabin with the cabin owner and invitees retaining the right to also utilize the trail up to the cabin.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals §71.170(A) of the Fayetteville Code in its entirety and enacts a replacement §71.170(A) as follows:

“71.170 Restriction Of Type Of Vehicles Allowed On City Trails

A. No golf carts or comparable sized vehicles nor any gas powered vehicles (except city maintenance or emergency vehicles) shall be driven or operated on Scull Creek Trail, Mud Creek Trail, Lake Fayetteville Trail or any other city trail, except as follows.

- (1) Pedicabs may be operated on city trails pursuant to the authorization and restrictions of §117.102(D) of the Fayetteville Code.

- (2) A segment of the proposed trail from the Porter Road underpass through University of Arkansas property and Washington County Fair property along an existing gravel road shall allow the use of gas powered vehicles during the annual Washington County Fair if authorized by the Washington County Fair Board or as authorized by the University of Arkansas.
- (3) A portion of the Clear Creek Trail from Highway 71 to an existing cabin shall allow gas powered vehicles for access to the cabin, but only with the permission of the owner of the cabin.”

PASSED and **APPROVED** this 2nd day of February, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FAYETTEVILLE CODE OF ORDINANCES
TITLE VII TRAFFIC CODE

(B) *Hours of movement.*

- (1) Movement of such oversized vehicles shall be in daylight only, in periods of visibility between the hours of 5:30 a.m. and 6:30 a.m., 8:30 and 11:30 a.m. and the hours of 1:00 p.m. and 3:00 p.m. and no movement shall be made on Saturdays, Sundays or holidays, or on other days when heavy traffic is anticipated over the routes desired or when weather conditions make such movement impractical.
- (2) The term "holiday" as used herein means the following holidays: Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, New Year's Day, special, general or primary election days.

(C) *Application and permit.*

- (1) A written application for permit shall be filed with the chief of police not later than 24 hours prior to an intended movement, specifying the vehicle and load to be operated or moved, the route (streets and/or highways) to be followed, the date and time the movement is desired, and, in consideration for granting of such permit, the applicant shall assume (and so state in the application) absolute liability and agree to pay for any and all damages to streets, highways or facilities, persons or private property resulting from such movement.
- (2) If in the judgment of the chief of police, or his duly authorized representative, the movement desired can be accomplished with safety and without undue impediment to the flow of traffic and can be adequately supervised by the police department on the date, time and route requested, a permit shall be issued authorizing said movement. The police chief, or his authorized representative, shall have authority to deny the permit, if in his/her opinion these requirements cannot be met, or to prescribe additional conditions for its issuance, such as a different route, time or date, or manner of movement or other conditions, to insure safe movement of the vehicle in question and to insure adequate supervision of the movement by the police department.
- (3) The police chief, or his/her duly authorized representative, shall have authority to waive the requirements of this section as to days of movement, so as to allow an oversized

vehicle, moving under a state emergency permit, to proceed through the city on a Saturday, Sunday or holiday, during the hours permitted by this section, provided that at the time of such movement the vehicle can be moved safely and under the supervision of the police department.

- (D) *Compliance with other laws.* All movements by such permit shall comply with all state and city laws regulating movement of vehicles upon the streets and highways of the city and state, and nothing in this section shall be construed as amending or affecting §71.165 or §71.166.
- (E) *Signs.* The chief of police shall cause appropriate signs to be erected and maintained on highways entering the city, designating requirements of this section.

(Code 1965, §19-99; Ord. No. 1496, 4-18-66; Code 1991, §71.167)

Cross reference(s)--Penalty, §71.999.

State law reference(s)--Transportation of houses, A.C.A. §27-35-309; Maximum and minimum speed limits - Exceptions, A.C.A. §27-51-204; Special permit to move- Fee, A.C.A. §27-35-304; Issuance of permits, A.C.A. §27-35-305; Permits for special cargoes, A.C.A. §27-35-210; Times and places for moving oversized mobile homes, A.C.A. §27-35-306.

71.168-71.169 Reserved

**ARTICLE XI
OPERATION OF VEHICLES
AND USE OF CITY TRAILS**

**71.170 Restriction Of Type Of Vehicles
Allowed On City Trails**

- (A) No golf carts or comparably sized vehicles nor any gas powered vehicles (except city maintenance or emergency vehicles) shall be driven or operated on Scull Creek Trail, Mud Creek Trail, Lake Fayetteville Trail or any other city trail.
- (B) Skates, skateboards, and electrically powered scooters, bicycles, segways, etc. may be used on city trails only when their use does not create a safety hazard for pedestrians, wheelchairs or human powered bicycles.

**71.171 Rules Of The Road For
Fayetteville Trails**

CD71:17

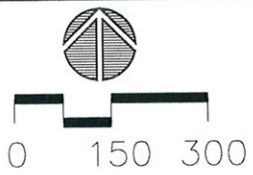
Current law



LEGEND

12' WIDE TRAIL

EXISTING FENCE



U of A Farm Trail

Proposed Shared-Use
 Trail with Vehicles

Fayetteville
 ARKANSAS

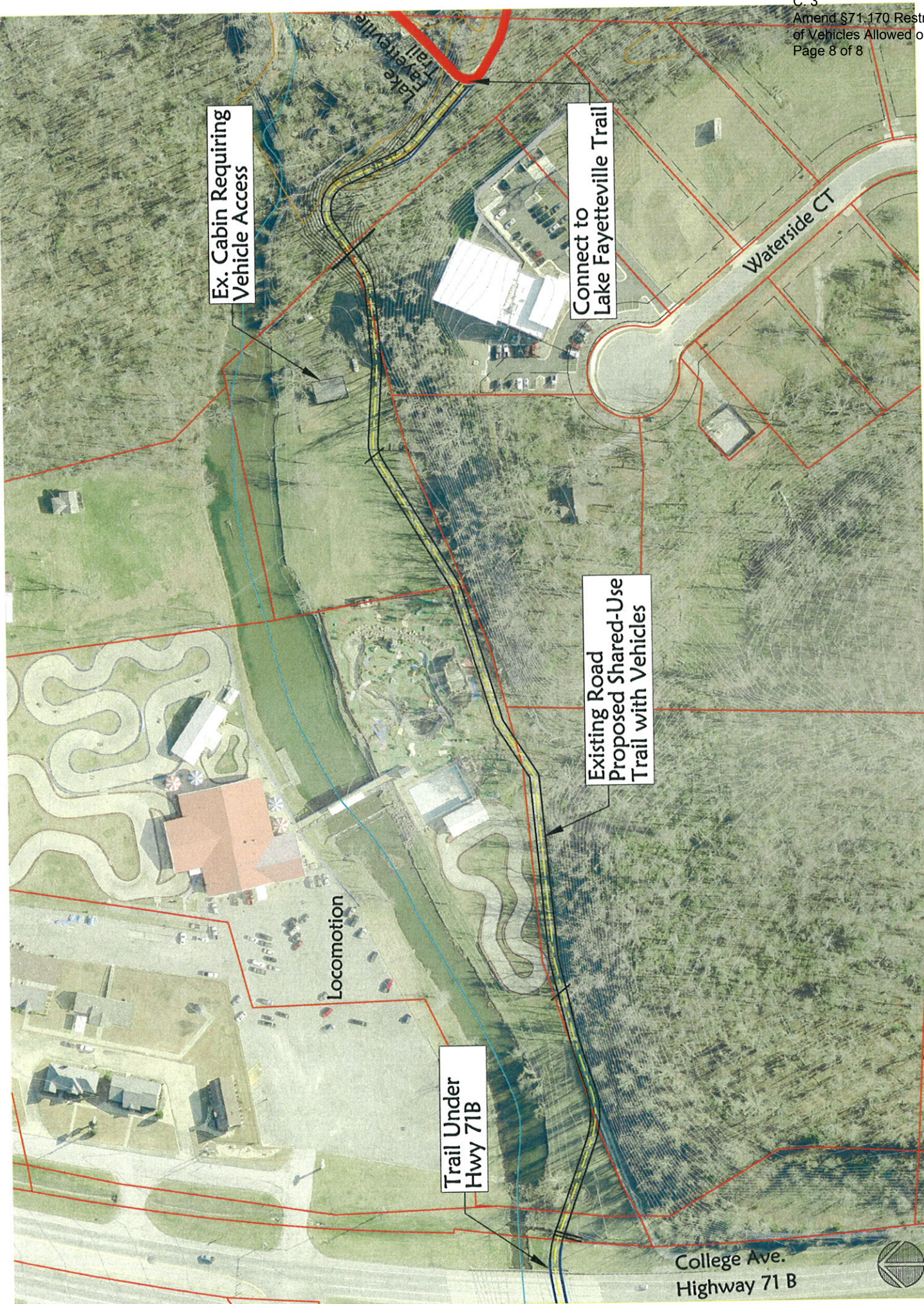
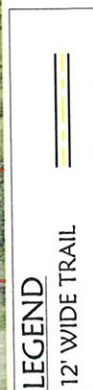
Engineering Division
 113 W. Mountain
 Fayetteville, AR 72706
 479-575-8206



Engineering Division
113 W. Mount
Fayetteville, AR 72701
479-575-8166

Clear Creek Trail

Proposed Shared-Use
Trail with Vehicles



City of Fayetteville Staff Review Form

C. 4
 ADM 09-3480 (Streamside Protection)
 Page 1 of 56

City Council Agenda Items
 and
 Contracts, Leases or Agreements

2/1/2011

City Council Meeting Date
 Agenda Items Only

Karen Minkel

Strat. Planning and Int. Consulting

Submitted By

Division

Department

Action Required:

ADM 09-3480 (Streamside Protection): Submitted by Strategic Planning staff for approval of an ordinance to establish streamside protection zones, amending Chapters 155: Appeals, 156: Variances, and 168: Flood Damage Prevention Code of the Unified Development Code and adopt a Protected Streams map and Best Management Practices Manual.

n/a

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 ☐

Karen Minkel
 Department Director

1/13/11
 Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

K. Minkel
 City Attorney

Jan 14, 2011
 Date

Paul A. Beekun
 Finance and Internal Services Director

1-14-2011
 Date

Received in City
 Clerk's Office

01-13-11 P04:31 RCVD

Don Mann
 Chief of Staff

1-18-11
 Date

Received in
 Mayor's Office



Tronell Jordan
 Mayor

1/18/11
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Don Marr, Chief of Staff

From: Karen Minkel, Director of Strategic Planning and Internal Consulting *K.M.*

Date: January 12, 2011

Subject: ADM 09-3480 (Streamside Protection): Submitted by Strategic Planning staff for approval of an ordinance to establish streamside protection zones, amending Chapters 155 (Appeals), 156 (Variances) and 168 (Flood Damage Prevention Code) of the Unified Development Code and adoption of a Protected Streams map and a Best Management Practices Manual.

PROPOSAL:

The Nutrient Reduction Plan, completed in April 2009 by Geosyntec Consultants as part of an Agreement between Beaver Water District and the City of Fayetteville, recommends the development and implementation of a riparian buffer ordinance. This ordinance is part of a series of recommendations designed to reduce non-point source loadings of total phosphorus in the Beaver Lake Watershed and would ultimately reduce the non-point source loadings of total phosphorus in all the City's waterways. This recommendation aligns with a grant administered by the Washington County Extension Office to develop riparian buffers for the Clear Creek Watershed and is consistent with a recommended action step in the Fayette Junction Master Plan. Both Mayor Jordan and Council member Sarah Lewis requested that staff pursue the development of a streamside protection ordinance based on these recommendations.

A riparian buffer or streamside protection ordinance is one of the most cost-effective tools for reducing the nutrient load in the City's waterways and preventing erosion. Streambank restoration costs approximately \$250 per linear foot, and engineering a solution to remove nutrients from the water can cost tens of millions of dollars. Reducing the non-point source loadings of nutrients in the City's waterways will help to reduce increases in the cost of treating drinking water, which has a direct impact on user fees. The City of Fayetteville is also working with the Arkansas Department of Environmental Quality (ADEQ) and the Environmental Protection Agency (EPA) to demonstrate watershed based efforts the City is taking to reduce nutrients in Fayetteville's waterways so that the City can potentially avoid being issued even more stringent and expensive National Pollutant Discharge Elimination System (NPDES) wastewater treatment discharge permit limits.

Strategic Planning formed a project team that included staff from Planning, Engineering, Water and Wastewater, Sustainability, Parks and Recreation and GIS. The team worked to identify model ordinances used in other municipalities and conducted research on best practices, with assistance from members of the Environmental Action Committee. Two public input sessions were held in March 2010, which included a presentation and hands-on field trip to College Branch. Invitations to the meeting targeted the Washington

County Farm Bureau membership, the Illinois River Watershed Partnership, the Fayetteville Forward Green Infrastructure group, Fayetteville Natural Heritage Association and the Planning Division's Developer and Engineer contact list. The City also hosted an online survey for a period of one month to solicit additional public input before crafting the ordinance.

All property owners whose property was likely to be affected by the proposed buffer area were sent a letter about the ordinance before the Planning Commission formally reviewed the proposal. Approximately 300 property owners who have existing principal structures within the buffer area were invited to a question and answer session on October 12, 2010.

The Environmental Action Committee unanimously endorsed the ordinance on September 16, 2010, and the Planning Commission forwarded the streamside protection ordinance to the City Council on November 8, 2010 by a vote of 7-2-0. Commissioners Hoskins and Honchell voted against the ordinance. Staff has made some changes to the ordinance based on recommendations made by the City Attorney and staff for clarification purposes. A copy of the ordinance reviewed by the Planning Commission is included in the packet.

Ordinance Regulations

Best Management Practices Manual: A BMP Manual will work in tandem with the ordinance to explain specific objectives and principles. This manual may be administratively changed by the City Engineer in order to give staff and the public the ability to utilize emerging technologies.

Applicability: The ordinance shall apply to all the land within a streamside protection zone with the following exceptions:

- Undeveloped lots created by a lot split, concurrent, or final plat application, which was submitted or approved prior to the effective date of this ordinance for a period of 12 to 24 months depending on the lot size;
- A preliminary plat that was submitted or approved prior to the effective date of this ordinance; and
- A use and/or activity permitted by an unexpired building permit approved prior to the effective date of this ordinance.

Establishment of Streamside Protection Zones: All surface waters identified on the Protected Streams map, including any pond, lake or reservoir located within the natural drainage way of said surface water or any surface where a floodway has been established by the Federal Emergency Management Agency shall have a streamside protection buffer.

Zone 1, the Waterside Zone, shall extend a minimum of 25 feet from the top of bank on either side of the waterway and include the surface water. Slopes greater than 15 percent will require Zone 1 to extend an additional 20 feet. Zone 2, the Management Zone, shall extend an additional 25; if the floodway extends beyond the edge of the Zone 2 boundary, the boundary shall be adjusted to include the floodway.

Piped Streams and Daylighting: The City Engineer may determine that normal streamside protection regulations shall not be applicable to portions of a stream that have been piped, and streams that are daylighted following the effective date of this ordinance will only require a five-foot setback measured from the top of bank.

Regulated Uses

Zone 1: Waterside Zone

Uses allowed if the Best Management Practices Manual is followed and provided they are designed and constructed to minimize the impact upon streamside areas:

- Open spaces that are primarily passive in character including natural trails, fishing areas, preserves and parkland
- Streambank restoration or stabilization
- Water quality monitoring, education and scientific studies
- Dam maintenance
- Revegetation and reforestation
- Paved trails or other impervious surfaces not exceeding 12 feet in width when the City Engineer determines there is no practical and feasible alternative
- Stream crossings including driveways, roadways, trails or railroads
- Maintenance and upgrades of existing utility facilities
- New utility facilities when the City Engineer determines there is no practical and feasible alternative
- Management of lawns and gardens
- Removal of dead vegetation, pruning for reasons of public safety and removal of invasive species
- Application of fertilizer, herbicides, pesticides and insecticides
- Maintenance of drainage capacity in the channel, including tree and sediment removal
- New stormwater conveyances when the City Engineer determines there is no practical and feasible alternative

Zone 2: Management Zone

Uses allowed:

- New stormwater conveyances when the City Engineer determines there is no practical and feasible alternative
- All uses within Zone 1; the BMP Manual principles are encouraged but not required
- Accessory structures with a footprint no larger than 150 square feet
- Active recreational uses

Prohibited Uses Within the Streamside Protection Zones

- Grading, dredging, dumping, or filling
- Landfills, junkyards, salvage yards
- Clearing of non-invasive woody vegetation
- Storing hazardous materials or chemicals unless they are within waterproof containers and within a structure
- Parking lots
- Buildings and accessory structures with a building footprint larger than 150 square feet
- Septic systems and/or lateral lines
- Parking and storage of motor vehicles
- In-ground pools
- Animal feedlots or kennels
- Housing, grazing or other maintenance of livestock
- Cultivation

- Land application of biosolids

Existing Land Use Exemptions

- Existing uses shall be permitted to continue in their present state. The ordinance shall apply when the use is converted to another use. Agricultural and animal husbandry activities shall cease to exist when they have lain idle for more than 18 consecutive months.
- Existing principal structures as of the effective date of this ordinance may be redeveloped or reconstructed on the same footprint
- Minor alterations or additions to an existing structure, provided the modifications do not extend more than 10 feet toward the surface water than the original foundation
- Any actions taken under emergency conditions

Development Application Procedures: All persons required to submit an application pursuant to Chapter 166 of the City's Unified Development Code shall show the location and type of surface water, the top of bank, Zone 1 and Zone 2 boundaries and slope. Applicants may request that the City's Floodplain Administrator perform a site visit to view conditions on site and make a determination of top of bank location and zone widths.

Streamside Protection Measures and Construction: Streamside Protection Zone boundaries shall be clearly delineated on site by the applicant prior to any land clearing or soil disturbance. A site visit will be conducted by the City Engineer or designated representative to ensure compliance.

Further, the streamside protection zone shall be protected from construction activity except where necessary to allow activities permitted elsewhere in the ordinance. Storage of construction vehicles, materials debris, spoils or equipment is prohibited within the buffer area. The applicant shall install silt fencing on the site at the outer edge of the Management Zone or as directed by the City Engineer.

Other Ordinance Amendments

Variances: The Planning Commission shall hear and decide requests for variances from the dimensional requirements of this ordinance. The Planning Commission may consider the following:

- 1) the provisions of the Streamside Protection Ordinance are shown by the owner or developer to cause undue hardship as strictly applied to the owner or developer's property
- 2) a rezoning or variance by the Board of Adjustment will not sufficiently alleviate the claimed hardship; and
- 3) the Planning Commission may prescribe appropriate conditions and safeguards to substantially secure the objectives and purpose for the regulations so varied and to mitigate any detrimental effects the variance may cause.

Staff recommends including subsection 155.06(A)(2)(d) to state that interpretations of the streamside protection zones shall be made by the City Engineer, adding purpose statements to subsection 168.01(A) and definitions for daylighting, streamside protection zones, Protected Streams Map, and Top of bank to subsection 168.02.

RECOMMENDATION:

Staff recommends approval of an ordinance to establish streamside protection zones, amending Chapters 155: Appeals, 156: Variances and 168: Flood Damage Prevention Code of the Unified Development Code and adoption of a Protected Streams map and a Best Management Practices Manual.

BUDGET IMPACT:

None.



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

FROM: Kit Williams, City Attorney

DATE: January 14, 2011

RE: Streamside Protection Ordinance

With help from Councilmember Sarah Lewis, Director of Strategic Planning Karen Minkel worked with Engineering, Transportation, Water and Wastewater and Planning to formulate the Streamside Protection Ordinance. Even after presentation to and acceptance by the Planning Commission, Karen continued to work with all affected city departments and with my office to fine tune this important ordinance.

You should first know what this ordinance **does not do**. It has no effect upon existing structures within the Streamside Protection Zones (within 50 feet of the stream bank). **It grandfathers in all such structures and even allows minor additions** that could extend up to ten feet further into the Streamside Protection Zones. It allows a homeowner to construct a berm to protect a house from flooding. **It allows current use of the property to continue**, even agricultural uses that are not desirable for streamside preservation.

This ordinance primarily affects **new** construction and prohibits **new** uses and activities close to protected streams that would unnecessarily degrade them and cause water pollution and siltation problems. The ordinance places much discretionary power with the City Engineer when it comes to allowing new paved trails, driveways, stream crossings, stormwater conveyances, etc. within the Streamside Protection Zones. This

provides the Engineering Division with the power to examine the practicality and feasibility of alternatives as they relate to the particular site being developed. Appeals from the City Engineer's decision would be decided by the City Council.

