

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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
August 16, 2011**

A meeting of the Fayetteville City Council will be held on August 16, 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 August 2, 2011 City Council meeting minutes. **APPROVED**
2. **Dell Marketing – Computer Servers:** A resolution authorizing the purchase of two (2) high performance computer servers with associated equipment in the amount of \$104,501.90 from Dell Marketing pursuant to bids through the Western States Contracting Alliance.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 137-11

3. **Office of Intergovernmental Services Division Grant – Underage Drinking Laws:** A resolution authorizing acceptance of a grant in the amount of \$31,500.00 from the Office of Intergovernmental Services Division of the Arkansas Department of Finance and Administration to enforce underage drinking laws, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 138-11

4. **Fayetteville Chamber of Commerce:** A resolution approving a participation and unsecured loan agreement with the Fayetteville Chamber of Commerce to perform energy retrofit services in the amount of \$13,918.00 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 139-11

5. **Mount Sequoyah Center, Inc.:** A resolution approving a participation and unsecured loan agreement with Mount Sequoyah Center, Inc. to perform energy retrofit services in the amount of \$121,000.08 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 140-11

6. **CPS of NWA, Inc. (Bid #11-47):** A resolution awarding Bid #11-47 and approving a contract with CPS of NWA, Inc. in the amount of \$35,200.00 for the purchase of spray foam and insulation as part of the Community Revolving Loan Fund for Energy Efficiency, and approving a fifteen percent (15%) project contingency.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 141-11

7. **Community Services Donation Revenue:** A resolution approving a budget adjustment in the total amount of \$478.00 representing \$228.00 in citizen donation revenue to the Ranger's Pantry Pet Food Bank for the second quarter of 2011 and a \$250.00 donation from the University of Arkansas Student Affairs Office for the Fest of All event.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 142-11

8. **Grant Offer Acceptance:** A resolution authorizing application and acceptance of a Federal Aviation Administration 95% project cost grant and an Arkansas Department of Aeronautics 5% matching grant, for the Drake Field Runway Rejuvenation Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 143-11

9. **CDBG Reimbursement:** A resolution to approve a contract to release Habitat For Humanity of Washington County, Inc. and the City of Fayetteville from The Real Estate Sales Contract of November 15, 2006 and to reconvey the property to the City of Fayetteville and to approve a budget adjustment of \$90,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 144-11

10. Benefits Renewal: A resolution approving a 2012 employee benefits package.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 145-11

B. Unfinished Business:

- 1. RZN 11-3870 (2012 West Martin Luther King Blvd./USA Drug):** An ordinance rezoning that property described in rezoning petition RZN 11-3870, for approximately 0.50 acres, located at 2012 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family 24 units per acre to C-1, Neighborhood Commercial. *This ordinance was left on the First Reading at the August 2, 2011 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5430

- 2. Revised Master Street Plan:** A resolution approving and adopting a revised Master Street Plan and street cross-sections. *This resolution was tabled at the June 21, 2011 City Council meeting to the July 5, 2011 City Council meeting. This resolution was tabled at the July 5, 2011 City Council meeting to the August 16, 2011 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 146-11

C. New Business:

- 1. Amend Chapter 169 & Chapter 170:** An ordinance to amend sections of Chapter 169: Physical Alteration of Land and Chapter 170: Stormwater Management, Drainage and Erosion Control.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5431

- 2. RZN 11-3880 (736 North Garland Avenue):** An ordinance rezoning that property described in rezoning petition RZN 11-3880 for approximately 0.10 acres, located at 736 North Garland Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to CS, Community Services.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5432

- 3. RZN 11-3877 (130 South Hill Ave./Eco Modern Flats):** An ordinance rezoning that property described in rezoning petition RZN 11-3877, for approximately 2.92 acres, located at 130 South Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5433

4. **Amend R-PZD 04-01.00, Southern View II PZD:** An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrall east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #26, Multi-Family dwellings, as a permitted use throughout all of the space in the six existing mixed-use buildings on the subject property, as described herein.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5434

5. **Amend §172.05 Standards For The Number Of Spaces By Use:** An ordinance to amend §172.05 Standards For The Number Of Spaces By Use, Table 3 Parking Ratios to clarify that spaces at gasoline pump islands may be counted as parking spaces.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5435

6. **RZN 11-3883 (636 South Foster Lane):** An ordinance rezoning that property described in rezoning petition RZN 11-3883, for approximately 1.29 acres, located at 636 South Foster Lane from RSF-1, Residential Single-Family, 1 unit per acre to R-A, Residential Agricultural.