This ordinance places new restrictions on property and limits to some extent what a property owner can do with the land. All land in Fayetteville already has some restrictions ... zoning certainly restricts its use and what can be constructed. Setback requirements from right-of-ways and neighboring lots are similar to the streamside protection zones which provide something like a setback from a protected stream, but with more flexibility than normal setbacks. As long as the City does not make an existing lot unbuildable or unusable, this ordinance which grandfathers in virtually all structures and existing uses should not be a constitutional taking.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE, TO AMEND CHAPTER 155: APPEALS, CHAPTER 156: VARIANCES, AND CHAPTER 168: FLOOD DAMAGE PREVENTION CODE IN ORDER TO ESTABLISH STREAMSIDE PROTECTION ZONES AND ADOPT A PROTECTED STREAMS MAP AND BEST MANAGEMENT PRACTICES MANUAL.

WHEREAS, a riparian buffer will reduce nutrients and sediment loads in waterways, prevent erosion and increase flooding capacity; and

WHEREAS, sediment is listed as the most common pollutant in rivers and streams by the Environmental Protection Agency;

WHEREAS, a riparian buffer is one of the most cost-effective measures for reducing pollutants in waterways; and

WHEREAS, the establishment of a riparian buffer was one of the recommendations provided by Geosyntec Consultants as part of the City's Agreement with Beaver Water District to reduce nonpoint source loadings of total phosphorus in Beaver Lake, the source of Fayetteville's drinking water; and

WHEREAS, the City partnered with the Washington County Cooperative Extension Services Office to develop riparian buffers in the Clear Creek Watershed; and

WHEREAS, the City Council unanimously adopted the Fayetteville Junction Master Plan in 2009, which recommended that the City develop a riparian buffer ordinance.

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 adds §155.06(A)(2)(d) by inserting the following subsection:

“(d) Streamside Protection Zones. An interpretation or decision of the City Engineer concerning the regulated uses, structures and activities, streamside boundary location or land use exemptions.”

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby adds §156.03(C)(9) by inserting the following subsections:

(9) Streamside Protection Zones

- (a) ***Undue hardship.*** If the provisions of the Streamside Protection Ordinance are shown by the owner or developer to cause undue hardship as strictly applied to the owner or developer's property because of its unique characteristics, the Planning Commission may grant a variance on a permanent or temporary basis from such provision so that substantial justice may be done and the public interest protected, provided that the variance will not have the effect of nullifying the intent and purpose of the Streamside Protection regulations.
- (b) ***Consideration of alternative measures.*** The applicant for the variance shall establish that a reasonable rezoning by the City Council or variance request from the Board of Adjustment will not sufficiently alleviate the claimed undue hardship caused by the Streamside Protection regulations.
- (c) ***Conditions and safeguards.*** In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards to substantially secure the objectives and purpose for the regulations so varied and to mitigate any detrimental effects the variance may cause. The Planning Commission should consider the Streamside Protection Best Management Practices Manual and any mitigation recommendations from the City Engineer."

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby amends §168.01(A) by inserting the following subsections and renumbering subsections 4-10:

- "(4)Protect, restore and maintain the chemical, physical, and biological integrity of the water resources;**
- (5) Reduce pollutants in surface waters by filtering, settling, and transforming pollutants in runoff;**
- (6) Stabilize the banks of streams to reduce erosion and the downstream transport of sediment and nutrients;**
- (7) Maintain tree canopy to shade streams, reduce water temperatures, promote desirable aquatic organisms resulting in ecological integrity with improved fishing, greater scenic value and recreational opportunity;"**

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby amends §168.02 by adding the following definitions:

"Daylighting" is to remove a stream, creek or natural drainage way or other waterway from an underground pipe and restore the waterway to open air.

"Streamside Protection Zones" are areas of trees, usually accompanied by shrubs and other vegetation along a stream, river or shoreline that is managed to maintain the integrity of the waterway and to reduce pollution.

“Protected Streams Map” is the official map adopted by the Fayetteville City Council indicating the point where at least 100 acres drains into a waterway and the requirements of the Streamside Protection Zone apply downstream.

“Top of bank” is the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby adds §168.12 Streamside Protection Zones, a copy of which is marked “Exhibit A” is attached hereto and made a part hereof and rennumbers “Enforcement” to 168.13.

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby adopts the Protected Streams map, a copy of which is marked “Exhibit B” is attached hereto and made a part hereof.

Section 6. That the City Council of the City of Fayetteville, Arkansas hereby adopts the Best Management Practices Manual, a copy of which is marked “Exhibit C” is attached hereto and made a part hereof.

PASSED and APPROVED this ____ day of _____, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk

168.12 Streamside Protection Zones

Emergency Management Agency
(FEMA).

(A) *Streamside Best Management Practices Manual.* The City of Fayetteville's Streamside Best Management Practices Manual, which may be administratively changed by the City Engineer, shall be used in support of this chapter to explain specific objectives and principles.

(B) *Applicability.* This ordinance shall apply to all land within the Streamside Protection Zones, except for as provided below:

(1) Undeveloped lots created by a lot split, concurrent, or final plat application, which was submitted or approved prior to the effective date of this ordinance, are exempt from the requirements of this section for the following time periods:

(a) 24 months from the effective date of this ordinance for lots one half (½) acre or less;

(b) 18 months from the effective date of this ordinance for lots greater than one half (1/2) acre but less than 1 acre; or

(c) 12 months from the effective date of this ordinance for lots one (1) acre or greater.

(2) A preliminary plat which was submitted or approved prior to the effective date of this ordinance shall be exempt from the requirements of this section, provided the time periods listed herein shall be in force from the date of final plat approval.

(3) A use and/or activity permitted by an unexpired building permit, which was approved prior to the effective date of this ordinance, is exempt from this ordinance.

(C) *Establishment of Designated Surface Waters.* The Streamside Protection Zones shall apply to all surface waters meeting any one of the following criteria:

(1) All surface waters identified on the adopted Protected Streams map, including any pond, lake or reservoir located within the natural drainage way of said surface water; or

(2) Any surface water where a floodway has been established by the Federal

(D) *Streamside Protection Requirements.* The Streamside Protection Zones shall be established as follows:

(1) *Zone 1: Waterside Zone.* The Waterside Zone shall extend a minimum of 25 feet landward from the top of bank in each direction, measured horizontally on a line perpendicular to the top of bank and includes the surface water.

(a) *Steep slope.* Slope shall be calculated at the upstream and downstream property lines for every property. Properties with more than 100 feet of stream frontage shall require additional slope calculations at 100 foot increments, beginning at the upstream property line and ending at the downstream property line. When slope calculations are equal to or greater than 15%, the width of the Waterside Zone shall be extended by an additional 20 feet at that point. The boundary width determined at each designated slope measurement point shall be connected by a continuous line to form the boundary of the Waterside Zone (illustrations available in the Best Management Practices Manual).

(2) *Zone 2: Management Zone.* The Management Zone shall begin at the outer edge of the Waterside Zone and extend landward 25 feet as measured horizontally on a line perpendicular to Zone 1. The combined width of Zones 1 and 2 shall be no less than 50 feet from the top of bank on all sides of the surface water.

(a) *Floodway.* Where the floodway extends beyond the edge of the Management Zone boundary, said boundary shall be adjusted so that the zone consists of the extent of the floodway as designated by the most recently adopted FEMA Flood Insurance Rate Map (FIRM).

(3) *Piped streams.* When reviewing any development, grading or building permit application, the City Engineer may determine that normal streamside protection regulations shall not be applicable to that portion of a stream that has been piped or enclosed

within a culvert or similar conduit prior to the adoption of this ordinance.

- (4) *Daylighting.* Streams enclosed prior to the effective date of this ordinance and subsequently daylighted shall only require a 5-foot setback measured from the established top of bank. Daylighted streams shall be maintained in a natural state by the property owner, who shall also be responsible for monitoring and controlling trash, litter and pollutants.

(E) *Regulated uses, structures and activities within the Streamside Protection Zones.*

- (1) The following are permitted within the designated streamside zone, subject to the requirements of this section, the Flood Damage Prevention Code, and all applicable requirements of the City of Fayetteville. Where a use is not listed, but is similar to a permitted use and is in keeping with the purpose of the Streamside Protection Zones, the City Engineer may determine the use to be allowed. All other uses shall be prohibited.

- (a) Zone 1: Waterside Zone. The following may be permitted in the Waterside Zone, provided the standards of the *Streamside Best Management Practices Manual* shall be followed where applicable and that these uses and any necessary construction is designed and built to minimize the impact upon streamside areas and minimize any excavation or filling that will only be allowed by express authorization of the City Engineer. All construction, grading, excavation or filling must also fully comply with all necessary local, state and federal permits.

- (i) Open space uses that are primarily passive in character including: preserves, fishing areas and docks, parkland, and natural trails.
 - (ii) Streambank restoration or stabilization.
 - (iii) Water quality monitoring, education and scientific studies.
 - (iv) Revegetation and reforestation.

- (v) Dam maintenance.
- (vi) Paved trails or other impervious surfaces not exceeding 12 feet in width when the City Engineer determines that there is no practical and feasible alternative. Such area may not be used to park vehicles.
- (vii) Stream crossings, including driveways, roadways, trails, or railroads when the City Engineer determines there is no practical and feasible alternative.
- (viii) Maintenance and upgrades of existing utility facilities.
- (ix) New utility facilities when the City Engineer determines there is no practical and feasible alternative.
- (x) Management of lawns and gardens but no mechanized cultivation is allowed.
- (xi) Removal of dead vegetation, pruning for reasons of public safety, removal of invasive species.
- (xii) Application of any fertilizer, herbicide, pesticide, or insecticide shall be allowed only if their harmful effect on water quality is prevented by ensuring no over-application or misapplication occurs.
- (xiii) Maintenance of drainage capacity in the channel including tree and sediment removal.
- (xiv) New stormwater conveyances when the City Engineer determines that there is no practical and feasible alternative.

(b) Zone 2: Management Zone.

- (i) New stormwater conveyances when the City Engineer determines that there is no practical and feasible alternative and provided the

standards of the Streamside Best Management Practices Manual shall be followed.

- (ii) All uses within the Waterside Zone with the exception of stormwater conveyances, provided that compliance with the standards of the *Streamside Best Management Practices Manual* are not required but encouraged.
- (iii) Accessory structures without a foundation and no larger than 150 square feet, including storage sheds, playground equipment, gazebos, decks, etc.
- (iv) Active recreational uses.
- (2) Establishment of the following uses/activities after the effective date of this ordinance shall be prohibited in both Streamside Protection Zones, except where necessary to allow an activity permitted by Section (E)(1).
 - (a) Grading, dredging, dumping, filling, or similar construction activities.
 - (b) Landfills, junkyards, salvage yards.
 - (c) Clearing of non-invasive woody vegetation.
 - (d) Storage of hazardous materials or chemicals unless within waterproof containers and within a structure.
 - (e) Parking lots.
 - (f) Buildings and accessory structures with a building footprint larger than 150 square feet.
 - (g) Parking or storage of motor vehicles.
 - (h) Septic systems and/or lateral lines.
 - (i) In-ground pools.
 - (j) Animal feedlots or kennels.
 - (k) Housing, grazing or other maintenance of livestock.
 - (l) Cultivation.
 - (m) Land application of biosolids.

(F) *Existing land use exemptions.* The following activities and structures are allowed to continue within the Streamside Protection Zones, provided that the provisions of the Flood Damage Prevention Code and all other applicable regulations shall be enforced.

(1) *Existing uses.* Existing uses shall be permitted to continue in their present state, but may not be enlarged, extended, or moved within the streamside protection zones. A use or activity shall be existing if it is present and ongoing within the Streamside Protection Zones as of the effective date of this ordinance. Uses and activities cease to be existing under the following conditions:

- (a) *Agricultural and animal husbandry activities.* The activities cease to be existing when the area on which they were conducted has been converted to a nonagricultural use or has lain idle for more than eighteen (18) consecutive months.
- (b) *All other uses.* This ordinance shall apply when an existing use is converted to another use.

(2) *Existing principal structures.*

- (a) *Reconstruction within existing footprint.* Existing principal structures as of the effective date of this ordinance may be redeveloped or reconstructed within the same footprint.
- (b) *Minor alterations.* Minor alterations or additions to an existing structure, such as an awning or deck, shall also be permitted, provided the modifications do not extend more than ten (10) feet further toward the surface water than the original foundation of the principal structure, and do not extend into the Waterside Zone.
- (c) *Berm to prevent flooding.* If a principal structure has suffered flooding from a stream, the owner may construct a berm to protect the principal structure if approved by the City Engineer as to the berm's location, size and composition. Revegetation of the disturbed area

and berm shall be in accordance with the Best Management Practices Manual.

- (3) *Emergencies.* Actions taken under emergency conditions, either to prevent imminent harm or danger to persons, or to protect property from imminent danger of fire, violent storms, or other hazards.

(G) *Development Application Procedures.*

- (1) All persons required to submit an application pursuant to Chapter 166 of the City's Unified Development Code shall also show the location and type of surface water, the top of bank, Zone 1: Waterside Zone and Zone 2: Management Zone boundaries, and slope, when any portion of the property being developed falls within the Streamside Protection Zones. The same shall also be identified for building, moving, demolition and grading permits.
- (2) An applicant may request that the City's Floodplain Administrator perform a site visit to view conditions on site with the applicant to assist in making a determination of top of bank location and widths of the Waterside Zone and Management Zone.
- (3) A final determination of any boundary shall be made by the City Engineer or designated representative, where there is question as to its location or width.

(H) *Streamside protection measures and construction.*

- (1) Prior to any land clearing or soil disturbing activity, the Streamside Protection Zone boundaries shall be clearly delineated on site by the applicant, and such delineation shall be maintained throughout construction activities.
- (2) A site inspection followed by periodic inspections during construction will be conducted by the City Engineer or designated representative to ensure compliance with the Streamside Protection Zone ordinance.
- (3) Streamside protection zones shall be protected from construction activity except where necessary to allow an activity permitted by Section (E)(1). To prevent impacts, construction vehicle

access is prohibited in the Streamside Protection Zones except at permitted crossings. Storage of construction vehicles, materials, debris, spoils or equipment is prohibited in the Streamside Protection Zones. Before commencing any construction activity, the applicant shall install silt fencing on the site at the outer edge of the Management Zone or as directed by the City Engineer. The City Engineer may require other protective measures based upon the individual characteristics of the site and the proposed construction methods. If the required barriers surrounding the Streamside Protection Zones are not adequately maintained during construction, the City Engineer shall prescribe remedial measures, and may issue a stop work order in accordance with §153.07. All remedial measures shall be completed within the specified amount of time and shall be considered prior to granting final plat approval or issuing a certificate of occupancy.



Streamside Protection Best Management Practices Manual



The citizen's guide to preserving and protecting our streams

Fayetteville
ARKANSAS

Adopted on _____ by Ordinance No. _____

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Introduction

The City of Fayetteville adopted a Streamside Protection Ordinance to accomplish several goals:

- 1) Reduce Pollutants in the Waterways: Pollutants damage fragile ecosystems in our city's waterways and increase the costs of treating drinking water, which has a direct effect on water rates.
- 2) Preserve Flood Capacity: Healthy streamside result in less flooding by providing greater infiltration capacity and slowing down stormwater that runs into the streams.
- 3) Protect the Integrity of a Natural Resource: Protecting the streamside ensures greater recreational and nature enjoyment for current residents as well as future generations.

The ordinance establishes streamside protection zones along many of our City's streams and establishes protective requirements within those streamside buffers. This Best Management Practices (BMP) manual provides guidance for complying with the requirements adopted in the Streamside Protection Ordinance. A streamside buffer may also be called a riparian or forested buffer. It is the area along a stream that acts as a buffer between the waterway and activities that have a negative impact on the aquatic environment. These buffers protect natural habitats, reduce the potential for flooding and filter pollutants such as sediment, nutrients, bacteria, trash, emerging contaminants and vehicle pollutants.

Fayetteville is home to countless numbers of streams. The adopted ordinance affects streams that have at least 100 acres draining into that stream, which means it's typically a stream that runs year-round. However, this BMP manual can be used to protect smaller streams. Approximately 25 percent of the area affected by the ordinance is public property, often located in city parks and near trails. The rest of the area is owned by private property owners, which means that the entire community has a responsibility to ensure the protection of Fayetteville's waterways.

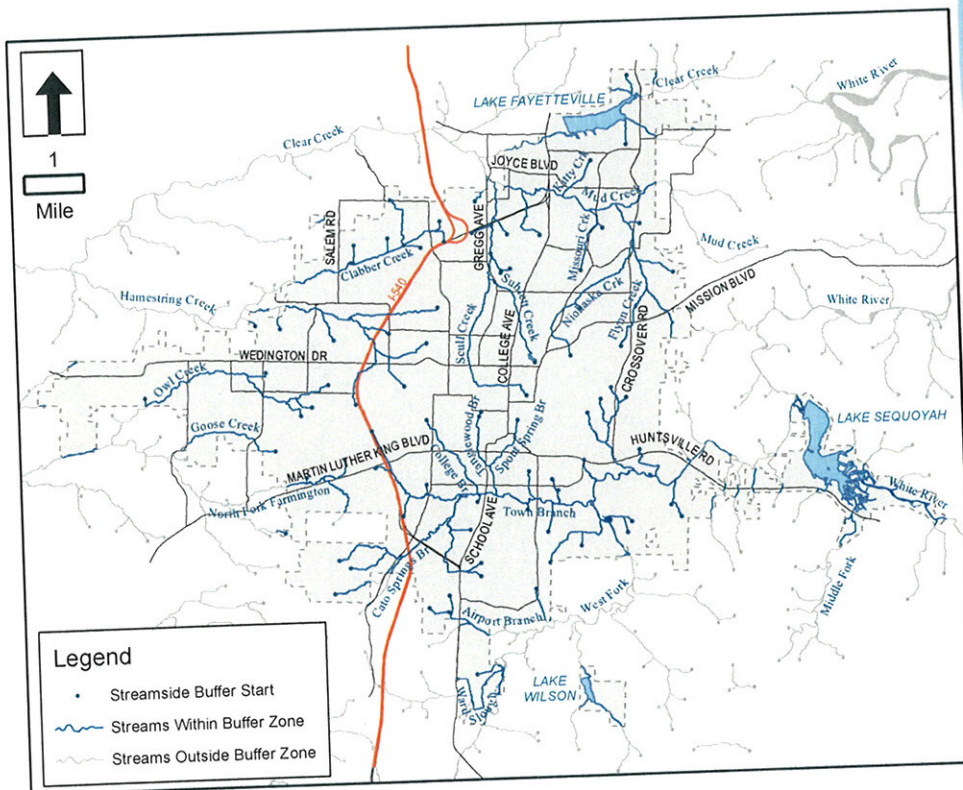
Benefits of a streamside buffer

- Stabilize streambanks
- Filter sediment and the nutrients, pesticides, and pathogens bound to the sediment
- Protect groundwater and drinking water supplies
- Improve aquatic habitat
- Improve wildlife habitat
- Provide visual interest
- Protect against flooding
- Provide shade

Streams identified on the Streamside Protection Map will have at least a 50-foot buffer applied from the top of bank. Visit www.accessfayetteville.org or the Development Services office to view the Streamside Protection Map. If your property contains or borders a buffer zone, the extent of the buffer should be measured from the stream's top of bank, as follows: Waterside Zone – 25 feet from the stream's top of bank, and an additional 20 feet if the slope exceeds 15%*. Management Zone – 25 feet from edge of Waterside Zone or to the edge of the FEMA floodway, whichever is greater.

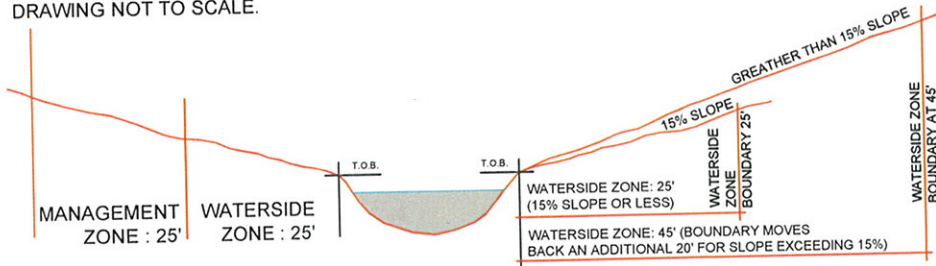
*[Slope shall be calculated at the upstream and downstream property lines for every property. Properties that exceed 100 feet in width shall require additional slope calculations at 100 foot increments.]

Protected Streams



Streamside Zones: Cross section

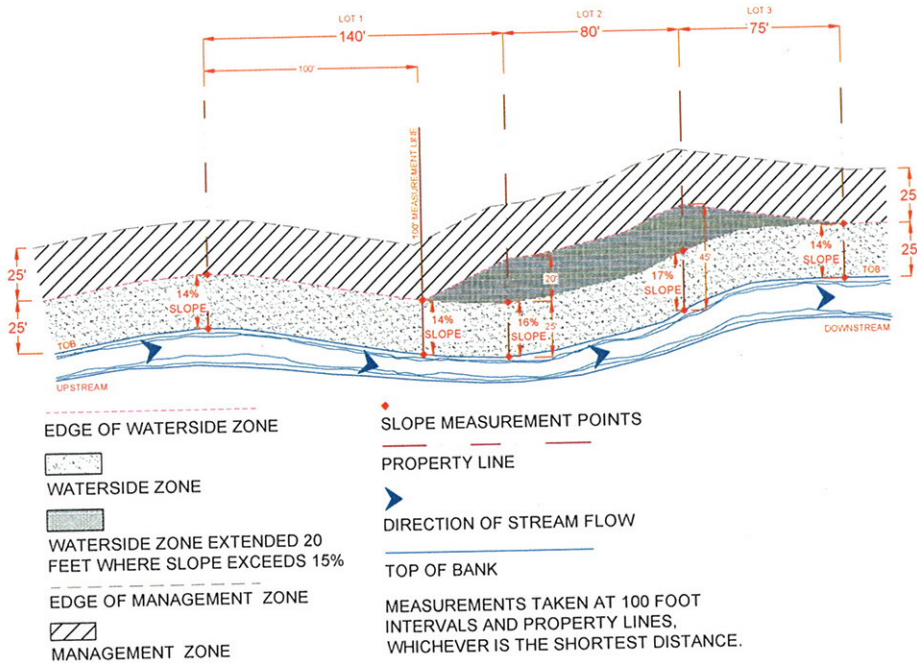
THE WATERSIDE ZONE EXTENDS 25 FEET FROM TOP OF BANK (T.O.B.) WHEN THE SLOPE IS LESS THAN 15%. THE BOUNDARY MOVES BACK AN ADDITIONAL 20 FEET FROM THE T.O.B. FOR SLOPE THAT EXCEEDS 15%. DRAWING NOT TO SCALE.



STREAMSIDE ZONE BOUNDARIES
WITH 15% SLOPE OR LESS

WATERSIDE ZONE BOUNDARIES WITH
SLOPE GREATER THAN 15%

Streamside Zones: Slope Diagram (Aerial View)



Ordinance Requirements for Property Maintenance

The goal of buffer management is to develop a self-sustainable, variable-aged stand of mixed trees, shrubs and groundcover with a floor of either leaf litter and debris, or mulch. Dense, vigorous vegetation protects the soil from raindrop impact, a major force in dislodging soil particles and moving them down slope. The shielding effect of a plant canopy is augmented by roots that hold the soil, improve its physical condition, and increase the rate of infiltration. Plants also reduce the moisture content of soil through their uptake of water and transpiration, the process by which moisture escapes through their leaves and stems, thus increasing the soil's capacity to absorb water. Large trees and carefully designed buffers may dramatically increase property value. Once established, vegetated buffers do not require maintenance beyond the routine procedures and periodic inspections.

◆ Mowing twice during the season is usually enough. Mow just before annual weeds produce seeds to keep the seed from maturing.

◆ Soil testing is available free of charge. Contact the Washington County Extension Office at (479) 444-1755.

LAWN AND GARDEN CARE

Ordinance requirements:

- Managing your lawn, and garden, is permitted within the streamside protection zones; however, the best care of a buffer area is a hands-off approach. In the Waterside Zone, the best management practices are required; in the Management Zone, the best management practices are encouraged.
- New lawns and gardens may only be created within the buffer area if the lawn would not replace wood vegetation. Many properties have existing lawns and gardens that already extended into the buffer prior to the establishment of the streamside buffer and are grandfathered in under this ordinance.
- Some City parks are included in the properties that have existing lawns within the buffer area. Some of these lawns have playgrounds or other recreational uses, which will continue to require that the lawns be mowed more frequently than several times a year for reasons of public safety.



vegetated stream

◆ Maintained lawns, while better than bare soil, do not provide all of the required buffer functions and may actually contribute to nonpoint source pollution through the application of fertilizers and pesticides associated with maintaining a lawn.

Why are lawns and gardens discouraged in the streamside protection zone?

Manicured lawns do not perform important buffer functions like preventing erosion and slowing water run-off. The root systems of manicured lawns are not deep enough or strong enough to prevent stream banks from eroding, which can lead to loss of property. In addition, lawns typically are not tall enough to adequately slow down water as it runs into the creek, preventing filtration and causing water surges during storm events. Additionally, manicured lawns and gardens will often require the application of fertilizers, herbicides and pesticides, which increases the likelihood that these pollutants will enter the water system.

Leaves and grass clippings naturally contain nutrients such as phosphorus and nitrogen, which means that these pollutants can enter the waterways when leaves and grass clippings are swept into the buffer areas. Leaves and grass can also clog storm sewers and drainage swales and contribute to localized flooding.

The nutrients that create fertile soil for gardening also foster algae growth in waterways. When possible, property owners should locate gardens and compost piles outside of the streamside protection zones.

What do I do?

Property owners can help protect streams by employing the following best practices:

Lawn and Garden Management Practices:

- ▶ Limit treatment with herbicides, pesticides or fertilizers.
- ▶ Mow on the highest setting on your lawn mower.
- ▶ Reduce the frequency with which you mow to only several times a year within the buffer area, provided the property does not become unsightly or unsanitary as outlined in Chapter 95 of the Fayetteville City Code.
- ▶ Dispose of leaves and grass clippings outside of the



grass clippings and leaf debris

- ▶ Lawn care consumes more herbicides per acre than most farmers broadcast to grow crops.

- UA Community Design
Center Low Impact
Development Design
Manual

streamside protection zones.

- ▶ Make sure leaves and grass clippings are not raked to or disposed of in the street or other water flow routes where the nutrients they contain can be washed into streams.
- ▶ Sweep clippings and leaves off paved surfaces and onto lawns.
- ▶ When possible, property owners should locate gardens and compost piles outside of the streamside protection zones.
- ▶ Position garden rows parallel to the stream to reduce potential sediment and nutrient run-off.
- ▶ Establish a small buffer around the garden to reduce potential sediment and nutrient run-off.

Other Alternatives:

- ▶ Convert such lawn areas to woody vegetation or native grasses that are not mowed.
- ▶ If you would like to have access or a view of the stream, then you could create a small area of low growing vegetation that will preserve the buffer and the wildlife corridor.

- ▶ Fayetteville offers a weekly curbside Yard Waste Service to city residents as an environmentally conscious means for disposing of yard waste. The City collects yard waste in the form of grass, leaves and brush. The City encourages participation in some form of yard waste reuse, whether it is the Yard Waste Service, backyard composting, or the use of a mulching lawn mower.

PESTICIDE AND FERTILIZER APPLICATION

Ordinance requirements:

- Fertilizers and pesticides may be permitted when applied in conformance with the following standards.
- Storage of hazardous materials or chemicals in the streamside protection zone is prohibited unless stored in waterproof containers in a garage or shed protected from precipitation.

In the Waterside Zone, the best management practices are required; in the Management Zone, the best management practices are encouraged.

Why is the use of chemicals on the lawn discouraged?

Chemicals contaminate the water supply. Chemical treatment may be required to counter the tenacity of invasive species or insects, but because of dangers of unintended damage to the underlying native vegetation or “good” insects, chemical use should be the choice of last or extreme resort.

What do I do?

- ▶ Use in the streamside protection zones should be limited and approved for use adjacent to a water body.
- ▶ Pesticides should be applied directly to the roots, bark, leaves and/or stumps using devices such as a hand sprayer, foam brush, wand or hypo-hatchet.
- ▶ Applications should occur at least two days prior to a rain event.
- ▶ Consult with a knowledgeable source such as a county extension agent to assure use of the appropriate chemical at the correct rate.
- ▶ Adhere to the manufacturer’s recommendations to ensure the safety of nearby surface waters.
- ▶ Complete a soils analysis to identify the property type and quantity of fertilizer needed. Soil test kits can be obtained through the Washington County Extension Office.



chemicals



the application of lawn fertilizer

- ▶ Store all chemicals in waterproof containers in a garage or shed protected from precipitation.
- ▶ Buy only what you need to reduce the need to store leftovers.

REMOVING VEGETATION

Ordinance requirements:

- The removal of living trees and woody plants is prohibited in the streamside protection zone, unless the removal is needed to maintain drainage capacity in the stream channel. In addition, removing dead vegetation, invasive species, and pruning is allowed. In the Waterside Zone, the best management practices are required; in the Management Zone, the best management practices are encouraged.

When should I remove vegetation?

In a natural setting, dead and dying trees are a natural part of forest succession. Dead standing trees and logs on the ground provide food and shelter to many organisms and provide nutrients to the young forest vegetation as it grows and should not be removed unless they threaten to undermine the integrity of the stream bank or create flooding hazards. Naturally occurring leaf litter, twigs, and branches are an essential part of the buffer, functioning to retard run-off and return nutrients to the soil. Snags, or dead standing trees, offer nesting and perching sites for many wildlife and bird species. However, trees that are diseased or infested may have to be removed if the disease or insects threaten other trees and other control methods, such as chemical application, are likely to damage the adjacent waterway.

Minimal pruning should be required because trees will self-prune as lower branches get shaded out. Trees grow most efficiently when there is enough canopy to provide plenty of food for the tree. Overzealous pruning can result in the loss of food production so that trees become stunted and may take time to regain optimum growth rates.

Removal of vegetation should also be considered when invasive species threaten to over-run or out-compete native trees and shrubs.



streamside clearing



bird nesting in a snag

Control of non-native, exotic species, or even invasive native species, may be justified when this happens.

What do I do?

- ▶ Leave stumps and roots in place to help bind the soil, if they are not a danger to life or property. Leaving an otherwise healthy stump can encourage new growth and regeneration.
- ▶ Contact a certified arborist if a tree is diseased or infested and threatens other trees in the vicinity. A list of tree pruners/ tree services certified by the City of Fayetteville is available at accessfayetteville.org.
- ▶ Prune trees during late fall, winter, or early spring while the plants are dormant. Pruning while the tree is dormant helps reduce problems with losing food production while actively growing and decreases the risk of infection.
- ▶ When pruning trees and shrubs:
 - Correct multiple leaders as soon as possible.
 - Leave side branches until they are 1 inch in diameter, but remove before they become 3 inches in diameter.
 - Never cut out more than 25% of the crown of a tree.
 - Retain at least 2/3 of the tree height in live branches to protect tree health.

IN-STREAM MAINTENANCE ACTIVITIES

Ordinance Requirements

- Maintenance of drainage capacity in the channel may be permitted including tree and sediment removal. The best management practices are required because the channel is in the waterside zone.

Why should caution be exercised when removing sediment?

Streams are complex natural systems. Gravel bars are natural components of some stream types and some locations are naturally subject to sediment deposition.

When sediment is removed from a stream channel, further deepening of the channel as well as bank erosion often occurs. This could lead to property damage or loss during high flow events. Sediment removal at one stream location can also lead to bank failure and property loss at upstream locations as well. Downstream of where the sediment has been removed, all the newly eroded sediment collects. This restricts the channel flow, often causing extreme widening of the channel. This sediment deposition can result in property damage or loss during flood events for downstream neighbors.

Why should caution be exercised when removing trees within the channel?

Many healthy trees lean over to catch sunlight and remain that way for many years. Determination of tree removal should consider a variety of factors, including the tree's overall condition, its potential for falling, and the amount of undercutting it may be causing.

What Do I Do?

- Restore the channel to a width and depth consistent with the width and depth observed at a more stable channel location in cases where there has been a significant change in the flow



widened channel and property loss resulting from improper sediment removal

- ◆ Sediment in the stream and banks may range in size from silt and sand to gravel, cobbles and boulders.



tree over channel

area of the channel.

- ▶ Remove blockages such as large trees or debris that are underneath or against a bridge or culvert to maintain or protect approaches to stream crossing structures.
- ▶ Leave stumps unless the stump is obstructing flow in a harmful way. If possible cut the stump flush with the existing ground. If stump is removed back fill the hole with soil or rock to stabilize and revegetate the disturbed area.
- ▶ Do not remove large rock and boulders from a stream. Gravel bars, rocks and boulders all help reduce flood power, keep a stream stable and provide valuable aquatic habitat.
- ▶ Do not place loose gravel and material on stream banks or build up artificial barriers, debris piles or levees. This will prevent the stream from spreading out on the floodplain and will increase water velocities and associated flooding downstream.
- ▶ Contact state or federal resource agencies about obtaining the required permits for in-stream activities.
- ▶ The Corps of Engineers can provide guidelines for responsible methods of sediment removal including how heavy equipment may be used. Heavy equipment in the stream such as bulldozers should not be used in the creek without proper permits and approvals.
- ▶ A Corps of Engineers permit is required when more than 25 cubic yards of fill material will be used below the “ordinary high water mark” (the approximate yearly flood level). US Army Corps of Engineers, Beaver Lake Project Office, (479) 636-1210 or ceswl-by@usace.army.mil
- ▶ Arkansas Department of Environmental Quality may require a permit called a Short Term Activity Authorization for stream activity with the potential to create a water quality standards violation such as turbidity.
Arkansas Department of Environmental Quality,
(501) 682-0645 or <http://www.adeq.state.ar.us/>



rocks provide stream stabilization and natural aquatic habitat

- ◆ Don't remove gravel where deepening of the channel is the primary cause of the instability, as gravel extraction will only accelerate the problem.



dredging of stream channel

ADDITIONAL RESOURCES

- ▶ Washington County Cooperative Extension Office and U of A plants database
<http://www.arhomeandgarden.org/landscaping.htm>
479-444-1755
- ▶ USDA Plant Database
<http://plants.usda.gov/>
- ▶ “Go Native When You Go Green!”
<http://www.fayettevillenatural.org/userfiles/file/Northwest%20Ark%20Trees%20and%20Shrubs.pdf>
- ▶ City of Fayetteville Tree and Landscape Manual
Listed on the City Parks and Recreation website under “Urban Forestry”
http://www.accessfayetteville.org/government/parks_and_recreation/documents/
- ▶ University of Florida & USFS Northern Tree Database
<http://lyra.ifas.ufl.edu/NorthernTrees/>
- ▶ University of Florida Landscape Plants Database
<http://hort.ifas.ufl.edu/woody/>
- ▶ National Invasive Species Information Center
<http://www.invasivespeciesinfo.gov/unitedstates/ar.shtml>

Helpful Information for Property Maintenance

SOIL EROSION

What's wrong with bare soil?

The Environmental Protection Agency lists sediment as the most common pollutant in rivers, streams, lakes and reservoirs, causing \$16 billion in environmental damage annually. Area waterways, such as the West Fork of the White River, are listed as impaired for sediment. Sediment entering waterways degrades the quality of drinking water, wildlife and the land surrounding streams in several ways:

- Sediment fills up storm drains and catch basins that carry water away from roads and homes, which increases the potential for flooding.
- Sediment in stream beds destroys habitats for the smallest organisms and causes massive declines in fish populations.
- Sediment increases the cost of treating drinking water and can result in odor and taste problems.
- Sediment particles carry other pollutants such as phosphorus, pathogens and heavy metals.

What do I do?

- ▶ Inspect areas for bare soil after heavy rainfall. Focus on gully erosion, the density of the vegetation, evidence of concentrated water flow through the areas, and any damage from foot or vehicular traffic.
- ▶ Plant ground cover vegetation or use wood-chip mulch or landscape fabric.
- ▶ On steep slopes, plant a vigorous ground cover and avoid turf grass that requires mowing.



flood waters and streambank erosion



eroded streambank



streambank restoration using landscape fabric

REVEGETATION: WHAT TO PLANT

Why are plants, and native plants in particular, important in the streamside protection zone?

The vegetation planted in the streamside protection zone greatly influences the effectiveness of the buffer. The vegetation's root systems and density will significantly affect how well the streambank is protected. Property owners should be aware of the distinction between noxious weeds or invasive species and native plants. For the purpose of this manual, "noxious weed" encompasses any invasive species that has gotten out of control and has become harmful to the health and survival of the woody vegetation in the buffer. Invasive plants disrupt natural habitats by choking out native plants, altering the local ecology and potentially threatening local animal species.

If an invasive species is performing a desirable function such as preventing erosion on a bank, it should not be removed without replacing it with vegetation of at least equal value for erosion control and water quality functions. Some common noxious species are Japanese honeysuckle, kudzu, mile-a-minute, multi-flora rose, English ivy, all privets, and winged euonymus.

What do I do?

- ▶ Plant native plants, which are already adapted to the area and generally withstand local weather and soil conditions. They often require less ongoing maintenance, including watering. Native plants are naturally resistant to insect pests and diseases and by planting them not only are you helping prevent the establishment and spread of invasive non-native plants, but also protecting the local ecology.
- ▶ Replant in such a way that minimizes disturbance to the root systems of existing vegetation.
- ▶ Avoid planting invasive species.

◆ Invasive Species tend to spread uncontrollably, overwhelming other, especially native, species; some native species may qualify as an invasive.



japanese honeysuckle



kudzu



mile-a-minute vine

◆ Common invasive species: Japanese honeysuckle, kudzu, mile-a-minute, multi-flora rose, English ivy, all privets, and winged euonymus

Examples of species suitable for planting in riparian buffers.

Flood Tolerant Trees	
Bald Cypress <i>Taxodium distichum</i>	Black Willow <i>Salix nigra</i>
Overcup Oak <i>Quercus lyrata</i>	Water Tupelo <i>Nyssa aquatica</i>
Swamp Tupelo <i>Nyssa sylvatica</i> var. <i>biflora</i>	
Moderately Flood Tolerant Trees	
Sycamore <i>Platanus occidentalis</i>	Sugarberry <i>Celtis laevigata</i>
Eastern Cottonwood <i>Populus deltoides</i>	American Elm <i>Ulmus americana</i>
Green Ash <i>Fraxinus pennsylvanica</i>	Water Oak <i>Quercus nigra</i>
River Birch <i>Betula nigra</i>	Willow Oak <i>Quercus phellos</i>
Swamp Chestnut Oak <i>Quercus michauxii</i>	Nuttall Oak <i>Quercus nuttallii</i>
Flood Intolerant Trees	
Black Walnut <i>Juglans nigra</i>	Shortleaf Pine <i>Pinus echinata</i>
Persimmon <i>Diospyros virginiana</i>	White Ash <i>Fraxinus americana</i>
White Oak <i>Quercus alba</i>	Sweet Pecan <i>Carya illinoensis</i>
Blackgum <i>Nyssa sylvatica</i>	Cherrybark Oak <i>Quercus pagoda</i>
Small Trees	
Redbud <i>Cercis canadensis</i>	Fragrant Sumac <i>Styrax obassia</i>
American Plum <i>Prunus americana</i>	Crabapple <i>Malus</i> spp.
Serviceberry <i>Amelanchier canadensis</i>	Flowering Dogwood <i>Cornus florida</i>
Shrubs	
Roughleaf Dogwood <i>Cornus drummondii</i>	Shrub Willow <i>Salix</i> spp.
Elderberry <i>Sambucus nigra</i>	Beautyberry <i>Callicarpa americana</i>
Grasses	
Indiangrass <i>Sorghastrum nutans</i>	Big Bluestem <i>Andropogon gerardii</i>
Little Bluestem <i>Schizachyrium scoparium</i>	Switchgrass <i>Panicum virgatum</i>



sycamore



black willow



eastern redbud



indiangrass

PETS AND PET WASTE

Does pet waste really affect our streams?

The EPA has placed pet waste in the same category of nonpoint source pollution as oil and toxic chemicals. It is considered a major pollutant and contaminant of water supplies and is one of the most common sources of nutrient load in waterways. Pet waste in lakes and streams can use up and lower oxygen levels, killing fish. Nutrients from the waste can encourage weed and algae growth, which is harmful to a healthy balance in an aquatic system.