THIS ITEM FAILED.

City Council Tour: Monday, August 15, 2011 at 4:30 p.m. The Council will tour the Water/Sewer Facility, Tanks, and Pump Stations.

Announcements:

Adjournment: 10:30 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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

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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.

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

9-0

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

Subject:	Consent				
Motion To:		Approve			
Motion By:		Boudreaux			
Seconded:		Tennant			
Minutes approved passed 137-11 thru 145-11	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Mayor Jordan				

8-0

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

Subject:	RZN 11-3870 (2012 West Martin Luther King Blvd./USA Drug)				
Motion To:		2nd Read	Rezone to Community Services	3rd Read	Passed
Motion By:		Lewis	Lewis	Tennant	
Seconded:		Ferrell	Adams	Ferrell	
B. 1 Unfinished Business <u>passed</u> 5430	Gray	✓	N	✓	✓
	Boudreaux	✓	N	✓	✓
	Kinion	✓	N	✓	✓
	Petty	✓	✓	✓	✓
	Tennant	✓	N	✓	✓
	Ferrell	✓	N	✓	✓
	Adams	✓	✓	✓	✓
	Lewis	✓	✓	N	N
	Mayor Jordan				

8-0

3-5

7-1

7-1

Subject:	Revised Master Street Plan				
Motion To:	Howard Nickell Road remain an arterial classification	Approve			
Motion By:	Petty	Petty			
Seconded:		Lewis			
B. 2 Unfinished Business <u>passed</u> 146-11	Gray	✓	✓		
	Boudreaux	N	✓		
	Kinion	N	✓		
	Petty	✓	✓		
	Tennant	N	✓		
	Ferrell	✓	✓		
	Adams	✓	✓		
	Lewis	✓	✓		
	Mayor Jordan				

5-3

8-0

Subject:		Amend Chapter 169 & Chapter 170			
Motion To:					
		2nd Read	3rd Read	Pass	
Motion By:					
		Petty	Ferrell		
Seconded:					
		Ferrell	Adams		
C. 1 New Business <u>passed</u> 5431	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:		RZN 11-3880 (736 North Garland Avenue)			
Motion To:					
		2nd Read	3rd Read	Pass	
Motion By:					
		Ferrell	Lewis		
Seconded:					
		Boudreaux	Ferrell		
C. 2 New Business <u>passed</u> 5432	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:					
RZN 11-3877 (130 South Hill Ave./Eco Modern Flats)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Kinion		
Seconded:		Adams	Ferrell		
C. 3 New Business <u>Passed</u> 5433	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:					
Amend R-PZD 04-01.00, Southern View II PZD					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Lewis		
Seconded:		Adams	Adams		
C. 4 New Business <u>Passed</u> 5434	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject: Amend §172.05 Standards For The Number Of Spaces By Use					
Motion To:		Amend to "may"	2nd Read	3rd Read	Pass
Motion By:		Lewis	Ferrell	Tennant	
Seconded:		Ferrell	Lewis	Ferrell	
C. 5 New Business <u>Passed</u> 5435	Gray	✓	✓	✓	✓
	Boudreaux	✓	✓	✓	✓
	Kinion	✓	✓	✓	✓
	Petty	✓	✓	✓	✓
	Tennant	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Adams	✓	✓	✓	✓
	Lewis	✓	✓	✓	✓
	Mayor Jordan				

8-0

8-0

8-0

8-0

Subject: RZN 11-3883 (636 South Foster Lane)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Boudreaux	Boudreaux		
Seconded:		Petty	Gray		
C. 6 New Business <u>Failed</u>	Gray	✓	✓	N	
	Boudreaux	✓	✓	N	
	Kinion	✓	✓	N	
	Petty	✓	✓	✓	
	Tennant	✓	✓	N	
	Ferrell	✓	✓	N	
	Adams	✓	✓	N	
	Lewis	✓	✓	N	
	Mayor Jordan				