What do I do?

- ▶ Kennels are prohibited within the streamside protection zone and should be located away from any drainage paths leading to the stream. Kennels as defined in the Unified Development Code are structures or facilities used for the purpose of breeding two or more litters within a 12-month period or a facility that keeps animals commercially and has open dog runs.
- ▶ Pet waste should be picked up regularly and disposed of in the trash.



pet waste bag dispenser

Ordinance Requirements for Development and Construction

STREAMSIDE PROTECTION MEASURES AND CONSTRUCTION

Ordinance Requirements

- Prior to any land clearing or soil disturbing activity, the Streamside Protection Zones (SPZ) boundaries shall be clearly delineated on site by the applicant, and such delineation shall be maintained throughout construction activities.
- A site inspection followed by periodic inspections during construction will be conducted by the City Engineer or designated representative to ensure compliance with the Streamside Protection Zones ordinance.
- Streamside protection zones shall be protected from construction activity. To prevent negative impacts, construction vehicle access is prohibited in the SPZ except at permitted crossings.
- Storage of construction vehicles, materials, debris, spoils or equipment is prohibited in the SPZ.
- Before commencing any construction activity, the applicant shall install silt fencing on the site at the outer edge of the SPZ, or as directed by the City Engineer. The City Engineer may require other protective measures based upon the individual characteristics of the site and the proposed construction methods.
- If the required barriers surrounding the SPZ are not adequately maintained during construction, the City Engineer shall prescribe remedial measures, and may issue a stop work order in accordance with §153.07.
- All remedial measures shall be completed within the specified amount of time and shall be considered prior to granting future inspections from any other city division, final plat approval or issuing a certificate of occupancy.
- The City Engineer may require other protective measures based upon the individual characteristics of the site and the proposed construction methods.

Construction activities can be particularly damaging to the streamside zone. Some results of construction disturbances in the streamside zone are permanent loss of vegetation, permanent loss of water infiltration due to soil compaction, alteration of natural water runoff patterns, and an avenue for noxious weeds to establish themselves.



silt fence along construction zone



soil compaction during construction

Soil compaction by heavy equipment can reduce water intake of soils to 5 percent or less of the original rate.

STREAM CROSSINGS FOR TRANSPORTATION

Ordinance requirements:

- Stream crossings, including driveways, roadways, trails, or railroads, provided they are designed and constructed to minimize the impact upon streamside areas, and result in minimal amounts of excavation and filling and are in accordance with required local, state, and federal permits.

Minimizing Stream Crossing Impacts

Consideration of the following elements will aid in reducing the impact of stream crossings:

- ▶ Minimize or reduce stream crossings through proper planning.
- ▶ Minimize the amount of excavation and filling.
- ▶ Maintain the dimension, pattern, and profile of the stream.
- ▶ Minimize scour, erosion, and flooding.

Methods to minimize stream crossing impacts:

- ▶ Construct stream crossings during periods of low flow.
- ▶ Locate crossings where streambed and banks are composed of firm, cohesive soils to minimize erosion.
- ▶ Design crossings to reduce the possibility of obstructions such as debris and silt blockages through the minimization of channel obstructions.
- ▶ Bridges and bottomless arches, wide enough to span the stream and allow for some dry ground or an artificial ledge beneath the bridge on one or both sides are preferred and should be used whenever possible.
- ▶ Bridge soffits should be a minimum of one foot above the height of adjacent banks--high enough to allow wildlife passage.
- ▶ Exceptionally wide stream crossings may be allowed to utilize piers in the channel under the discretion of the City Engineer.



streamside low impact bridge



clear span trail bridge

- ▶ Maintain a natural substrate underneath the bridge.
If concrete is necessary to prevent scour, then it is recommended to cover the concrete with a natural substrate.
- ▶ All disturbed areas shall be revegetated immediately upon completion of the work
- ▶ **The use of culverts should be avoided.** If culverts must be used, the following installation guidelines should be followed:
 - Provide water depths and velocities (at low flows) matching natural areas upstream and downstream of the crossing.
 - Create no drop-offs or plunge pools and no constriction of the channel.

The practices listed may be subject to additional regulation per UDC Chapter 168 Flood Damage Prevention Code, Chapter 169 Physical Alteration of Land, and Chapter 170 Stormwater Management, Drainage and Erosion Control.



drainage riprap along streamside

UTILITIES

Ordinance requirements:

- Maintenance and upgrades of existing utility facilities are allowed in the Waterside Zone if BMPs are followed. BMPs are encouraged in the Management Zone.
- Installation of new utility facilities are allowed in the Management Zone, and may be allowed in the Waterside Zone if they are designed and constructed to minimize the impact upon streamside areas and in accordance with required local, state and federal permits. This requirement also applies to the installation of facilities in the waterway itself.

Establishment of Easements:

- ▶ New utility easements shall be specifically labeled for the type of utility intended.
- ▶ The width of the easement shall be limited to the minimum width necessary for the utility's installation and maintenance.

Maintenance, Upgrades and Installation of New Utilities:

- ▶ Once started, carry out and complete construction without delay. Leaving construction work incomplete increases risk of erosion and sediment transport.
- ▶ Where clearing is required, limit or delay grubbing until grading and construction is ready to proceed; the root masses and associated organic matter provide substantial erosion control.
 - Clearing ahead of the point of construction may not exceed 500 feet.
 - Except for clearing, the maximum length of disturbed work area, including grubbing, shall not exceed 300 feet before temporary stabilization is made with, at a minimum, seed and mulch.
 - Permanent soil stabilization with perennial vegetation or other permanently stable, non-eroding surface shall be initiated within 14 days after final site grading.



clearly labeled utility



minimized utility easement work width



sediment filter used during construction



native plants used for final stabilization

- Implement erosion and sediment controls that meet or exceed the requirements set forth in UDC Chapter 169 and 179 and the Arkansas Department of Environmental Quality.
- ▶ Access maintenance routes shall be limited to 20 feet in width and, where possible, shall approach manholes, risers, valves, or other appurtenances perpendicular to the stream rather than running the length of the utility line to minimize post installation clearing in the buffer.
- ▶ Leave stumps and roots in place when trees are cleared to help bind the soil, if they are not a danger to life or property.
- ▶ Prepare and maintain on site a Stormwater Pollution Prevention Plan (SWPPP) for construction sites over one acre. (Required by the Arkansas Department of Environmental Quality)
- ▶ File a Notice of Intent with the Arkansas Department of Environmental Quality for construction sites over five acres. (Required by the Arkansas Department of Environmental Quality)
- ▶ Sediment and erosion controls shall be installed prior to any surface disturbance activity, such as clearing or grubbing.



above grade piers outside of stream

Installation of Utility Stream Crossings:

- ▶ Crossings shall be contained within the footprint of an existing road or utility crossing where possible.
- ▶ Stream bank stabilization to protect new structures from future channel migration shall be accomplished through vegetative or flexible linings. The utility installation shall not increase or decrease the natural rate of channel migration.
- ▶ For above grade utility crossings, pier locations shall be planned to minimize or avoid placement in the stream.
- ▶ Below grade utility crossings:
 - The installation shall be accomplished by directional boring or jacking beneath the scour depth of the water body and channel migration zone, where feasible.
 - Where directional boring or jacking are not feasible, detailed plans showing how flow will be diverted away from the area during construction (use of coffer dams,

temporary culverts, etc.) and how the channel will be rehabilitated to its pre-alteration state following installation of the utility are required

- Utilities shall cross at an angle perpendicular to the channel centerline, or as near to perpendicular as possible, whenever boring under the channel is not feasible.
- Below grade utilities shall be encased in steel, to minimize maintenance needs, and buried to a depth sufficient so as not to alter the flow of the stream, catch debris, or cause erosion or deposition.

PAVED TRAILS AND IMPERVIOUS SURFACES

Ordinance requirements:

- Paved trails or other impervious surfaces not exceeding 12 feet in width are permitted in the Waterside Zone.

Trails, like any impervious surface, prevent infiltration and require the removal of vegetation, which can compromise the bank's stability. However, the trails system also offers multiple benefits to riparian areas:

- By creating a place for public enjoyment along the stream, the trail brings people in contact with the stream to appreciate the natural beauty and report dumping or other detrimental activities.
- The Adopt-A-Trail program has been very successful at attracting volunteers to pick up litter along the trails and stream corridors.
- The trail provides educational opportunities along the stream by providing easy access to the unique and diverse riparian corridor. Children can come in direct contact with the streams and grow a stronger appreciation for the natural systems.
- The trail provides access for equipment to remove large debris or trash and repair impaired areas of the stream to prevent future stream bank erosion through naturalized repair methods.

The following best management practices are required in the Waterside Zone and encouraged in the Management Zone:

- ▶ Locate trail as far from the "top of bank" as practicable.
- ▶ The existing vegetated buffer between trail and "top of bank" shall be maintained to the extent practical to protect significant trees and sensitive areas such as stream edges or springs.
- ▶ Once started, carry out and complete construction without delay. Leaving construction works incomplete increases risk of erosion and sediment transport.



stream cleanup volunteers



illegal streamside dumping

- ▶ Where clearing is required, limit or delay grubbing until grading and construction is ready to proceed; the root masses and associated organic matter provide substantial erosion control.
 - Clearing ahead of the point of construction may not exceed 500 feet.
 - Except for clearing, the maximum length of disturbed work area, including grubbing, shall not exceed 300 feet before temporary stabilization is made with, at a minimum, seed and mulch.
- ▶ Final stabilization shall be done using native plants to match or exceed the quality of vegetation existing prior to trail.
- ▶ Implement erosion and sediment controls that meet or exceed the requirements set forth in UDC Chapter 169 and 179 and the Arkansas Department of Environmental Quality.
- ▶ If a utility easement is established, and has been previously cleared and disturbed, the impervious surface shall be located on the utility easement to minimize the overall amount of disturbance.
- ▶ Concrete shall be required, in flood prone areas, because it has a greater resistance to flooding conditions than asphalt, requiring less repair and overall land disturbance.
- ▶ If there is an exposed cut bank or highly eroded stream bank on the same property as the impervious surface being constructed, the bank shall be stabilized using natural channel design methods at the time of trail construction. All bank stabilization shall receive approval from the City Engineer, prior to land disturbance activities.
- ▶ Sheet flow drainage conditions from the impervious surface and its appurtenances are required. Where flow is concentrated, the methods in the flow diffusion section of this manual shall be used.
- ▶ Turf grass is allowed 5 feet from the edge of the impervious surface to allow for periodic mowing. Beyond 5 feet from the edge of the impervious surface, native plants shall be used where revegetation is necessary.



minimalized trail construction footprint



existing utility easement and site of future trail



5' turf grass buffer along trail

STORMWATER OUTFALLS

Existing stormwater conveyances on site or accessible to the site are the preferred location to direct stormwater runoff from the site. Existing conveyances utilized for additional stormwater flows shall be modified in conformance with best management practices for new facilities.

Ordinance requirements:

- New stormwater conveyances where no conveyances exist or are accessible to the site may be permitted in the SPZ provided the standards of the Streamside Best Management Practices Manual are followed.

Minimizing Stormwater Outfall Impacts:

All of the following Best Management Practices shall apply to new stormwater conveyances through the SPZ:

- ▶ Minimize sediment loads and trash prior to entrance into the SPZ through practices such as:
 - Stilling Basin
 - Outlet Sediment Traps
 - Grass Swales
 - Check Dams
 - Bioretention Cells
 - Enhanced Detention Pond (See image below)
 - * Prevent Short Flow Paths
 - * Extended Dry Detention
 - * Retention Ponds/Wet Ponds
 - * Sediment Forebays
 - * Meandering Low Flow Channels
 - * Micropools
 - * Marshes
 - * Plunge Pools
 - * Pond Buffers (25 feet minimum)
 - * Rip-rap pilot channels
- ▶ Design for a minimum number of discharge locations to the stream and choose an alignment through the SPZ which will

result in minimal clearing of existing vegetation.

- ▶ Design for minimal amounts excavation and no filling in the SPZ.
- ▶ Convert flow to a velocity that is non-erosive at the 10-year design storm before the flow enters the stream. Possible practices to achieve velocity reduction include:
 - RipRap Aprons
 - Level Spreaders
 - Check Dams
 - Outlet Sediment Traps
- ▶ Angle the discharge into the direction of flow of the receiving water to provide a more natural confluence if possible.
- ▶ Design to minimize the long-term impact in the SPZ and the receiving stream.
- ▶ Implement erosion and sediment controls that meet or exceed the requirements set forth in UDC Chapter 169 and 170 and the Arkansas Department of Environmental Quality.
- ▶ Discharges must be managed during construction as well and may use an approved temporary method different from the permanent post-construction method used.
- ▶ Once construction is started, carry out and complete project without delay.
- ▶ Design in accordance with and obtain all required local, state, and federal permits.
- ▶ Design in accordance with the City's *Drainage Criteria Manual*.
- ▶ Periodic corrective action to restore a non-erosive velocity of flow or to restore stability of the conveyance shall be taken as necessary to impede the formation of erosion gullies.



level spreader

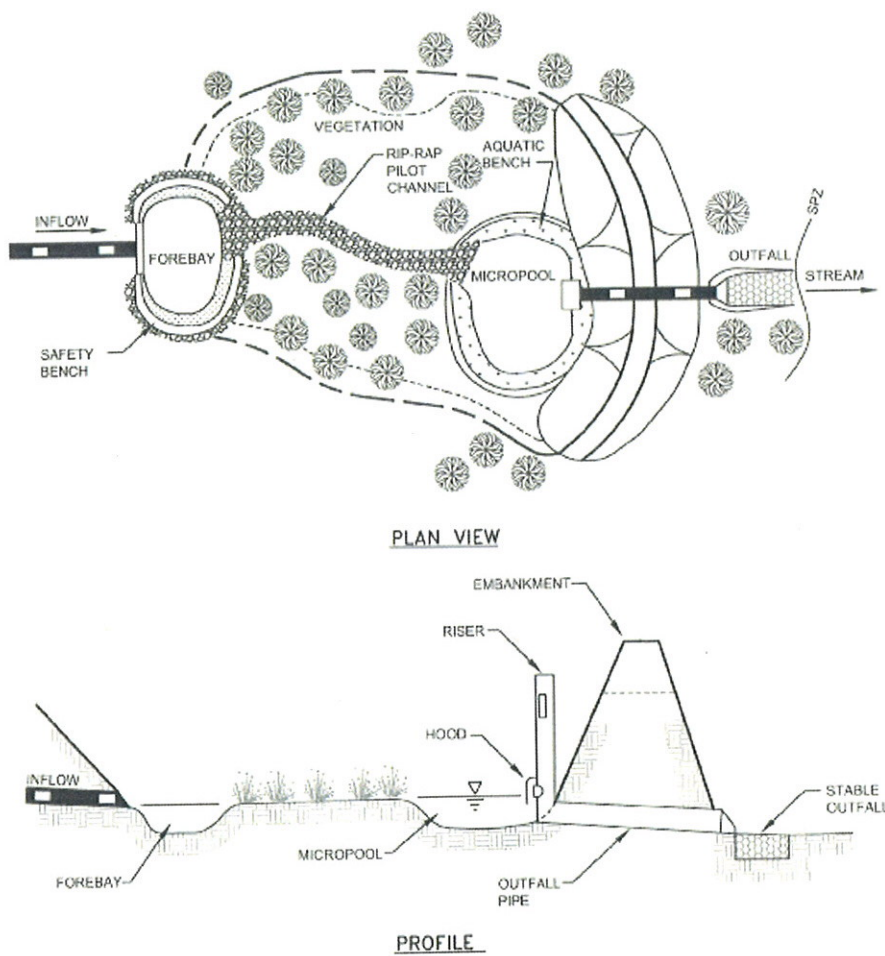


meandering low-flow channel



check dams slow water flow in swale

Example of Enhanced Dry Detention Pond



enhanced dry detention in
residential neighborhood

BMPs for Sediment Removal and Velocity Reduction prior to discharge to the Streamside Buffer

BMP	Function	Applicability	Limitations
Grassed Swales	Sediment Removal	Used after velocity reduction is achieved.	Small drainage areas, less than 5 acres.
Sediment Forebay	Sediment Removal	Used for pretreatment rather than as a standalone BMP.	No minimum or maximum drainage area. Depths may require removal of bedrock.
Meandering Low Flow Channel	Sediment and other pollutant removal	Used after velocity reduction is achieved.	Requires a wider space than a linear channel.
Riprap Apron	Sediment Removal; Velocity Reduction	Used at the end of an outlet pipe or channel.	Can be used at most outlets where the flow speed is high. Not aesthetic.
Check Dam	Sediment Removal; Velocity Reduction	Used within a drainage ditch, swale, or channel. May use with steep slopes.	Should only be used in channels with a drainage area of 10 acres or less.
Outlet sediment traps	Sediment Removal; Velocity Reduction	Used at the end of an outlet pipe or channel	No minimum or maximum drainage area. Depths may require removal of bedrock.
Level Spreader	Velocity Reduction	Used at the end of an outlet pipe or channel to disperse flow uniformly across a slope.	Maximum flow of 30 cfs and maximum slope of 10%.

Notes:

- (1) BMPs shall be selected and designed following approved technical design guidelines.
- (2) For technical and design guidelines contact the City of Fayetteville Engineering Division at (479) 575-8206.
- (3) Additional methods of achieving the above criteria may be approved by the City Engineer.
- (4) BMPs may be used in combination to achieve flow velocity reduction and sediment removal.
- (5) Plantings downstream of the flow diffusion device must be adequate to prevent erosion and shall be specified in the design plan.
- (6) Reestablishment of disturbed vegetation must be accomplished as soon as practicable, but in no case longer than 14 days.

- Vegetative cover is extremely important in controlling erosion. It performs these functions:
- Shields the soil surface from the impact of falling rain
 - Holds soil particles in place
 - Helps to maintain the soil's capacity to absorb water
 - Slows the velocity of runoff



stormwater diffusion with plant materials

MITIGATION PRACTICES FOR APPROVED VARIANCES

Ordinance requirements:

- If the Planning Commission has granted a variance for a reduction in the width of the Streamside Protection Zones, it may require mitigation through installation of structural BMPs. Removal efficiencies cited on the Environmental Protection Agency National Menu of Stormwater Best Management Practices may be used to select suitable structural BMPs or combinations of structural BMPs. Examples of possible BMPs for consideration include wet ponds, wetlands, infiltration trenches, and bioretention. Structural BMPs selected for mitigation shall be approved by the City Engineer.

LOW IMPACT DEVELOPMENT

The use of Low Impact Development principles throughout the development is encouraged to reduce the total volume of runoff contributed by the development. Reference the UDC Chapter 179 Low Impact Development Code.

168.12 Streamside Protection Zones

Emergency Management Agency
(FEMA).

(A) *Streamside Best Management Practices Manual.* The City of Fayetteville's Streamside Best Management Practices Manual, which may be administratively changed by the City Engineer, shall be used in support of this chapter to explain specific objectives and principles.

(B) *Applicability.* This ordinance shall apply to all land within a Streamside Protection Zone as defined by this section, except for as provided below:

(1) Undeveloped lots created by a lot split, concurrent, or final plat application, which was submitted or approved prior to the effective date of this ordinance, are exempt from the requirements of this section for the following time periods:

(a) 24 months from the effective date of this ordinance for lots less than one half (½) acre;

(b) 18 months from the effective date of this ordinance for lots greater than one half (1/2) acre but less than 1 acre; or

(c) 12 months from the effective date of this ordinance for lots greater than one (1) acre.

(2) A preliminary plat which was submitted or approved prior to the effective date of this ordinance shall be exempt from the requirements of this section, provided the time periods listed herein shall be in force from the date of final plat approval.

(3) A use and/or activity permitted by an unexpired building permit, which was approved prior to the effective date of this ordinance, is exempt from this ordinance.

(C) *Establishment of Designated Surface Waters.* The Streamside Protection Zone shall apply to all surface waters meeting any one of the following criteria:

(1) All surface waters identified on the adopted Streamside Protection Zone map, including any pond, lake or reservoir located within the natural drainage way of said surface water; or

(2) Any surface water where a floodway has been established by the Federal

(D) *Streamside Protection Zone Requirements.* The Streamside Protection Zones shall be established as follows:

(1) *Zone 1: Waterside Zone.* The Waterside Zone shall extend a minimum of 25 feet landward from the top of bank in each direction, measured horizontally on a line perpendicular to the top of bank and includes the surface water.