8-0

8-0

1-7



TO: Mayor Jordan

Kit Williams
City Attorney

THRU: Sondra Smith, City Clerk

Jason B. Kelley
Assistant City Attorney

FROM: Kit Williams, City Attorney

DATE: August 17, 2011

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of August 16, 2011

1. **Dell Marketing – Computer Servers:** A resolution authorizing purchase of two high performance computer servers with associated equipment in the amount of \$104,501.90 from Dell Marketing pursuant to bids through the Western States Contracting Alliance
2. **Office of Intergovernmental Services Division Grant – Underage Drinking Laws:** A resolution authorizing acceptance of a grant in the amount of \$31,500.00 from the Office of Intergovernmental Services Division of the Arkansas Department of Finance and Administration to enforce underage drinking laws, and approving a budget adjustment.
3. **Fayetteville Chamber of Commerce:** A resolution approving a participation and unsecured loan agreement with the Fayetteville Chamber of Commerce to perform energy Retro-fit services in the amount of \$13,918.00 as part of the City of Fayetteville Community Revolving Loan Fund for energy efficiency.
4. **Mt. Sequoyah Center, Inc.:** A resolution approving a contract and loan agreement with Mt. Sequoyah Center, Inc. to perform energy Retro-fit services in the amount of \$121,000.08 as part of the City of Fayetteville Community Revolving Loan Fund for energy efficiency.
5. **CPS of NWA, Inc. (Bid #11-47):** A resolution awarding Bid #11-47 and approving a contract with CPS of NWA, Inc. in the amount of \$35,200.00 for the purchase of spray foam and insulation as part of the Community Revolving Loan Fund for energy efficiency and approving a 15% project contingency.

6. **Community Services Donation Revenue:** A resolution approving a budget adjustment in the total amount of \$478.00 representing \$228.00 in Citizen Donation Revenue to the Ranger's Pantry Pet Food Bank for the Second Quarter of 2011 and a \$250.00 donation from the U of A Student Affairs Office for the Fest of All Event.
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9. **Benefits Renewal:** A resolution approving a 2012 Employee Benefits Package.
10. **Amendment to §172.05 Standards for the Number of Spaces by Use:** An ordinance to amend §172.05 **Standards for the Number of Spaces By Use**, Table 3 **Parking Ratios** to clarify that spaces at gasoline pump islands may be counted as parking spaces.

Mayor Lioneld Jordan
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Left on the First Reading

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RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #11-47 AND APPROVING A CONTRACT WITH CPS OF NWA, INC. IN THE AMOUNT OF \$35,200.00 FOR THE PURCHASE OF SPRAY FOAM AND INSULATION AS PART OF THE COMMUNITY REVOLVING LOAN FUND FOR ENERGY EFFICIENCY, AND APPROVING A FIFTEEN PERCENT (15%) PROJECT CONTINGENCY

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #11-47 and approves a contract with CPS of NWA, Inc. in the amount of \$35,200.00 for the purchase of spray foam and insulation as part of the community revolving loan fund for energy efficiency.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a fifteen percent (15%) project contingency.

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Sondra Smith - Foam Insulation Contract - Contingency

From: John Coleman
To: Smith, Sondra
Date: 8/4/2011 10:28 AM
Subject: Foam Insulation Contract - Contingency

I need to increase the contingency from 10% to 15% on the foam insulation contract.

Thank you,

John

RESOLUTION NO. _____

A RESOLUTION APPROVING A 2012 EMPLOYEE BENEFITS PACKAGE

**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 2012 employee benefits package as recommended in the staff memorandum attached as Exhibit "A".

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

August 3, 2011

Dear Council Members:

Subject: RZN 11-3883 (Double Springs and Foster Lane)

In 2006 my land was annexed into the city of Fayetteville. My property is literally on the border of Fayetteville's city limits. It bothers me greatly to think that property owners who are on the outer limits might not be offered the full protection of zoning ordinances that citizens who are more centrally located are afforded. I do not have the benefit of city water or city sewer even though the water from the new sewage treatment plant runs through my back yard. However, I accepted this because I felt that the benefit of city zoning and ordinances would offset the negatives.

Now it appears that zoning ordinances aren't as protected as one would think. The area of the proposed rezoning is currently zoned residential 1 with adjacent properties also zoned the same. This zoning allows for single family homes. The new property owner is requesting rezoning to allow for a horse. Residential, not agricultural, is the zoning that the citizens petitioned for in 2006 and the city agreed upon at the time of annexation. Here is my concern: the surrounding citizens essentially entered into a contract with the city of Fayetteville in which the city would enforce the zoning regulations that were agreed upon at the time of annexation. Surrounding homeowners did not apply for annexation without thought or examination. Many discussions were held prior to arriving at the decision to zone residential, not agricultural. City ordinance number 4923 specifically stated that agricultural land could be annexed (and it was) but in the future *"prospective uses will likely be determined to be higher and better use than agricultural or horticultural purposes."* Current agricultural practices were "grandfathered" in but would not be allowed to continue indefinitely into the future.

Citizens purchase property within zones for specific reasons and protections. Ideally, a purchaser would only buy land suitable for his or her intended purpose and failure to do so should not be a detriment to surrounding neighbors. Decisions that were made previously should not be negated because it no longer suits one individual. Zoning issues must be viewed on a long term basis, not on a case by case basis. Failure to take a long term view results in a hodge-podge approach which eventually will negatively affect all area property owners. This is especially true in the outlying area as we are transitioning into a more residential area. Zoning ordinances within city limits offer homeowners security and comfort knowing that their property values are being protected. Zoning ordinances should be upheld on the perimeter of the city just as they would be in any other part of our city. As a life-long resident of the area, it saddens me to know we as a city may be taking a step backwards.

Fayetteville is viewed as a progressive city with a high quality of life. Sometimes progress comes with knowing when to say "no." This request for rezoning should be denied on the basis that the city should uphold the zoning ordinances agreed upon in 2006 regardless if the property is on the outskirts of Fayetteville or sitting in the middle of town. If this rezoning passes, it indicates that for those of us on the outskirts, Fayetteville's zoning ordinances are not ordinances at all, merely suggestions. It is unfortunate that the homeowner did not research the zoning prior to the time the purchase of the property; however, do the wishes of one new property owner supersede the rights of the surrounding homeowners who are complying with the city's zoning regulation? If so, then it appears that the city's zoning ordinances are becoming a menu of self-select options which do not offer the citizens the zoning protections they voted for.

Sincerely,

Trina Pergeson
8333 Goose Creek Rd.
Farmington, AR
72730

Dear Council Members,

Thank you for taking the time to discuss with us the rezoning request on the corner of Double Springs and Foster Lane. Our entire neighborhood is distraught over this proposal.

I have reviewed your information packet for this rezoning and have found several mistakes in your planning staff's report that are vital to your understanding of our position.

I am not sure if we have ever really met or not, so I will take a few minutes to introduce myself. My name is Heather Dumas. I worked for the City of Fayetteville's Planning Department during the mid-90's, then severed as City Clerk from 1998- 2002 before returning back to the Farmington area to serve as their City Manager for two years. During my time at Fayetteville I worked to help develop what they referred to then as the UDO, Unified Development Ordinance.

During my tenure at the city, Fayetteville experienced unprecedented growth which in turn led to intensive debates over proper land use and growth management. Needless to say I have sat through hundreds, if not thousands of hours, of meetings regarding the growth, planning, and the services of our city. My degree in Landscape Architecture further enhances my understanding of issues relating to appropriate land use. I am by no means a novice when it comes to the discussion of development, the appropriate uses of land, and interpretation of codes and ordinances.

In 2006, twenty-six property owners chose to annex over 405 acres into the City of Fayetteville. This effort closed the gap between the City of Farmington and the City of Fayetteville between Double Springs Road and 54th Street. At this time this area had over five subdivisions under review with over 1,500 homes proposed of all which were located in the County and were going to be developed to county standards.

All this potential development spurred a race between the cities of Farmington and Fayetteville over who would annex this area into their city limits. Farmington was the first to file for a special election to annex, which basically meant this entire 405 acres was going into the City of Farmington and there was nothing the City of Fayetteville could do about it.