(a) *Steep slope.* Slope shall be calculated at the upstream and downstream property lines for every property. Properties with more than 100 feet of stream frontage shall require additional slope calculations at 100 foot increments, beginning at the upstream property line and ending at the downstream property line. When slope calculations are equal to or greater than 15%, the width of the Waterside Zone shall be extended by an additional 20 feet at that point. The boundary width determined at each designated slope measurement point shall be connected by a continuous line to form the boundary of the Waterside Zone (illustrations available in Best Management Practices Manual).

(2) *Zone 2: Management Zone.* The Management Zone shall begin at the outer edge of the Waterside Zone and extend landward 25 feet as measured horizontally on a line perpendicular to Zone 1. The combined width of Zones 1 and 2 shall be no less than 50 feet from the top of bank on all sides of the surface water.

(a) *Floodway.* Where the floodway extends beyond the edge of the Management Zone boundary, said boundary shall be adjusted so that the zone consists of the extent of the floodway as designated by the most recently adopted FEMA Flood Insurance Rate Map (FIRM).

(3) *Piped streams.* A streamside protection zone may not be required where the surface water has been previously enclosed in a pipe, culvert, or similarly enclosed conduit.

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- (4) *Daylighting.* Streams enclosed prior to the effective date of this ordinance and subsequently daylighted shall only require a 5-foot setback measured from the top of the established top of bank. Daylighted streams shall be maintained in a natural state by the property owner, who shall also be responsible for monitoring and controlling trash, litter and pollutants.

(E) *Regulated uses, structures and activities within the Streamside Protection Zone.*

- (1) The following are permitted by right within the designated streamside zone, subject to the requirements of this section, the Flood Damage Prevention Code, and all applicable requirements of the City of Fayetteville. Where a use is not listed, but is similar to a permitted use and is in keeping with the purpose of the Streamside Protection Zones, the City Engineer may determine the use to be allowed. All other uses shall be prohibited.

(a) Zone 1: Waterside Zone.

- (i) Open space uses that are primarily passive in character including: preserves, fishing areas and docks, parkland, and natural trails.
 - (ii) Streambank restoration or stabilization.
 - (iii) Water quality monitoring, education and scientific studies.
 - (iv) Revegetation and reforestation.
- (b) The following may also be permitted in the Waterside Zone, provided the standards of the *Streamside Best Management Practices Manual* shall be followed.
- (i) Paved trails or other impervious surfaces not exceeding 12 feet in width when there is no practical alternative.
 - (ii) Stream crossings, including driveways, roadways, trails, or railroads, provided they are designed and constructed to minimize the impact upon streamside areas, and result in

minimal amounts of excavation and filling in accordance with required local, state, and federal permits.

- (iii) Maintenance and upgrades of existing utility facilities

(iv)

- (v) New utility facilities or easements when there is no practical alternative.

- (v) Management of lawns

- (vi) Removal of dead vegetation, pruning for reasons of public safety, removal of invasive species.

- (vii) Application of any fertilizer, herbicide, pesticide, or insecticide shall be allowed only if their harmful effect on water quality is prevented by ensuring no over-application or misapplication occurs.

(c) Zone 2: Management Zone.

- (i) All uses within the Waterside Zone, provided that compliance with the standards of the *Streamside Best Management Practices Manual* are not required but encouraged.
 - (ii) Accessory structures without a foundation and no larger than 150 square feet, including storage sheds, playground equipment, gazebos, decks, etc.
 - (iii) Active recreational uses.
- (2) Establishment of the following uses/activities after the effective date of this ordinance shall be prohibited in both Streamside Protection Zones, except where necessary to allow an activity permitted by Section (E)(1).
- (a) Grading, dredging, dumping, filling, or similar construction activities.
 - (b) Landfills, junkyards, salvage yards.
 - (c) Clearing of existing woody vegetation.

Ordinance Forwarded by the Planning Commission to City Council November 8, 2010

- (d) Storage of hazardous materials or chemicals unless within waterproof containers and within a structure.
 - (e) Parking lots.
 - (f) Buildings and accessory structures with a building footprint larger than 150 square feet.
 - (g) Parking or storage of motor vehicles.
 - (h) Septic systems and/or lateral lines.
 - (i) New drainage ditches, roadside ditches, and stormwater conveyances.
 - (j) In-ground pools.
 - (k) Confined animal feedlots or kennels.
 - (l) Housing, grazing or other maintenance of livestock.
 - (m) Cultivation.
 - (n) Land application of biosolids.
- (F) *Existing land use exemptions.* The following activities and structures are allowed to continue within the Streamside Protection Zone, provided that the provisions of the Flood Damage Prevention Code and all other applicable regulations shall be enforced.
- (1) *Existing uses.* Existing uses shall be permitted to continue in their present state, but may not be enlarged, extended, or moved. A use or activity shall be existing if it is present and ongoing within the Streamside Protection Zone as of the effective date of this ordinance. Uses and activities cease to be existing under the following conditions:
 - (a) *Agricultural and animal husbandry activities.* The activities cease to be existing when the area on which they were conducted has been converted to a nonagricultural use or has lain idle for more than eighteen (18) consecutive months.
 - (b) *All other uses.* This ordinance shall apply when an existing use is converted to another use.
- (2) *Existing principal structures.*
- (a) *Reconstruction within existing footprint.* Existing principal structures may be redeveloped or reconstructed within the footprint of any principal structure existing on January 1, 2011.
 - (b) *Minor alterations.* Minor alterations or additions to an existing structure, such as an awning or deck, shall also be permitted, provided the modifications do not extend more than ten (10) feet further toward the surface water than the original foundation of the principal structure, and do not extend into the Waterside Zone.
 - (c) *Berm to prevent flooding.* If a principal structure has suffered flooding from a stream, the owner may construct a berm to protect the principal structure if approved by the City Engineer as to the berm's location, size and composition. Revegetation of the disturbed area and berm shall be in accordance with the Best Management Practices Manual.
- (3) *Emergencies.* Actions taken under emergency conditions, either to prevent imminent harm or danger to persons, or to protect property from imminent danger of fire, violent storms, or other hazards.
- (G) *Determination of No Practical Alternative.* An applicant desiring to establish an allowable use that requires a "no practical alternative" determination shall submit a written request for such determination to the City Engineer. The City Engineer shall make a finding of fact as to whether the following requirements have been met in support of a "no practical alternative" determination within ten (10) business days of receiving the request.
- (1) The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality.
 - (2) The use cannot practically be reduced in size or density, reconfigured, relocated, or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality.

(H) *Development Application Procedures.*

- (1) All persons required to submit a development application, pursuant to any section of the City's Unified Development Code, shall also show the location and type of surface water, the top of bank, Zone 1: Waterside Zone and Zone 2: Management Zone boundaries, and slope, when any portion of the property being developed falls within the Streamside Protection Zone.
- (2) An applicant may request that the City's Floodplain Administrator perform a site visit to view conditions on site with the applicant to assist in making a determination of top of bank location and widths of the Waterside Zone and Management Zone.
- (3) A final determination of any boundary shall be made by the City Engineer or designated representative, where there is question as to its location or width.

(I) *Streamside protection measures and construction.*

- (1) Prior to any land clearing or soil disturbing activity, the Streamside Protection Zone boundaries shall be clearly delineated on site by the applicant, and such delineation shall be maintained throughout construction activities.
- (2) A site inspection followed by periodic inspections during construction will be conducted by the City Engineer or designated representative to ensure compliance with the Streamside Protection Zone ordinance.
- (3) Streamside protection zones shall be protected from construction activity. To prevent impacts, construction vehicular access is prohibited in the Streamside Protection Zone except at permitted crossings. Storage of construction vehicles, materials, debris, spoils or equipment is prohibited in the Streamside Protection Zone. Before commencing any construction activity, the applicant shall install silt fencing on the site at the outer edge of the Streamside Protection Zone. The City Engineer may require other protective measures based upon the individual characteristics of the site and the

proposed construction methods. If the required barriers surrounding the Streamside Protection Zone are not adequately maintained during construction, the City Engineer shall prescribe remedial measures, and may issue a stop work order in accordance with §153.07. All remedial measures shall be completed within the specified amount of time and shall be considered prior to granting final plat approval or issuing a certificate of occupancy.

(J) *Diffuse flow requirements.* Diffuse flow of runoff shall be maintained in the Streamside Protection Zone by dispersing concentrated flow prior to its entry into the Streamside Protection Zone as follows:

- (1) Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters the Streamside Protection Zone; and
- (2) Annual corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies.
- (2) Annual corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of

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ADM 09-3480: Administrative Item (STREAMSIDE PROTECTION ORDINANCE):
Submitted by the CITY OF FAYETTEVILLE STRATEGIC PLANNING AND INTERNAL CONSULTING DEPARTMENT. The request is to amend the Unified Development Code to adopt a Streamside Protection Ordinance with an associated map and a Best Management Practices Manual.

Karen Minkel, Director Strategic Planning, gave the staff report.

Public Comment:

Dave Kingston was a representative of an undeveloped commercial subdivision at the I-540/Wedington intersection. He discussed that he feels like this ordinance would constitute a legal taking of the property.

Don Nibert discussed that he was in favor of the concept. His property would be affected. He discussed that he thinks existing properties should have more flexibility.

Kenneth Harvey, 8521 Goose Creek Road, discussed that there are 12 homes on Goose Creek. He discussed that the 50 feet of property is his property and that he doesn't want anyone taking his land. It is his property and he will continue to use it as he has in the past.

Bob Caulk, president of Fayetteville Natural Heritage, discussed green infrastructure and that the FNHA supports the ordinance. He discussed some potential changes or issues with the ordinance including that the ordinance won't function for wildlife habitat or flood attenuation. He discussed that the biggest problem is that the buffer needs to be continuous. He discussed issues with existing commercial parking lots discharging directly into creeks. He discussed introducing a third buffer zone that would be voluntary. This is a zone would be up to 300 feet wide and credits would be provided to property owners for participating which would reduce stormwater fees for following BMPS, if and when a stormwater utility is established in Fayetteville.

Leif Kimburton discussed that he lives along Town Branch. He discussed increased flooding at his home. He will have to build some type of flood barrier and that this ordinance would present problems with that.

Julia Sampson, 210 W. South Street, discussed that this was short notice for property owners to respond. She discussed gardening on her property.

Kevin Nelm, 1207 E. Elm, also mentioned that this was short notice for property owners and requested that the open forum be provided again. He discussed street run-off and that this ordinance penalizes property owners for street run-off. He also discussed that a 12-foot concrete path is permitted for city trails but not a patio. He believes the 50-foot zone is arbitrary, and also that he thinks this should apply only to new development.

Fran Alexander discussed that revegetation with native species is better than non-native species. She discussed that water and sediment travels across property lines.

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Justin Jackson, 1283 Elm Street feels that this is a little rushed. This would control over two-thirds of his property. This is better on a case-by-case basis.

Brenda English, discussed that she wants to keep her land. She discussed that the city can pay her what its worth. She doesn't want to have to sell her home.

Ryan Mayhen discussed that this would take 50 feet of his land. He doesn't think this will be fair. Will this re-zone his property?

Aubrey Shepherd discussed that the worst damage to the stream is the City. He discussed issues with Town Branch and he is trying to protect people down stream. He discussed flooding and public education.

Tisha Yarbrough discussed that she purchased a commercial housing 10 years ago. She is concerned with things they need to do to fix their property.

No more public comment was presented.

Commissioner Lack asked about the location of the top of bank.

Minkel discussed the method for identifying the top of bank.

Commissioner Lack asked about disagreements between property owner and the City in determining the ordinance.

Minkel discussed that appeals may be made to City Council.

Kit Williams, City Attorney, discussed concerns regarding this ordinance being a taking. There will be many more public hearings and the City is interested in working with the public. We will look at all the issues to make sure we're not making unbuildable lots. He discussed the definition of taking and other regulations such as zoning and grading ordinances

Commissioner Lack asked about correcting current conditions.

Sarah Wrede, Floodplain Administrator, discussed that any improvements to correct current conditions will need to be verified that they won't exacerbate current conditions.

Williams discussed that we need to allow people to protect their homes from flooding.

Commissioner Lack asked about gardening.

Minkel discussed the allowances and requirements for gardening in both zones, and that they probably need to clarify that topic.

Commissioner Lack asked about a paved path versus a patio.

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Fulcher discussed that a property owner could install a 12-foot wide patio.

Commissioner Chesser discussed that the City may be giving ourselves the ability to build trails.

Minkel discussed the effects of water flowing over a trail.

Williams discussed that the issue with a 12-foot trail versus a patio is a concern.

Commissioner Chesser asked about variances.

Fulcher responded that bulk and area variances still go to the Board of Adjustment and that variance of the actual streamside ordinance.

Commissioner Chesser asked about fences.

Fulcher discussed that fences can be replaced.

Commissioner Cabe asked about the BMP manual.

Minkel discussed the BMP manual and the trails and utilities are listed in the manual.

Commissioner Cabe discussed that there are no other towns in Arkansas with this type of ordinance and that water quality is a huge issue. He discussed that this ordinance is needed.

Commissioner Earnest discussed that the primary purpose is pollutant reduction. He stated a quote from the Beaver Water Authority that, "I'll treat whatever you put in Beaver Lake, but that I'm not sure you can pay for it..."

Commissioner Chesser asked about rain gardens being in the BMP manual.

Commissioner Lack discussed that there will be many more meetings. We feel like we need to administer to protect the watershed.

Motion:

Commissioner Chesser made a motion to table the item. **Commissioner Cabe** seconded the motion. Upon roll call the motion to table passed with a vote of 8-0-0

There being no further business, the meeting was adjourned at 8:00 PM.

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Old Business:

ADM 09-3480: Administrative Item (STREAMSIDE PROTECTION ORDINANCE):
Submitted by the CITY OF FAYETTEVILLE STRATEGIC PLANNING AND INTERNAL CONSULTING DEPARTMENT. The request is to amend the Unified Development Code to adopt a Streamside Protection Ordinance with an associated map and a Best Management Practices Manual.

Karen Minkel, Strategic Planning Director, gave the staff report.

Public Comment:

Halley Hoggatt asked how the 1,300 affected properties would make a difference when there are thousands of properties contributing pollution. He also stated that the trail exemption was unfair and wanted to know how this was different than an easement that would be purchased. He also wanted the other cities to get on board too.

Margaret Henderson asked if the ordinance was a restriction on her property or a taking of the property.

No more public comment was presented.

Commissioner Lack responded that the ordinance was adding restrictions.

Kit Williams, City Attorney, gave background on the 100 acre standard and stated that existing uses and structures are grandfathered in and can be rebuilt. He stated that easements are purchased because we get rights to access and construct on someone's property. However, the streamside regulations are similar to a setback that is restricted, but is private property.

Commissioner Chesser asked for clarification between gardening and cultivation.

Jesse Fulcher, Current Planner, stated that cultivation is associated with crops and commercial operations.

Commissioner Chesser asked for clarification on the 12' wide impervious area.

Fulcher stated clarified that there are two sections in the ordinance where a private property owner could construct small impervious areas.

Chris Brown, City Engineer, stated that sheet flow velocity will increase as the impervious width increases, potentially resulting in erosion.

Commissioner Winston asked how staff tracks a cease of use.

*Planning Commission
November 8, 2010
Page 5 of 14*

Fulcher stated that there is a policy already in place for reviewing such cases.

Commissioner Honchell asked if staff had approached the affected property owners about a voluntary buffer; about how much of a difference Fayetteville is going to make in improving water quality; about parks maintenance; and if there had been any complains from Beaver Water District about water quality.

Minkel gave a brief history of the agreement between the City of Fayetteville and Beaver Water District, the Geosyntech study and the nutrient reduction plan. She also stated that prevention is much less expensive than water treatment on the back-end, and that the City will have to abide by the same rules as private property owners.

Commissioner Hoskins asked about how much water went into each watershed.

Minkel stated that approximately 40% of the water went into Beaver Lake, but that the water was going to end up being someone's drinking water, regardless of the watershed.

Dave Jurgens, Director of Utilities, stated that a streamside buffer is one of the best ways to protect water quality and is much more cost effective than water treatment.

Commissioner Earnest stated that this ordinance is important and that the variance section will help.

Commissioner Chesser stated that he supports the ordinance and that someone needs to go first.

Commissioner Bunch asked if the ordinance would apply to undeveloped lots and if it would show up on the title.

Minkel stated that the ordinance will apply to undeveloped lots.

Williams stated that the buffer restriction will not show up on a title.

Commissioner Hoskins stated that he agreed with the intent of the ordinance, but was not comfortable with the way it is written.

Commissioner Honchell asked what the leading pollutant was in the Illinois River.

Jurgens stated that was unsure of the leading pollutant.

Motion:

Commissioner Earnest made a motion to forward the item to City Council. **Commissioner Cabe** seconded the motion. **Upon roll call the motion passed with a vote of 7-2-0 with Commissioners Hoskins and Honchell voting 'no'.**

New Business:

Fayetteville City Council
113 W. Mountain Street
Fayetteville, AR 72701

January 6, 2011

RECEIVED

JAN 06 2011

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Re: Huntingdon Heights

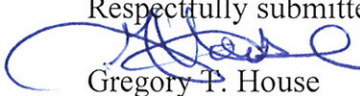
Dear Members of the Fayetteville City Council,

I am writing on behalf of Huntingdon Heights, LLC, which is the owner of a development project called Huntingdon Heights located off Warwick Drive on Barnsbury Terrace and Knightsbridge Avenue in Fayetteville. The purpose of this letter is to formally appeal a decision of the Zoning and Development Administrator pursuant to Title XV of the Unified Development Code, Chapter 155.06, section A(1).

The basis of this appeal derives from the following facts. On May 3, 2010 in a letter to Brian Teague, the Huntingdon Heights project engineer, Andrew Garner clarified where we stood with respect to the items that needed to be addressed and the deadlines for each as part in order to complete this project. In reliance on that letter we moved forward and have completed all the physical work required therein. We have approached the Zoning and Development department (hereafter Development) informing them of the project's completion and have asked for TCO's for the last 6 units pending issuance of final Certificates of Occupancy. Our request was denied today.

Development has required that an apron be replaced in the city right of way for the driveway at 3172 Warwick basically because it "doesn't look good", and without this being remedied, final approval for completion of the project will not be granted nor will TCO's be issued. This is despite the fact that there are no Health and Safety issues remaining. In addressing the issue of the approach patch for 3172 Warwick, all that was required in Mr. Garners letter of May 3, 2010 was that "the thickness of the concrete ...be verified", it was determined that exposing the edge by digging was sufficient, which we did and this was observed by engineering's inspector. To be asked to remove this patch for a third time, when this was not in the scope of work detailed in the May understanding, and considering the fact that the "patch" has been in place for over a year and a half with no signs of failure, and that we have posted a maintenance bond for public improvements to cover costs in the event of failure seems patently unreasonable.

Respectfully submitted,



Gregory T. House
For Huntingdon Heights, LLC
217 N. East Ave.
Fayetteville, AR 72701
479-521-9155

MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Development Services Director

From: Chris Brown, City Engineer *CB*

Date: January 14, 2011

Subject: Huntingdon Heights Development
Appeal of City Engineer's Determination Regarding the Driveway Approach at 3172 Warwick Dr.

This memo provides additional information regarding the appeal by Gregory T. House on behalf of Huntingdon Heights, LLC with regard to a driveway repair required as part of the Huntingdon Heights Development. The Engineering Division is requiring removal and replacement of the patch due to unacceptability of the concrete surface, removal and replacement limits that do not meet standard practices, and a failure of the contractor to contact the City for an inspection prior to concrete placement.

First, in response to Mr. House's statement regarding requirements in the attached May 3, 2010 letter by Andrew Garner, the full text of the item discussing the driveway repair is as follows:

"1. An inspection was not requested for the approach patch for the private drive prior to concrete placement. The thickness of the concrete must be verified at 3172 Warwick Drive. **Remove and replace to proper width and thickness as required.**"

This statement was repeated at least 5 times in letters to Mr. House and/or his representatives, along with other similar verbal and written communications. Each time this requirement was communicated to Mr. House, as part of an inspection prior to an occupancy permit, he requested that the requirement be put off and be made part of another building on the project that was not yet ready for occupancy. This was granted each time, but the development is now to the point that the last building is ready for occupancy, and this issue must be addressed at this time.