Being in the unique position of having worked for both cities, I knew the advantage and disadvantages of each one on a very intimate level and personally did not want to be annexed into Farmington. After extensive discussions involving the pros and cons of each city with family, neighbors, and fellow property owners, we retained an attorney and petitioned to be

annexed into the city of Fayetteville. Fortunately, we were able to pull it all together and meet all the requirements set forth by the State of Arkansas with one day to spare. I want to stress to you that this was not an easy or inexpensive accomplishment for us. Had we made one mistake or delayed our actions by one day all of this property would now be located within Farmington City limits and they would be collecting our tax dollars.

The twenty-six people who signed the petition unanimously agreed and truly believed the City of Fayetteville's development and zoning regulations could and would protect our personal interest much better than Farmington's regulations could. I would like to make it clear that none of us, especially the old timers with the largest parcels of farm land, wanted our way of life to change, but we are practical people. We realized that it was just a matter of time before this area was entirely residential as it was the only realistic use left for the land. It had become too expensive to purchase as farmland. No one would ever be able to cash flow a real farm if they purchased the land at market value and none of children were interested in farming. Thus, we made the conscious decision to be annexed in as Residential property rather than Agriculture. Why should we be naive enough to believe this property will remain farm land? I realize that your future land use plans suggest such a use, but for all practical purposes, unless you inherit a farm in this location, you could never afford to purchase and use this land for agricultural purposes, unless you intend to build chicken houses.

At the time of annexation extensive discussions were held involving the appropriate use and density of the 400 acres. Although much higher density was debated, it was ultimately agreed upon that we would be zoned RSF-1, one single family home per acre, which is consistent with the surrounding new developments: Silverthorne and Legacy. Both City Planner, Tim Conklin and City Attorney, Kit Williams cautioned us that the future use would more than likely be a higher use than what we were requesting. This belief was so firmly held that Kit attached a letter dated August 26, 2006, to Ordinance 4923 (which annexed and zoned the 405 acres) which stated, "prospective uses will likely be determined to be a higher and better use than agricultural or horticultural purposes."

I am concerned and a little perplexed over the change in interpretation of city codes and zoning regulations. Formerly, the highest and best use of a piece of property was always stressed. Recommending non-conforming uses or rezonings that did not meet minimum requirements were unheard of. What has happened? Are we as citizens able to rely on any of the protections

we spent years, if not decades developing or are we back to riding roughshod over our own property?

Our concerns are:

- We specifically annexed and zoned this property Residential Single Family. Why are we not being afforded the same protection as property owners in the middle of town?
- Why does the interest of one new property owner, who failed to research the zoning before purchasing the property, have the right to undo what took months to deliberately accomplish? Remember that zoning runs with the land and not the owner. Once this property is rezoned R-A any property owner who subsequently purchases this property has the right to put anything allowed in R-A on the property.

Please review the following sections of the City's UDC in regards to this petition and staff report:

○ **Chapter 150: General Provisions**

150.02 Purpose. The UDC is adopted for the purpose of implementing the Comprehensive Land Use Plan...The UDC provides for, but is not limited to, development of land uses which protect established neighborhoods, and commercial and industrial districts...

One of the main purposes of the UDC is to protect existing neighborhoods. This area specifically annexed and request RSF-1 zoning for protection from this type of use.

150.07 Conflicts.

(a) UDC/other code requirements. The provisions of the UDC shall be held to be minimum requirements. Where requirements of the UDC are at a variance with other requirements within the Code of Fayetteville, the highest or most restrictive requirements shall apply.

RSF-1 is considered to be a highest and better use than R-A both in uses permitted and units per acre. RSF-1 allows one house per acre. R-A allows one-half, which means one house per two acres. This particular parcel of land is 1.29 acres which is 68% of the required acreage for a home in R-A.

(b) UDC/UDC. Where conflict arises between one section of the UDC and another section of the UDC, the most stringent section shall apply.

R-A requires 20' side setback from property line. Section 164.04 Animals and Fowl (E) Separation of use. The following uses, where permitted shall be conducted no nearer than the following stated number of feet to the boundary of an R District, or to a dwelling on the same premise. Boarding or Training of horses- 100 feet. Farm: for raising cattle, goats, horses, sheep, rabbits and poultry- 100 feet. Livestock: assembly, breeding, feeding, sales or shipment-200 feet. If this property were to be rezoned the boarding, training or feeding of a horse would not be allowed within 100 feet along three sides of this property. The lot is only 186.77 feet wide. Contrary to Staff's comments at the July 25 Planning Commission meeting, nowhere in this section does the word "commercial" exist.

(c) UDC/Comprehensive Land Use Plan. The regulations contained herein are adopted given due consideration to the Comprehensive Land Use Plan. Thus, the requirements of the UDC shall take precedence over the policies of the Comprehensive Land Use Plan. Any conflict therewith should not be considered basis for challenge.

Staff's report states that R-A zoning is in compliance with the Comprehensive Land Use Plan. Although this area is designated in CLUP as agricultural, Ordinance 4923 annexes this area pursuant to A.C.A 14-40-501 and rezones the property as provided in 161.01(E).

150.11 Compliance. Any permit, certificate, etc., which is issued in compliance with the regulations set forth in this UDC, is issued only for the stated purpose. No other use, arrangement, construction, etc. is authorized. Any use at variance therewith shall be deemed a violation of this UDC.

A Conditional Use Permit for an accessory building was granted by the Planning Commission on August 8, 2010 per applicants request specifically for a shed and garage and house lawn equipment and home business, however, permit was issued for a barn and a barn was constructed. Please refer to applicant's letter dated September 30, 2010, and review Planning Commission meeting tape on the city's website, in addition to letter protesting Conditional Use because the intended use of the structure was for a barn.

Section 161.01 Application of District Regulations,
Minimum regulations/exceptions. The regulations set by this chapter within each district shall be **minimum regulations and shall apply uniformly** for each class or kind of structure or land,

Section 161.05 RSF-1, Residential Single Family, Purpose.

The district is designed to permit and encourage the development of very low density detached dwellings in suitable environments, **as well as to protect existing developments of these types.**

Section 161.03, District R-A, Residential-Agricultural

161.03 Purpose. The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished....increase scenic attractiveness; and conserve open space.

This area has already transitioned from Agricultural to Residential zoning and is moving toward urban development. Due to the economy this transition has stalled, but will resume again sometime in the future. When this property was

zoned RSF-1 there were five subdivisions going through the development process with over 1,500 units planned. Since 2000 this area as seen the addition of the Westside Wastewater Treatment Facility, the Boys and Girls Club, Owl Creek School, Catherine Nursing Home, Cross Creek Subdivision, Legacy Point, Silverthorne Addition I and II, Owl Creek Subdivision and Pop Williams Elementary School. Bridges and rights-of-way have been built to collector street standards or higher.

161.03 Permitted uses: Agriculture, animal husbandry, manufactured homes, animal boarding and training.

Zoning runs with the land and not the land owner. Once a property is rezoned anything allowed in that zoning district may be allowed as a use by right. While this particular property owner may intent on only a single horse, the subsequent owners could house or farm any number or kind of animal they wanted and it would be well within their right to do so.

161.03 Density. Units per acre One-half.

One-half units per acre equates to one unit per two acres. This property is 1.29 acres which is a long way from 2 acres, even if you round up.

161.03 Bulk and Area Regulations. Lot width minimum 200 feet. Lot area minimum 2 acres. Front setback 35 feet.

Property is 1.29 acres. A lot width of 186.77 feet and a front setback of 18 feet along the front of Foster Lane. This is simply does not meet minimum standards as set forth by the UDC.

161.02 Certificate of Zoning Compliance

(a) Required. It shall be unlawful to use or occupy permit the use or occupancy of any building or premises, or both...until a certificate of zoning compliance shall be issued therefore by the Zoning and Development Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter.

The property cannot be occupied as R-A, unless the Zoning and Development Administrator intends to state a falsehood on the Certificate of Zoning Compliance because it does not meet the minimum standards as set forth in UDC for R-A.

Chapter 156: Variances:

Section 156.02 Zoning Regulations:

(A) General Provisions. A variance shall **not** be granted unless and until an applicant demonstrates:

(1) Special Conditions. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or building in the same district.

No special conditions exit. This lot was created and zoned specifically to be used as Residential one unit per acre and can be used for that purpose.

(2) Deprivation of rights. That literal interpretation of the provisions of the zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning regulations.