Secondly, in his appeal letter, Mr. House states that it was determined that digging next to the patch to verify the thickness was sufficient. Mr. House's representative did in fact ask if that was sufficient, and an area next to the patch was excavated and made available for inspection. However, staff has never indicated that this was an acceptable verification method. This method is not an acceptable substitute for an inspection prior to installation of concrete.

On December 6, 2010 a letter with accompanying sketch clarifying the requirements for the driveway repair was sent to Mr. House, so that there was no confusion as to the repair specifications. A copy of this letter is attached, and remains the recommendation of staff. Therefore, staff recommends denial of this appeal.



www.accessfayetteville.org

May 3, 2010

Mr. Brian Teague
Community by Design
311 West Spring Street
Fayetteville, AR 72701

Via Email: brian@communitybydesignllc.com

Re: *Huntingdon Heights Inspection Status: AP#'s 37698, 37103, and 33957*

Dear Mr. Teague:

As we have discussed with you on several occasions, the permits at 3164 and 3153 Barnsbury Terrace (AP#'s 37698 and 34103, also known as Buildings A1 and A2 on the site plan) are in violation of City ordinance for exceeding the 90-day temporary certificate of occupancy. Staff has been working with you and the owner/developer for many months to try and finalize these two buildings. A letter to you dated April 13, 2010 was a final attempt to set deadlines to complete the project in a timely fashion prior to us sending this project to the City Prosecutor. An initial deadline for several items was set for May 1, 2010. An inspection by the City on April 30, 2010 and your letter dated April 30, 2010, along with a check provided to the City on April 30, 2010 indicated adequate progress towards the May 1st checklist we have given you.

In order to continue progress towards finalizing the subject permits, the following items need to be completed within the timeframe outlined below. Failure to meet the deadlines noted below will require the Development Services Division to send this project to the City Prosecutor:

Engineering Division (Glenn Newman 444-3424):

By **June 1, 2010** the following item must be completed:

1. Provide a 2 year maintenance bond or letter of credit in the amount of 25% of the actual construction cost of all public improvements (water and sanitary sewer) for the project. A check covering the required amount was submitted on April 30, 2010, with the request by the bank to not cash the check for a period of 30 days, to allow adequate time to process a letter of credit.

If the above items are completed on schedule by June 1, 2010, the Engineering Division will recommend extending the Temporary Certificate of Occupancy for buildings A1 and A2 for an additional 14 days (until **June 15, 2010**) to complete the following tasks:

1. All exposed soil, specifically to the north of A3 be temporary seeded as required in the grading ordinance where construction activities have ceased for more than 15 days, in accordance with UDC 169.06(F)(4).
2. Staff has concerns with the functionality of the rip rap provided between buildings A2 and A3. This should be reevaluated with staff by the deadline.

3. The workmanship of the concrete flume exiting on Warwick in front of building A1 is not acceptable and does not match the approved detail. Reconstruct to match detail and request inspection.
4. Grading beyond the project limits not shown on grading plan was not authorized. The disturbed area must be graded to a maximum of a 3:1 slope, utilities adjusted, and re-vegetated per 169.06(F)(4) *Revegetation* of the Unified Development Code. Written permission of adjacent property owner is not required, since this is the same owner.
5. The sidewalk and approach has settled and cracked on the east side of Warwick Drive where the new sanitary sewer main was installed in front of 3154 Warwick Drive. The back filling of the trench was not inspected nor was the placement of concrete for the sidewalk. The deficient areas shall be removed, subgrade should be inspected for firmness before placement of concrete for sidewalk.
6. The sidewalk that has cracked at the existing sanitary sewer man-hole on the north side of the driveway at 3172 Warwick Drive must be repaired and add a joint at this location to prevent future cracking. Remove and replace to the nearest joint in each direction. Grading and sod should be replaced in this area also to meet predevelopment conditions.

If the above items are completed on schedule by June 15, 2010 Engineering will recommend extending the TCO for buildings A1 and A2 for an additional 45 days (until **July 30, 2010**) to complete the following tasks:

1. An inspection was not requested for the approach patch for the private drive prior to the concrete placement. The thickness of the concrete must be verified at 3172 Warwick Drive. Remove and replace to proper width and thickness as required.
2. An inspection was not requested for the two street crossing for sanitary sewer extensions for this project that required a "Concrete/Asphalt Tee Patch". The material and thickness of the repair must be verified. Remove and replace to proper width and thickness as required.
3. An inspection was not requested for the asphalt patch for the private drive connection to the public street. The material and thickness of the repair must be verified.
4. Final removal all silt from the storm drainage system and vault.
5. Clean up of all debris and excess construction material related to the project, including material placed on adjacent property.
6. The temporary electrical service (no longer being used) behind building A2 shall be removed as a safety concern.

All above items must be completed and accepted by the city prior to July 30, 2010 which will allow the applicant to obtain a Final Certificate of Occupancy for buildings A1 and A2. There will be no additional extensions to the Temporary Certificate of Occupancy for buildings A1 and A2. Written documentation is required by the Owner/Engineer for each milestone date confirming the required items are complete and have been inspected and accepted by the city Engineering Division.

Prior to obtaining a Temporary Certificate of Occupancy of Building A3 (The Last Building), the following items must be performed or provided to the satisfaction of the Engineering Division:

1. The work shown on the civil site package must be complete and the items on the final punch list completed.
2. One (1) set of as-built drawings (excluding details) of the complete project including drainage patterns as a hard copy and in Tiff or PDF format;

3. Certification that the streets, storm sewer, water and sewer lines, etc., were installed per approved plans and City of Fayetteville requirements;
4. Cross Sections, Volume Calculations, and Certification Retention/Detention Ponds are in accordance with the approved Drainage Report.
5. Surveyor's Certification of Compliance.
6. The As- Built Final Drainage Report as a hard copy and in PDF format.

Please note, site inspections, at the time Building A3 is complete, may identify additional requirements not included in this transmittal.

The engineer of record shall provide construction inspection for this project including the final inspection in the presence of city staff and generate the official punchlist.

The public works inspector (PWI) shall be notified no less than 48 hours prior to the installation of public utilities, infrastructure, roadway, etc. Testing shall be coordinated and scheduled with the PWI as well.

Please call to schedule the site inspection when the site work is being performed.

If you have any questions, please call Glenn Newman at 575-8206.

Solid Waste Division (Brian Pugh 718-7685):

- Prior to temporary CO for building A3 the dumpster enclosure with dumpster needs to be installed.

Tree and Landscape (Greg Howe 444-3470):

Prior to final CO for any of the buildings:

- Permanent erosion control and soil stabilization throughout the site needs to be installed and inspected.
- The tree preservation area needs to be inspected and approved. Contact Greg Howe for a final inspection and review of the post-construction tree preservation plan.
- Landscape requirements must be completed including installation of two large species shade trees along the project's Warwick Street frontage. The existing trees and crepe myrtle recently planted do not meet code.

Fire Department (Mark Stevens 444-3448):

Prior to final CO the following items need to be completed:

- Buildings A1 and A2. Fire lane no parking area painted with red strips in front of Building A3.
- Buildings A1 and A2. All drive areas with 20-26 feet distance from curb face to curb face require NO PARKING FIRE LANE identification (Arkansas Fire Code D103.6.1) this is required because it is not a public street and is a fire access road (Arkansas Fire Code 502).
- Building A3.

- Fire extinguishers provided and inspection tagged by a certified/licensed company located within 75 feet maximum travel distance from any location inside the residence (Arkansas Fire Code 906 and NFPA 10). Extinguishers may be installed in weather protected (plastic or metal) cabinets on the exterior of the building in locations that comply with the 75 feet travel distance requirement.
- Proper building address numbers to be provided.

Building Safety (Vel Moses 575-8224):

- Building A1 items to be completed: 101-Seal blocking under upper deck and seal all exterior holes i.e. HVAC, gas lines, cables, T&P; extend drain line below cable boxes within 6 inches of the ground; secure dryer vents; fix or remove temp power; vapor barrier incomplete in the crawl; remove trash and construction debris under the dwelling; grippable handrail (102) entry; light for the attic (103) move to access.
- Building A2. Has been completed
- Building A3. A final inspection has not been requested or conducted. Call to schedule a final inspection.

Planning (Andrew Garner 575-8262):

- Prior to final CO for Buildings A1, A2, or A3 the site work must be completed with parking spaces and drive aisles striped.
- Prior to final CO for Buildings A1 or A2, the non-conforming light fixtures throughout the development need to be removed or retro-fitted to meet City lighting ordinance, site erosion and clean-up issues need to be addressed, and two street trees installed.
- Prior to temporary CO for Building A3 the dumpster enclosure with dumpster shall be installed.

If you have any questions, please call me at 575-8262.

Sincerely,



Andrew Garner
Senior Planner

Cc: Greg House (ghouse@housesinc.com); Glenn Newman (gnewman@ci.fayetteville.ar.us); Brian Pugh (bpugh@ci.fayetteville.ar.us); Mark Stevens (mstevens@ci.fayetteville.ar.us); Terry Lawson (tlawson@ci.fayetteville.ar.us); Vel Moses (vmoses@ci.fayetteville.ar.us); Greg Howe (ghowe@ci.fayetteville.ar.us); Jeremy Pate (jpate@ci.fayetteville.ar.us)



www.accessfayetteville.org

Greg House
House Inc.
217 N East Ave
Fayetteville, AR 72701

December 6, 2010
Eng # 7968

Re: Huntingdon Heights Lot 28
Temporary Certificate of Occupancy for Building A3
Engineering Requirements

Dear Mr. House:

In response to your request to obtain a Temporary Certificate of Occupancy (TCO) for Building A3 made to Building Safety December 2, 2010, we have prepared a list of outstanding items that will need to be completed to the satisfaction of the Engineering Division as identified below, before Engineering approval will be given:

1. The existing concrete patch in the driveway at 3172 Warwick Drive is not acceptable and must be corrected as specified below and as detailed in the attached sketch. As you are aware, the existing patch was constructed without supervision or inspection by the Engineering Division, and does not meet standards of acceptability with regard to the limits of the patch or the concrete finish.
 - a. Remove the existing concrete patch and continue the saw cut south, the width of the driveway, saw cut along the edge of pavement, remove the existing concrete, place new 6" thick concrete the width of the driveway for a total of approximately 100 sf, finish to match existing surface.
 - b. Coordinate with the property owner to minimize disruption, multiple repair phases may be required.
 - c. Contact Chuck Rutherford to schedule inspection before placement of new concrete.
2. Final removal all silt from the storm drainage system and vault is required.
3. Remove the chlorination piping used to test the water main and backfill the area.

After these items are completed, please contact the Engineering Division for a final inspection.

In addition to the construction related items listed above, the following items must be performed or provided to the satisfaction of the Engineering Division prior to Engineering approval of a TCO:

1. The work shown on the civil site package must be complete and the items on the final punch list completed.
2. One (1) set of as-built drawings (excluding details) of the complete project including drainage patterns as a hard copy and in Tiff or PDF format;
3. Certification that the streets, storm sewer, water and sewer lines, etc., were installed per approved plans and City of Fayetteville requirements;
4. Cross Sections, Volume Calculations, and Certification Retention/Detention Ponds are in accordance with the approved Drainage Report.
5. Surveyor's Certification of Compliance.
6. The As- Built Final Drainage Report as a hard copy and in PDF format.

If you have any questions, please call me at 575-8206.

Sincerely,

Chris Brown, P.E.,
City Engineer



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Fayetteville Code of Ordinances

TITLE XV UNIFIED DEVELOPMENT CODE

CHAPTER 155 APPEALS

155.01 Circuit Court

Unless set forth otherwise below, all appeals from final actions taken by the City Council, Planning Commission, Board of Adjustment, Construction Board of Adjustment and Appeals, and the Zoning and Development Administrator shall be taken to the Circuit Court of Washington County.

(Code 1965, App. A., Art. 9(6); Ord. No. 1747, 6-29-70; Ord. No. 2323, 4-5-77; Ord. No. 2538, 7-3-79; Code 1991, §160.175; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4652, 12-07-04)

State law reference(s)--Appeals to circuit court, A.C.A. §14-56-425.

155.02 Form/Time/Place

Unless an appeal is filed with the court, the following requirements shall be met:

(A) *Form*. All appeals shall be submitted in writing referencing the applicable UDC section(s) and setting out the reasons the applicant contends the decision was in error.

(B) *Time*.

(1) *Appeals*. Appeals shall be submitted within 10 working days from the date of the final action taken.

(2) *Hearings*. The entity hearing the appeal shall fix a reasonable time for hearing an appeal.

(C) *Place*. Appeals shall be filed with the following:

(1) *City Clerk*. Appeals made to the City Council shall be filed with the City Clerk.

(2) *Zoning and Development Administrator*. Appeals made to the Planning Commission or Board of Adjustment shall be filed with the Zoning and Development Administrator.

(3) *Building Safety Division Director*. Appeals made to the Board of Adjustment, [for inspecting purposes] shall be filed with the Building Safety Division Director.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4652, 12-07-04)

155.03 Stay

An appeal shall stay all proceedings in furtherance of the action appealed from unless the person in charge of administration of the chapter certified that a stay would, in their opinion cause imminent peril to life or property.

(Code 1965, App. A., Art. 13(3); Ord. No. 1747, 6-29-70; Code 1991, §160.173; Ord. No. 4100, §2 (Ex. A), 6-16-98)

155.04 Alderman Appeal On Behalf Of Resident

An alderman may bring an appeal on behalf of any resident of the city a decision by the Planning Commission to approve or deny the requests as set forth below.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5296, 12-15-09)

155.05 Appeals From Planning Commission Decisions

(A) *Appeals to City Council*.

(1) Owners of record of the property being considered may appeal a decision by the Planning Commission to deny the following requests, in accordance with the procedures set forth in §155.02.

- (a) Annexation
- (b) Rezoning
- (c) Planned Zoning District
- (d) Subdivision (Preliminary Plat, Final Plat, Concurrent Plat, Lot split)
- (e) Large Scale Development
- (f) Vacation of utility easement, access easement, public right-of-way
- (g) Commercial Design Standards
- (h) Tree Preservation Plan
- (i) Variances and waivers of the UDC

(2) *Conditions of Approval*. An owner of record may appeal the conditions of approval determined by the Planning Commission for any of the requests listed in (A)(1).

(3) *Conditional Use Request*. Three aldermen, two of whom must reside in the effected ward, may in unison appeal a decision by the Planning Commission approving or denying a conditional use request.

(B) All other decisions by the Planning Commission must be appealed to Circuit Court.

(Code 1965, §13A-40, App. C., Art. II, Art. V., §B; Ord. No. 1509, 8-8-66; Ord. No. 1750, 7-6-70; Code 1991, §§156.017, 159.12, 159.54(F)(1), (2), 159.66; Ord. No. 3781, §1, 4-19-94; Ord. No. 3925, §6, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4334, 9-4-01; Ord. No. 4340, 10-2-01)

155.06 Appeals From Staff Interpretations/Actions

(A) *Appeals to City Council*. The following staff interpretations/actions may be appealed to the

Fayetteville Code of Ordinances

City Council by an owner of record of the property in question or an alderman on behalf of a resident of the city:

(1) *Zoning and Development Administrator.*

(a) *Design Overlay District requirements.* The decision of the Zoning and Development Administrator not to exempt property from the Design Overlay District requirements as allowed in §161.28(G).

(b) *Development Matters.* An interpretation or decision of the Zoning and Development Administrator regarding development matters, including subdivisions, large scale developments, parking and loading, and outdoor lighting may appeal.

(2) *City Engineer.*

(a) *Stormwater, Drainage, and Erosion Control requirements.* The decision of the City Engineer to issue a violation notice related to these requirements.

(b) *Development Matters.* An interpretation or decision of the City Engineer regarding development matters, including grading, drainage, water and sanitary sewer systems, and storm drainage systems may appeal.

(c) *Floodplain regulations.* The decision of the Floodplain Administrator, provided that the City Council shall hear and decide an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of Chapter 168.

(3) *Urban Forester – Landscape and Tree Preservation and Protection requirements.* Decisions of the Urban Forester related to landscape and tree preservation and protection requirements.

(4) *Impact Fee Administrator.* Any person aggrieved by any decision of the Impact Fee Administrator made in the enforcement or administration of Chapter 159 Fees.

(B) *Appeals to the Board of Adjustment.* The following interpretations and decisions may be appealed by an owner of record of the property in question or an alderman on behalf of a resident of the city to the Board of Adjustment:

(1) *Zoning and Development Administrator - Zoning.* An interpretation or decision of the Zoning and Development Administrator regarding zoning matters may appeal.

(2) *Building Safety Division Director - Airport Zone.* Any person aggrieved, or any taxpayer affected by any decision of the Building Safety Division Director, made in the administration of Airport Zone, Chapter 165, may appeal.

(C) *Appeals to the Planning Commission.*

(1) Required dedications and improvements.

(a) An owner or developer who is aggrieved by the requirements of the Unified Development Code for land, right-of-way or easement dedications, construction of on-site or off-site improvements, or payments in lieu of any dedication or improvement, which are in excess of the "rough proportionality" of the impact of the development upon the city's infrastructure or services may appeal such requirement to the Planning Commission as a part of the submission of the preliminary plat, large scale development, subdivision, building permit, lot split, development permit, or otherwise within 10 days of notification of such development requirements. The appeal must be presented to the Planning Division in writing and state the grounds, or reasons for the appeal.

(b) The Planning Commission shall determine after public hearing whether the required dedications and improvements meet the "rough proportionality" of the impact of the development on city infrastructure and services. If the requirements are in excess of the "rough proportionality," the Planning Commission is empowered to modify or reduce such requirements to achieve "rough proportionality."

(2) Administrative Approvals.

(a) A resident of the city or an owner/developer who is aggrieved by a decision of the Zoning and Development Administrator regarding development matters that are approved administratively, as required by Chapter 166.02 (C) may appeal the decision to the Planning Commission. The appeal shall be submitted in writing to the Planning Division within 10 days of the final decision. The appeal shall be

TITLE XV UNIFIED DEVELOPMENT CODE

limited to the applicable approval or denial criteria as follows:

- (i) The development plan is not submitted in accordance with the requirements of Chapter 166 of the Fayetteville Unified Development Code.
 - (ii) The proposed development would violate a city ordinance, a state statute, or a federal statute.
 - (iii) The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by Chapter 166 of the Fayetteville Unified Development Code.
 - (iv) The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.
 - (v) City water and sewer is not readily available to the property within the large scale development or preliminary plat and the developer has made no provision for extending such service to the development.
 - (vi) The developer refused to comply with UDC Ch. 166 pertaining to required on-site and off-site improvements.
- (b) The appellant must include in the letter of appeal the specific code section with which the development application does not comply.
- (c) The Planning Commission shall determine after public hearing whether the interpretation or discretionary decision should be upheld or modified in part or in whole.

- (D) *Appeals to the Construction Board of Adjustment and Appeals.* When the administrative authority under Chapter 173 shall disapprove an application, or the applicant is aggrieved by the interpretation of the administrative authority, the

applicant may appeal the decision to the Construction Board of Adjustment and Appeals.

(Code 1965, §17B-11.2(d), (e), App. A., Art. 10(6), 19(2), App. B, §III, App. C., Art. 10(6), 19(2), App. B, §III, App. C., Art. V, §A; Ord. No. 1747, 6-29-70; Ord. No. 1750, 7-6-70; Ord. No. 2109, 6-375; Ord. No. 2252, 7-6-76; Ord. No. 2538, 7-3-79; Ord. No. 2585, 12-4-79; Ord. No. 2697, 1-20-81; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-14-88; Code 1991, §§150.03, 158.67(B), 158.68(A), (B), 159.65, 160.048, 160.172, 160.176(A), (B), 161.11, 162.03(B), (C), 163.10(D); Ord. No. 3551, 6-4-91; Ord. No. 3587, §1, 1-7-92; Ord. No. 3699, §3, 4-20-93; Ord. No. 3716, §2, 6-15-93; Ord. No. 3806, §1, 6-28-94; Ord. No. 3895, §1, 6-20-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3925, §7, 10-3-95; Ord. No. 3963, §9, 4-16-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4368, §2, 2-5-02; Ord. No. 4377, §§1, 2, 3-5-02; Ord. 4652, 12-07-04; Ord. 5206, 12-16-08; Ord. 5296, 12-15-09)

155.07 Appeals To The Housing Board – Mobile Homes And Mobile Home Parks

- (A) *Permit denied.* Any person whose application for a permit under Chapter 175 has been denied may request and shall be granted a hearing on the matter before the Housing Board.
- (B) *Permit suspended.* Any person whose permit has been suspended, or who has received notice from the enforcement officer that his permit will be suspended unless certain conditions or practices at the mobile home park are corrected, may request and be granted a hearing on the matter before the Housing Board.
- (C) *Petition deadline.* When no petition for hearing shall have been filed within 10 days following the day on which notice of suspension was served, such permit shall be deemed to have been automatically revoked at the expiration of such 10 days.

(Code 1965, §17B11.2(e); Ord. No. 2109, 6-3-75; Ord. No. 2583, 12-4-79; Ord. No. 3152, 11-19-85; Ord. No. 3153, 11-19-85; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-15-88; Code 1991, §158.67; Ord. No. 4100, §2 (Ex. A), 6-16-98)

(Code 1965, §§13A-40, 13A-43; Ord. No. 1509, 8-8-66; Code 1991, §§156.017, 156.029; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4652, 12-07-04).

155.08 Appeals From The Construction Board of Adjustments And Appeals

If the Construction Board of Adjustments and Appeals refuses to extend a building permit pursuant to §173.02 (B)(8) or to issue a new building permit for property for which a building permit has expired pursuant to §173.02 (B)(8), the owner may appeal to the City Council.

(Ord. 5019, 5-15-07)

Fayetteville Code of Ordinances

155.09-155.99 Reserved

January 18, 2011

Dear Members of the Fayetteville City Council,

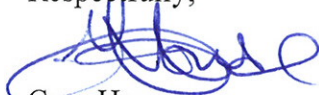
I apologize for the informal nature of this communication but I wanted to get this to the city clerk by your agenda deadline.

Attached please find copies of only a sample of the chain of communication between City officials and our company regarding the Huntingdon Heights project. In the fall of 2009, due to changes in the nature of code enforcement, we asked that the City be clearer as to its expectations for work approvals. As can be seen by the sheer volume of information that was provided, City officials complied with our request. And, therefore, the various departments had ample opportunity to point out deficiencies in the project. Without further belaboring the issues as to why so much documentation became necessary, please note the passages marked with an asterisk in the letters of November 19, 2009; April 13, 2010; and May 3, 2010. Each of these comments only refer to "verifying the thickness of the patch" for the drive at 3172 Warwick, none discuss a complete tear out and replacement as stated in the letter of December 6, 2010.

When I had the work that was required by engineering that related to Warwick Drive completed, I asked Bob Coker, the site inspector, if we had finally met all of the City requests before I paid and released the contractor. He stated that we had. To now rebid, remobilize, and do work that was never required, and cannot be supported by ordinance except to say that this is the way it's been done in the past is unreasonable.

I appreciate your consideration in this matter and hope you will find that it is reasonable to leave the perfectly functioning patch of the driveway at 3172 Warwick as it is.

Respectfully,



Greg House
For Huntingdon Heights, LLC

THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443



www.accessfayetteville.org

November 17, 2009
Eng # 7968

Brian Teague, P.E.
Community By Design
311 West Spring Street
Fayetteville, AR 72701

Re: Huntingdon Heights Lot 28 – Site Visit

Dear Mr. Teague:

To expedite the Certificate of Occupancy of the remaining structures for the referenced project as it pertains to the civil sitework, Engineering Division representatives (Chris Brown, Chuck Rutherford, Bob Coker, and Glenn Newman) performed a site visit on Friday November 13, 2009, and created the following list of outstanding items. This list should not be considered a final punch list, rather a list of items that require completion and/or correction as of this date.

Items required before Temporary Certificate of Occupancy for Building A2:

1. Water line depth at meter appears shallow at building A2. Fill around meter or adjust meter lid to grade. If grades are lowered, service lines may need to be lowered as well. Verify the final depth with the Meter Operation Division (Don Osburn 575-8384)
2. Erosion between building A2 and A3 needs to be corrected. Grading plan indicates sheet flow in this location with a constant 3:1 slope to the property line. This area must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code. Staked sod on Hydroseeding with landscape fabric will be required. (typical for these slopes)
3. Grading needs to be completed at the transformer at the back or west side of building A2. Refer to the original grading plan which shows a swale and then a 3:1 backslope to tie to existing grade. The revised grading plan did not change grading in this location. Additional trees will need to be removed to meet the plans. Tree preservation fencing should be re-established before work proceeds in this area.
4. The drainage on the south side of building A2 needs to be corrected to flow around the building and not on the adjacent lot. Refer to the original grading plan. Additional trees will need to be removed to meet the plans and drainage report. The flow is also shown to continue down the back of the retaining wall.
5. Safety railing should be installed on the retaining wall as shown on the original plans.
6. Silt fence should be properly installed in front of building A2 until vegetation has been established. This areas must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code.
7. Remove the inlet protection for detention vault and use this volume as a sediment trap during construction, the bypass currently flowing into Warwick from the blocked inlets is not acceptable.
8. The painting of the fire hydrant is not acceptable. The chains should not be painted and stuck to the hydrant. The paint should be mixed thoroughly and applied with a paint brush. Moving parts should be protected so that when the nuts are turned for flow, the paint should not peel off at the pivot points.
9. Clean up of all debris and excess construction material related to building A2, including material placed on adjacent property.



November 19, 2009

Mr. Greg House
Houses, Inc.

Via Email: ghouse@housesinc.com

Re: Huntingdon Heights Inspection Status: AP#'s 33957, 37103, and 37698

Dear Mr. House:

The following is a list of items that needs to be completed prior to certificate of occupancy (CO) for the subject development:

Engineering Division (Glenn Newman 444-3424):

Please refer to the letter dated *November 17, 2009* from Glenn Newman to Brian Teague. For convenience, these requirements are also listed below:

To expedite the Certificate of Occupancy of the remaining structures for the referenced project as it pertains to the civil site work, Engineering Division representatives (Chris Brown, Chuck Rutherford, Bob Coker, and Glenn Newman) performed a site visit on Friday November 13, 2009, and created the following list of outstanding items. This list should not be considered a final punch list, rather a list of items that require completion and/or correction as of this date.

Items required before Temporary Certificate of Occupancy for Building A2:

1. Water line depth at meter appears shallow at building A2. Fill around meter or adjust meter lid to grade. If grades are lowered, service lines may need to be lowered as well. Verify the final depth with the Meter Operation Division (Don Osburn 575-8384)
2. Erosion between building A2 and A3 needs to be corrected. Grading plan indicates sheet flow in this location with a constant 3:1 slope to the property line. This area must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code. Staked sod on Hydroseeding with landscape fabric will be required. (typical for these slopes)
3. Grading needs to be completed at the transformer at the back or west side of building A2. Refer to the original grading plan which shows a swale and then a 3:1 backslope to tie to existing grade. The revised grading plan did not change grading in this location. Additional trees will need to be removed to meet the plans. Tree preservation fencing should be re-established before work proceeds in this area.
4. The drainage on the south side of building A2 needs to be corrected to flow around the building and not on the adjacent lot. Refer to the original grading plan. Additional trees will need to be removed to meet the plans and drainage report. The flow is also shown to continue down the back of the retaining wall.
5. Safety railing should be installed on the retaining wall as shown on the original plans.

6. Silt fence should be properly installed in front of building A2 until vegetation has been established. This areas must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code.
7. Remove the inlet protection for detention vault and use this volume as a sediment trap during construction, the bypass currently flowing into Warwick from the blocked inlets is not acceptable.
8. The painting of the fire hydrant is not acceptable. The chains should not be painted and stuck to the hydrant. The paint should be mixed thoroughly and applied with a paint brush. Moving parts should be protected so that when the nuts are turned for flow, the paint should not peel off at the pivot points.
9. Clean up of all debris and excess construction material related to building A2, including material placed on adjacent property.

Items required before the Final C of O for the buildings A1 and A2 and/or Temporary C of O for building A3:

1. Silt fence should be properly installed in front of building A3 until vegetation has been established. This areas must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code
2. Remove all silt from the storm drainage system and vault.
3. A follow up certification from the GTS is required since it appears the retaining wall is bulging which may be an indicator that the structural integrity of the wall has been compromised. Confirm with the design engineer that the lack of 2 degree batter and the constructed height does not affect the structural integrity as GTS has indicated in their certification.
4. The workmanship of the concrete flume exiting on Warwick is not acceptable and does not match the detail.
5. Grading beyond the project limits not shown on grading plan is not authorized and shall be re-established to original contours and revegetated. The Urban Forester should be notified to verify no trees have been removed in this are, specifically the area north of the private drive.
6. The sidewalk and approach has settled and cracked on the east side of Warwick Drive where the new sanitary sewer main was installed in front of 3154 Warwick Drive. The back filling of the trench was not inspected nor was the placement of concrete for the sidewalk. The deficient areas shall be removed, subgrade should be inspected for firmness before placement of concrete for sidewalk.
7. An inspection was not requested for the sidewalk repair prior to the concrete placement. The sidewalk that has cracked at the existing sanitary sewer man-hole on the north side of the driveway at 3172 Warwick Drive must be repaired and add a joint at this location to prevent future cracking. Remove and replace to the nearest joint in each direction. Grading and sod should be replaced in this area also to meet predevelopment conditions.
8. An inspection was not requested for the approach patch for the private drive prior to the concrete placement. The thickness of the concrete must be verified at 3172 Warwick Drive. Remove and replace to proper width and thickness as required.
9. An inspection was not requested for the two street crossing for sanitary sewer extensions for this project that required a "Concrete/Asphalt Tee Patch". The material and thickness of the repair must be verified. Remove and replace to proper width and thickness as required.
10. An inspection was not requested for the asphalt patch for the private drive connection to the public street. The material and thickness of the repair must be verified.
11. Clean up of all debris and excess construction material related to the project, including material placed on adjacent property.



THE CITY OF FAYETTEVILLE, ARKANSAS
CITY PLANNING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

www.accessfayetteville.org

April 13, 2010

Mr. Brian Teague
Community by Design
311 West Spring Street
Fayetteville, AR 72701

Via Email: brian@communitybydesignllc.com

Re: *Huntingdon Heights Inspection Status: AP#'s 37698, 37103, and 33957*

Dear Mr. Teague:

The permits at 3164 and 3153 Barnsbury Terrace (AP#'s 37698 and 34103, also known as Buildings A1 and A2 on the site plan) are in violation of City ordinance for exceeding the 90-day temporary certificate of occupancy. Staff has been working with you and the owner/developer for many months to try and finalize these two buildings and there has been no visible work completed on the property since approximately November 2009. The initial 30-day temporary certificates of occupancy were issued on December 15, 2009 and have been extended two times. The temporary certificates of occupancy expired on March 15, 2010. This letter is a final attempt to set deadlines to complete the project in a timely fashion prior to us sending this project to the City Prosecutor. Final certificates of occupancy are required to be obtained as soon as possible.

To follow up the meetings you and Mr. House have had with City staff regarding the final inspections, and as you committed to completing these items in your letter dated March 17, 2010, the following items need to be completed within the timeframe outlined below. Failure to meet the deadlines noted below will require the Development Services Division to send this project to the City Prosecutor:

Engineering Division (Glenn Newman 444-3424):

By **May 1, 2010** (since this is a Saturday, the City will conduct a final walk-through on April 30, 2010) the following items must be completed:

1. Provide a 2 year maintenance bond in the amount of 25% of the actual construction cost of all public improvements (water and sanitary sewer) for the project. Submit documentation of unit price breakdown of construction cost for approval.
2. A follow up certification from the GTS is required since it appears the retaining wall is bulging which may be an indicator that the structural integrity of the wall has been compromised. Confirm with the design engineer that the lack of 2 degree batter and the constructed height does not affect the structural integrity as GTS has indicated in their certification.
3. Safety railing must be installed on the retaining wall as shown on the original plans.
4. Safety railing must be installed adjacent to the entry way of building A2 due to the drop off and steep slope.
5. Grading must be completed at the electric transformer at the back/ west side of building A2.

THE CITY OF FAYETTEVILLE, ARKANSAS

6. Erosion between building A2 and A3 must be corrected and stabilized. Based on previous conversations, the city will accept rip-rap stabilization in this area.
7. Silt fence should be properly installed as required to contain sediment on site until vegetation has been established. This area must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code since last earthwork disturbance has been in excess of 14 days.
8. Remove the inlet protection for detention vault and use this volume as a sediment trap during construction, the bypass currently flowing into Warwick from the blocked inlets is not acceptable.
9. Remove all silt from the storm drainage system and vault.

If the above items are completed on schedule by May 1, 2010, the Engineering Division will recommend extending the Temporary Certificate of Occupancy for buildings A1 and A2 for an additional 45 days (until June 15, 2010) to complete the following tasks:

1. The workmanship of the concrete flume exiting on Warwick in front of building A1 is not acceptable and does not match the approved detail. Reconstruct to match detail and request inspection.
2. Grading beyond the project limits not shown on grading plan was not authorized. The disturbed area must be graded to a maximum of a 3:1 slope, utilities adjusted, and re-vegetated per 169.06(F)(4) *Revegetation* of the Unified Development Code. Written permission of adjacent property owner is not required, since this is the same owner.
3. The sidewalk and approach has settled and cracked on the east side of Warwick Drive where the new sanitary sewer main was installed in front of 3154 Warwick Drive. The back filling of the trench was not inspected nor was the placement of concrete for the sidewalk. The deficient areas shall be removed, subgrade should be inspected for firmness before placement of concrete for sidewalk.
4. The sidewalk that has cracked at the existing sanitary sewer man-hole on the north side of the driveway at 3172 Warwick Drive must be repaired and add a joint at this location to prevent future cracking. Remove and replace to the nearest joint in each direction. Grading and sod should be replaced in this area also to meet predevelopment conditions.

If the above items are completed on schedule by June 15, 2010 Engineering will recommend extending the TCO for buildings A1 and A2 for an additional 45 days (until July 30, 2010) to complete the following tasks:

1. An inspection was not requested for the approach patch for the private drive prior to the concrete placement. The thickness of the concrete must be verified at 3172 Warwick Drive. Remove and replace to proper width and thickness as required.
2. An inspection was not requested for the two street crossing for sanitary sewer extensions for this project that required a "Concrete/Asphalt Tee Patch". The material and thickness of the repair must be verified. Remove and replace to proper width and thickness as required.
3. An inspection was not requested for the asphalt patch for the private drive connection to the public street. The material and thickness of the repair must be verified.
4. Final removal all silt from the storm drainage system and vault.
5. Clean up of all debris and excess construction material related to the project, including material placed on adjacent property.

All above items must be completed and accepted by the city prior to July 30, 2010 which will allow the applicant to obtain a Final Certificate of Occupancy for buildings A1 and A2. There will be no additional extensions to the Temporary Certificate of Occupancy for buildings A1 and A2. Written documentation is

required by the Owner/Engineer for each milestone date confirming the required items are complete and have been inspected and accepted by the city Engineering Division.

Prior to obtaining a Temporary Certificate of Occupancy of Building A3 (The Last Building), the following items must be performed or provided to the satisfaction of the Engineering Division:

1. The work shown on the civil site package must be complete and the items on the final punch list completed.
2. One (1) set of as-built drawings (excluding details) of the complete project including drainage patterns as a hard copy and in Tiff or PDF format;
3. Certification that the streets, storm sewer, water and sewer lines, etc., were installed per approved plans and City of Fayetteville requirements;
4. Cross Sections, Volume Calculations, and Certification Retention/Detention Ponds are in accordance with the approved Drainage Report.
5. Surveyor's Certification of Compliance.
6. The As- Built Final Drainage Report as a hard copy and in PDF format.

Please note, site inspections, at the time Building A3 is complete, may identify additional requirements not included in this transmittal.

The engineer of record shall provide construction inspection for this project including the final inspection in the presence of city staff and generate the official punchlist.

The public works inspector (PWI) shall be notified no less than 48 hours prior to the installation of public utilities, infrastructure, roadway, etc. Testing shall be coordinated and scheduled with the PWI as well.

Please call to schedule the site inspection when the site work is being performed.

If you have any questions, please call Glenn Newman at 575-8206.

Solid Waste Division (Brian Pugh 718-7685):

- Prior to temporary CO for building A3 the dumpster enclosure with dumpster needs to be installed.

Tree and Landscape (Greg Howe 444-3470):

By May 1, 2010 numerous erosion issues listed above by the Engineering Division, and also noted below, need to be addressed:

- Erosion control fence and soil stabilization is lacking throughout the site, and soil is washing down the site into storm drainage. There is no erosion control at all on the south side of the driveway.

Prior to final CO for any of the buildings:

- The tree preservation area needs to be inspected and approved. Contact Greg Howe for a final inspection and review of the post-construction tree preservation plan.

- Landscape requirements must be completed including installation of two large species shade trees along the project's Warwick Street frontage. The existing trees and crepe myrtle recently planted do not meet code.

Fire Department (Mark Stevens 444-3448):

Prior to final CO the following items need to be completed:

- Buildings A1 and A2. Fire lane no parking area painted with red strips in front of Building A3.
- Buildings A1 and A2. All drive areas with 20-26 feet distance from curb face to curb face require NO PARKING FIRE LANE identification (Arkansas Fire Code D103.6.1) this is required because it is not a public street and is a fire access road (Arkansas Fire Code 502).
- Building A3.
 - Fire extinguishers provided and inspection tagged by a certified/licensed company located within 75 feet maximum travel distance from any location inside the residence (Arkansas Fire Code 906 and NFPA 10). Extinguishers may be installed in weather protected (plastic or metal) cabinets on the exterior of the building in locations that comply with the 75 feet travel distance requirement.
 - Proper building address numbers to be provided.

Building Safety (Vel Moses 575-8224):

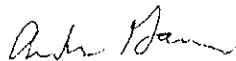
- Building A1 items to be completed: 101-Seal blocking under upper deck and seal all exterior holes i.e. HVAC, gas lines, cables, T&P; extend drain line below cable boxes within 6 inches of the ground; secure dryer vents; fix or remove temp power; vapor barrier incomplete in the crawl; remove trash and construction debris under the dwelling; grippable handrail (102) entry; light for the attic (103) move to access.
- Building A2. Has been completed
- Building A3. A final inspection has not been requested or conducted. Call to schedule a final inspection.

Planning (Andrew Garner 575-8262):

- Prior to final CO for Buildings A1, A2, or A3 the site work must be completed with parking spaces and drive aisles striped.
- Prior to final CO for Buildings A1 or A2, the non-conforming light fixtures throughout the development need to be removed or retro-fitted to meet City lighting ordinance, site erosion and clean-up issues need to be addressed, and two street trees installed.
- Prior to temporary CO for Building A3 the dumpster enclosure with dumpster shall be installed.

If you have any questions, please call me at 575-8262.

Sincerely,



Andrew Garner
Senior Planner

Cc: Greg House (ghouse@housesinc.com); Glenn Newman (gnewman@ci.fayetteville.ar.us); Brian Pugh (bpugh@ci.fayetteville.ar.us); Mark Stevens (mstevens@ci.fayetteville.ar.us); Terry Lawson (tlawson@ci.fayetteville.ar.us); Vel Moses (vmoses@ci.fayetteville.ar.us); Greg Howe (ghowe@ci.fayetteville.ar.us); Jeremy Pate (jpate@ci.fayetteville.ar.us)



THE CITY OF FAYETTEVILLE, ARKANSAS

www.accessfayetteville.org

March 25, 2010

Mr. Brian Teague
VIA EMAIL brian@communitybydesignllc.com

Re: Huntingdon Heights Response Letter Dated March 17, 2010

Dear Mr. Teague:

This letter is City staff's response to your letter dated March 17, 2010.

Staff agrees with your proposal that the dumpster enclosure be a requirement for temporary CO of building A3.

The City Engineering Division response is as follows:

- Staff agrees that items #1, #2, and #3 be performed now.
- Staff agrees with allowing the documentation items #1a, #1b, #1d-#1g be postponed until building A3 is ready for a TCO.
- Staff disagrees with allowing items #4-#11 to be required for TCO of building A3. Many of these items are specifically tied to building A1 & A2, specifically items #4, #6, #9, #10, #11 and should be completed with buildings A1 and A2.
- In addition to the above items, the safety railing is required above the retaining wall, hand railing is required on building A2 or eliminate drop off and make the slope no steeper than 3:1, and the erosion between building A2 and A3 must be stabilized, all of which have been discussed previously.

Please contact me if you have any questions.

Sincerely,

Andrew Garner
Senior Planner

cc: Greg House, Owner/Developer
Jeremy Pate, Development Services Director
Greg Howe, Urban Forester
Vel Moses, Building Safety Division
Brian Pugh, Solid Waste Division
Mark Stevens, Fire Department
Glenn Newman, Engineering Division
Chris Brown, Engineering Division



www.accessfayetteville.org

May 3, 2010

Mr. Brian Teague
Community by Design
311 West Spring Street
Fayetteville, AR 72701

Via Email: brian@communitybydesignllc.com

Re: *Huntingdon Heights Inspection Status: AP#'s 37698, 37103, and 33957*

Dear Mr. Teague:

As we have discussed with you on several occasions, the permits at 3164 and 3153 Barnsbury Terrace (AP#'s 37698 and 34103, also known as Buildings A1 and A2 on the site plan) are in violation of City ordinance for exceeding the 90-day temporary certificate of occupancy. Staff has been working with you and the owner/developer for many months to try and finalize these two buildings. A letter to you dated April 13, 2010 was a final attempt to set deadlines to complete the project in a timely fashion prior to us sending this project to the City Prosecutor. An initial deadline for several items was set for May 1, 2010. An inspection by the City on April 30, 2010 and your letter dated April 30, 2010, along with a check provided to the City on April 30, 2010 indicated adequate progress towards the May 1st checklist we have given you.

In order to continue progress towards finalizing the subject permits, the following items need to be completed within the timeframe outlined below. Failure to meet the deadlines noted below will require the Development Services Division to send this project to the City Prosecutor:

Engineering Division (Glenn Newman 444-3424):

By **June 1, 2010** the following item must be completed:

1. Provide a 2 year maintenance bond or letter of credit in the amount of 25% of the actual construction cost of all public improvements (water and sanitary sewer) for the project. A check covering the required amount was submitted on April 30, 2010, with the request by the bank to not cash the check for a period of 30 days, to allow adequate time to process a letter of credit.

If the above items are completed on schedule by June 1, 2010, the Engineering Division will recommend extending the Temporary Certificate of Occupancy for buildings A1 and A2 for an additional 14 days (until **June 15, 2010**) to complete the following tasks:

1. All exposed soil, specifically to the north of A3 be temporary seeded as required in the grading ordinance where construction activities have ceased for more than 15 days, in accordance with UDC 169.06(F)(4).
2. Staff has concerns with the functionality of the rip rap provided between buildings A2 and A3. This should be reevaluated with staff by the deadline.

3. The workmanship of the concrete flume exiting on Warwick in front of building A1 is not acceptable and does not match the approved detail. Reconstruct to match detail and request inspection.
4. Grading beyond the project limits not shown on grading plan was not authorized. The disturbed area must be graded to a maximum of a 3:1 slope, utilities adjusted, and re-vegetated per 169.06(F)(4) *Revegetation* of the Unified Development Code. Written permission of adjacent property owner is not required, since this is the same owner.
5. The sidewalk and approach has settled and cracked on the east side of Warwick Drive where the new sanitary sewer main was installed in front of 3154 Warwick Drive. The back filling of the trench was not inspected nor was the placement of concrete for the sidewalk. The deficient areas shall be removed, subgrade should be inspected for firmness before placement of concrete for sidewalk.
6. The sidewalk that has cracked at the existing sanitary sewer man-hole on the north side of the driveway at 3172 Warwick Drive must be repaired and add a joint at this location to prevent future cracking. Remove and replace to the nearest joint in each direction. Grading and sod should be replaced in this area also to meet predevelopment conditions.

If the above items are completed on schedule by June 15, 2010 Engineering will recommend extending the TCO for buildings A1 and A2 for an additional 45 days (until July 30, 2010) to complete the following tasks:

1. An inspection was not requested for the approach patch for the private drive prior to the concrete placement. The thickness of the concrete must be verified at 3172 Warwick Drive. Remove and replace to proper width and thickness as required.
2. An inspection was not requested for the two street crossing for sanitary sewer extensions for this project that required a "Concrete/Asphalt Tee Patch". The material and thickness of the repair must be verified. Remove and replace to proper width and thickness as required.
3. An inspection was not requested for the asphalt patch for the private drive connection to the public street. The material and thickness of the repair must be verified.
4. Final removal all silt from the storm drainage system and vault.
5. Clean up of all debris and excess construction material related to the project, including material placed on adjacent property.
6. The temporary electrical service (no longer being used) behind building A2 shall be removed as a safety concern.

All above items must be completed and accepted by the city prior to July 30, 2010 which will allow the applicant to obtain a Final Certificate of Occupancy for buildings A1 and A2. There will be no additional extensions to the Temporary Certificate of Occupancy for buildings A1 and A2. Written documentation is required by the Owner/Engineer for each milestone date confirming the required items are complete and have been inspected and accepted by the city Engineering Division.

Prior to obtaining a Temporary Certificate of Occupancy of Building A3 (The Last Building), the following items must be performed or provided to the satisfaction of the Engineering Division:

1. The work shown on the civil site package must be complete and the items on the final punch list completed.
2. One (1) set of as-built drawings (excluding details) of the complete project including drainage patterns as a hard copy and in Tiff or PDF format;

3. Certification that the streets, storm sewer, water and sewer lines, etc., were installed per approved plans and City of Fayetteville requirements;
4. Cross Sections, Volume Calculations, and Certification Retention/Detention Ponds are in accordance with the approved Drainage Report.
5. Surveyor's Certification of Compliance.
6. The As- Built Final Drainage Report as a hard copy and in PDF format.

Please note, site inspections, at the time Building A3 is complete, may identify additional requirements not included in this transmittal.

The engineer of record shall provide construction inspection for this project including the final inspection in the presence of city staff and generate the official punchlist.

The public works inspector (PWI) shall be notified no less than 48 hours prior to the installation of public utilities, infrastructure, roadway, etc. Testing shall be coordinated and scheduled with the PWI as well.

Please call to schedule the site inspection when the site work is being performed.

If you have any questions, please call Glenn Newman at 575-8206.

Solid Waste Division (Brian Pugh 718-7685):

- Prior to temporary CO for building A3 the dumpster enclosure with dumpster needs to be installed.

Tree and Landscape (Greg Howe 444-3470):

Prior to final CO for any of the buildings:

- Permanent erosion control and soil stabilization throughout the site needs to be installed and inspected.
- The tree preservation area needs to be inspected and approved. Contact Greg Howe for a final inspection and review of the post-construction tree preservation plan.
- Landscape requirements must be completed including installation of two large species shade trees along the project's Warwick Street frontage. The existing trees and crepe myrtle recently planted do not meet code.

Fire Department (Mark Stevens 444-3448):

Prior to final CO the following items need to be completed:

- Buildings A1 and A2. Fire lane no parking area painted with red strips in front of Building A3.
- Buildings A1 and A2. All drive areas with 20-26 feet distance from curb face to curb face require NO PARKING FIRE LANE identification (Arkansas Fire Code D103.6.1) this is required because it is not a public street and is a fire access road (Arkansas Fire Code 502).
- Building A3.

- Fire extinguishers provided and inspection tagged by a certified/licensed company located within 75 feet maximum travel distance from any location inside the residence (Arkansas Fire Code 906 and NFPA 10). Extinguishers may be installed in weather protected (plastic or metal) cabinets on the exterior of the building in locations that comply with the 75 feet travel distance requirement.
- Proper building address numbers to be provided.

Building Safety (Vel Moses 575-8224):

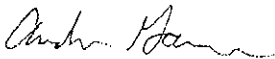
- Building A1 items to be completed: 101-Seal blocking under upper deck and seal all exterior holes i.e. HVAC, gas lines, cables, T&P; extend drain line below cable boxes within 6 inches of the ground; secure dryer vents; fix or remove temp power; vapor barrier incomplete in the crawl; remove trash and construction debris under the dwelling; grippable handrail (102) entry; light for the attic (103) move to access.
- Building A2. Has been completed
- Building A3. A final inspection has not been requested or conducted. Call to schedule a final inspection.

Planning (Andrew Garner 575-8262):

- Prior to final CO for Buildings A1, A2, or A3 the site work must be completed with parking spaces and drive aisles striped.
- Prior to final CO for Buildings A1 or A2, the non-conforming light fixtures throughout the development need to be removed or retro-fitted to meet City lighting ordinance, site erosion and clean-up issues need to be addressed, and two street trees installed.
- Prior to temporary CO for Building A3 the dumpster enclosure with dumpster shall be installed.

If you have any questions, please call me at 575-8262.

Sincerely,



Andrew Garner
Senior Planner

Cc: Greg House (ghouse@housesinc.com); Glenn Newman (gnewman@ci.fayetteville.ar.us); Brian Pugh (bpugh@ci.fayetteville.ar.us); Mark Stevens (mstevens@ci.fayetteville.ar.us); Terry Lawson (tlawson@ci.fayetteville.ar.us); Vel Moses (vmoses@ci.fayetteville.ar.us); Greg Howe (ghowe@ci.fayetteville.ar.us); Jeremy Pate (jpate@ci.fayetteville.ar.us)

THE CITY OF FAYETTEVILLE, ARKANSAS
ENGINEERING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443



www.accessfayetteville.org

December 6, 2010
Eng # 7968

Greg House
House Inc.
217 N East Ave
Fayetteville, AR 72701

Re: Huntingdon Heights Lot 28
Temporary Certificate of Occupancy for Building A3
Engineering Requirements

Dear Mr. House:

In response to your request to obtain a Temporary Certificate of Occupancy (TCO) for Building A3 made to Building Safety December 2, 2010, we have prepared a list of outstanding items that will need to be completed to the satisfaction of the Engineering Division as identified below, before Engineering approval will be given:

1. The existing concrete patch in the driveway at 3172 Warwick Drive is not acceptable and must be corrected as specified below and as detailed in the attached sketch. As you are aware, the existing patch was constructed without supervision or inspection by the Engineering Division, and does not meet standards of acceptability with regard to the limits of the patch or the concrete finish.
 - a. Remove the existing concrete patch and continue the saw cut south, the width of the driveway, saw cut along the edge of pavement, remove the existing concrete, place new 6" thick concrete the width of the driveway for a total of approximately 100 sf, finish to match existing surface.
 - b. Coordinate with the property owner to minimize disruption, multiple repair phases may be required.
 - c. Contact Chuck Rutherford to schedule inspection before placement of new concrete.
2. Final removal all silt from the storm drainage system and vault is required.
3. Remove the chlorination piping used to test the water main and backfill the area.

After these items are completed, please contact the Engineering Division for a final inspection.

In addition to the construction related items listed above, the following items must be performed or provided to the satisfaction of the Engineering Division prior to Engineering approval of a TCO:

1. The work shown on the civil site package must be complete and the items on the final punch list completed.
2. One (1) set of as-built drawings (excluding details) of the complete project including drainage patterns as a hard copy and in Tiff or PDF format;
3. Certification that the streets, storm sewer, water and sewer lines, etc., were installed per approved plans and City of Fayetteville requirements;
4. Cross Sections, Volume Calculations, and Certification Retention/Detention Ponds are in accordance with the approved Drainage Report.
5. Surveyor's Certification of Compliance.
6. The As- Built Final Drainage Report as a hard copy and in PDF format.

If you have any questions, please call me at 575-8206.

Sincerely,

Chris Brown, P.E.,
City Engineer



Contact homeowner
and schedule to
minimize disruption,
may have two
separate pours.

Remove and replace
approximately 100 sf of
apron with 6" concrete.
Sawcut to create smooth
straight lines. Finish to
match existing surface.
Call Chuck Rutherford
575-8291 to schedule an
inspection before
placing concrete.

Greg House

From: Greg House [ghouse@housesinc.com]
Sent: Tuesday, December 07, 2010 4:46 PM
To: 'Andrew Garner'; 'jpate@ci.fayetteville.ar.us'
Cc: 'Brian Teague'
Subject: FW: Huntingdon Heights Lot 28
Attachments: Conditions for A3.pdf

Gentlemen – On May 3, 2010 in a letter to Brian, Andrew clarified where we stood with respect to the items that needed to be addressed and the deadlines for each as part. In reliance on that letter we moved forward and have completed all the physical work required therein. In addressing the issue of the approach patch for 3172 Warwick, I specifically asked the inspection department how they suggested that "the thickness of the concrete ... be verified", as stated in Andrew's letter. I asked if we should do a core drill or just expose the pour by digging adjacent to the patch, it was determined that exposing the edge by digging was sufficient, which we did and this was observed by Bob. To be asked to remove this patch for a third time, when this was not in the scope of work detailed in the May understanding and considering the fact that the "patch" has been in place for over a year and a half with no signs of failure, and that we have posted a maintenance bond for public improvements seems patently unreasonable. Please advise – Greg House

From: Glenn Newman [mailto:gnewman@ci.fayetteville.ar.us]
Sent: Tuesday, December 07, 2010 9:10 AM
To: 'Greg House'
Cc: Chris Brown
Subject: Huntingdon Heights Lot 28

Mr. House,

Please see the attached letter identifying the necessary items to obtain the TCO for the referenced project as it relates to the Engineering Division.

Glenn E. Newman, Jr., P.E.
Staff Engineer
City of Fayetteville Engineering Department
113 W. Mountain, Fayetteville, AR 72701
p. 479-575-8206 f. 479-575-8202
<http://www.accessfayetteville.org>
Telecommunication Device for the Deaf
TDD 479-521-1316

Greg House

From: Jeremy Pate [jpate@ci.fayetteville.ar.us]
Sent: Wednesday, December 22, 2010 3:06 PM
To: ghouse@housesinc.com
Subject: Huntingdon Heights Follow-up

Greg,

I did some research into other projects that we have inspected in the past, along with projects where the city has made water/sewer taps that affected existing driveways. In those cases, we have required a full driveway approach be replaced, so what I am seeing Chris detail for you is common practice. I guess I'm not sure where the misunderstanding is, if this is the same policy we have used for years for both public and private projects. You are welcome to sit down with Chris specifically so that everyone is clear where a sawcut is needed and to what extent concrete would need to be replaced in the driveway repair; however, I would highly recommend that you make sure the area for construction is inspected and signed off on before proceeding with another patch. The engineering division has had this same discussion for a number of months now, with what I feel is the same message being conveyed. I have not heard another message being communicated other than the existing patch is not acceptable; my recommendation is to follow through with this punch list item in order to move forward with Huntingdon Heights.

thanks,
Jeremy

Jeremy C. Pate
Development Services Director
City of Fayetteville, Arkansas

Greg House

From: Greg House [ghouse@housesinc.com]

Sent: Thursday, January 06, 2011 2:34 PM

To: 'jpate@ci.fayetteville.ar.us'

Cc: 'kwilliams@ci.fayetteville.ar.us'

Subject: Huntingdon Heights

Jeremy – I am in receipt of Andrew Garner's communication of this morning stating that it is your decision that you will deny our request for TCO's for the building we have been calling A3 in Huntingdon Heights until we finish the apron at 3172 Warwick in the manner specified in your last communication with me. As you know I disagree with your position with respect to the necessity of this work and that it is our position that all that was required was verification of the patch's thickness as per Andrew's letter of May 3, 2010.

After a discussion with Kit this morning per his suggestion, I would propose the following; Huntingdon Heights (hereafter HH) will lodge an appeal of your decision with the City Council this afternoon. In the interim, assuming all the other requirements have been met per the May 3, 2010 letter, HH be granted TCO's for building A3. If HH's appeal is not successful, within 45 days of the council's decision HH will redo the apron according to the specifications outlined in your email of Dec. 22nd, 2010. In the meantime the City is protected by the bond that has already been posted.

HH has tenants ready to move in at a moments notice if permitted and HH has obligations to its lender as well as other expenses that accrue on a daily basis, therefore, if TCO's for these units are not granted, HH will be irreparably harmed and will be forced to seek other remedies if we cannot reach an agreement as to the best way to move forward. I will need a response by noon tomorrow in order to best protect HH's interests.

Respectfully,

Greg House
for Huntingdon Heights, LLC
217 N. East Ave.
Fayetteville, AR 72701
Phone: (479) 521-9155
Fax: (479) 521-6199
ghouse@housesinc.com
www.housesinc.com

Agenda Session 1-25-11

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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
February 01, 2011**

A meeting of the Fayetteville City Council will be held on February 01, 2011 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

City Council Agenda Session Presentations:

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

- ✓ Approval of the January 18, 2011 City Council meeting minutes.
- ✓ **Community Development Block Grant (CDBG):** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) agreement for 2011 when received in the estimated amount of \$700,000.00.

Ask Jason
to change?

3. **Ranger's Pantry Pet Food Bank:** A resolution approving a budget adjustment in the total amount of \$1,861.55 representing donation revenue received for the Ranger's Pantry Pet Food Bank.
4. **Joe Perme Construction Inc. Change Order:** A resolution approving a change order to the contract with Joe Perme Construction Inc. in the amount of \$2,700.00 for Community Development Block Grant rehabilitation at 1932 South Garland.
5. **Pinkley Sales Company and Smith Two-Way Radio, Inc. Donation Revenue:** A resolution approving a budget adjustment in the amount of \$300.00 representing donation revenue received for the Fire Department's annual employee service awards events.
6. **Civil Service Trials Legal Representation:** A resolution to approve contracts with law firms selected by the Police and Fire Chiefs to represent them during any civil service trials in 2011 with options to renew.

B. Unfinished Business: None

C. New Business:

1. **VAC 10-3707 (Kum & Go):** An ordinance approving VAC 10-3707 submitted by CEI Engineering Associates, Inc. for property located at 2396 North College Avenue, to vacate an existing sewer easement on the property, as described herein.
2. **RZN 10-3724 (Boudreaux/Thiel, 120 & 124 Sycamore Street):** An ordinance rezoning that property described in rezoning petition RZN 10-3724, for approximately 1.28 acres, located at 120 and 124 Sycamore Street from R-O, Residential Office, to C-S, Community Services.
3. **Amend §71.170 Restriction of Type of Vehicles Allowed on City Trails:** An ordinance to amend §71.170 Restriction of Type of Vehicles Allowed on City Trails of the Fayetteville Code to allow some pedicab use and use of gas powered vehicles on limited segments of trails when necessary.
4. **Amend Title XV: ADM 09-3480 (Streamside Protection):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 155: Appeals, Chapter 156: Variances, and Chapter 168: Flood Damage Prevention Code in order to establish Streamside Protection Zones and adopt a Protected Streams map and Best Management Practices Manual.
5. **Huntingdon Heights Appeal:** An appeal of the City Engineer's determination regarding the driveway approach at 3172 Warwick Dr.

Announcements:

Adjournment:

*Teur: Huntingdon Heights Appeal 4:30 January 31, 2011
3172 Warwick*

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Pre-Agenda Meeting

Aldermen

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



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Pantry

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Trial

trial

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Handed Out at the City Council
Meeting 2/3/2011



SIERRA
CLUB
FOUNDED 1892

February 3, 2011

Dear Mayor Jordan and Fayetteville City Council Members,

The Arkansas Sierra Club is a statewide environmental organization comprising approximately 2,000 members, many who live in Fayetteville. In the past we have participated in the public discussion of many environmental matters in Fayetteville including the organization of the City's recycling and solid waste programs, the tree and landscaping ordinance, the trail system, the Wilson Springs issue and many more. We now wish to show our support for the Streamside Preservation Ordinance coming before the Fayetteville City Council for approval. The Sierra Club supports the efforts of the City of Fayetteville to adopt a strong, science-based streamside protection ordinance that will protect and improve water quality in our creeks, in the Illinois River and the West Fork of the White River, reduce stormwater runoff and pollutant discharges, ensure groundwater recharge, beautify the city, and improve the quality of life for all its residents. Protecting the region's rivers, streams and aquifers is everyone's responsibility, and we applaud the City Council for demonstrating leadership in this policy area and keeping Fayetteville on the leading edge of municipal governance. The proposed ordinance before the City Council is the result of many hours of collaborative work by city professional staff and volunteer experts from a variety of scientific and technical disciplines.

This ordinance will also protect landowners' property rights by reducing pollution, flooding and blight, in turn benefitting us all with higher property values and ensuring that Fayetteville continues to be among the most desirable and attractive places to live and work in America. The Sierra Club urges the adoption of this ordinance without any weakening amendments. Thank you for your work on this issue.

Sincerely,

A handwritten signature in dark ink that reads "Tom McKinney". The signature is fluid and cursive, with the last name being more prominent.

Tom McKinney
Conservation Chair
Arkansas Sierra Club
479-839-8571