The applicant has the same and full rights as all other property owners in the area zoned RSF-1. He can use his property as requested and stated in his Conditional Use Permit issued November 8, 2010.

(3) **Resulting Actions.** That the special conditions and circumstances do not result from the actions of the applicant.

All non-conforming issues are a direct result of the applicants request for rezoning. Therefore he is not even allowed to ask for a variance.

(4) **No Special Privileges.** That the granting the variance requested will not confer on the applicant any special privilege that is denied by Zoning, Chapters 160-165, to other lands, structures, or building in the same district.

This request will violate section 164.04, Animals and Fowl (E) and will deprive surrounding neighbors of their rights of protection under this ordinance. It will also deprive adjoining property owners of their rights stated in 161.05(a) and 150.02.

(5) **Nonconforming uses.** No nonconforming use of neighboring lands, structures, or building in the same district, and no permitted or nonconforming use of lands, structures, or building in other districts shall be considered grounds for the issuance of a variance.

The only conforming use of livestock anywhere near this property is to the south and it is a large farm located within Farmington City limits. The property to the west across Double Springs Road is in Fayetteville and is zoned RSF-1. It is 100% in the flood plain and has not been used for any purpose in the past 30 years. At one time it was used as a pasture, but it is now an overgrown thicket. The property to the north is slightly larger at approximately 1.5 acres and is zoned RSF-1. One house is there, no horses, cattle or other livestock reside there except for two dogs and two kids. The property to the east is the largest of the three and is well under 1.75 acres. One mobile home is located there, no livestock or other wild animals exist there except for a Pomeranian and a few squirrels. The other properties along Foster Lane are all Zoned RSF-1. They are all well over 10 acres, with one exception. None of these properties have any form of

livestock even though they have plenty of room for such animals, with the exception of the Shreve Farm. This ninety acre tract is zoned RSF-1 and is currently a non-conforming property. The property has been owned and operated by the same family since 1830's as a farm with livestock. That use will continue under the city's grandfather clause until it is developed as residential. Once its nonconforming use ceases, it cannot be resumed.

I do apologize for the extended letter; however, I felt it was warranted. As both a citizen and property owner, I am seriously concerned about how loosely our development and zoning regulations are being interpreted. Is this where we are heading? Did we just waste the past fifteen years developing these regulations?

I am very angry about this rezoning request. Not because it affects my property, but because it should have never have been considered as a possibility anywhere in Fayetteville. If a request doesn't meet the minimum standards as set forth in our very own laws, then it shouldn't be considered.

This could be a huge problem. How many innocent property owners have had their property adversely affected by these loose interpretations? The only way to ensure that all of Fayetteville's citizens are treated fairly is to interpret our laws and codes uniformly to the letter. Otherwise we can, and will, perceive the passing of this rezoning to R-A as arbitrary and capricious.

I thank you for your time. I wish I could say I look forward to seeing you at the City Council meeting, but I dread this as much as I would the coming of plague. This is not how I enjoy spending my time or my efforts, but I refuse ignore the gross misinterpretations of our UDC, especially after spending nearly a decade of my life seeing them developed.

Sincerely,

Heather Dumas

From: <janetmcchristian@cox.net>
To: <webmaster@ci.fayetteville.ar.us>
CC: <city_clerk@ci.fayetteville.ar.us>
Date: 8/9/2011 8:59 PM
Subject: [Form mail from AccessFayetteville] - Rezoning Foster Lane and Double Springs Rd.

From: Dick McChristian

Email: janetmcchristian@cox.net

To: city_clerk@ci.fayetteville.ar.us

Subject: Rezoning Foster Lane and Double Springs Rd.

Message:

Fayetteville City Council,

As a resident of the city of Fayetteville since 2006 I feel that I have a right to express my opposition to rezoning 11-3883. As a previous resident of the county I felt as though I should elect to enter the City of Fayetteville when I was offered the opportunity through annexation. I have always felt that I made the right decision. It was my understanding at the time that this area would be zoned RSF 1. I was totally agreeable to this zoning, but in recent weeks a new resident requested an agricultural zoning. This is not consistent with the other landowners in this area. It is my opinion that this resident did not research the history of this annexation or he would have been aware of the zoning in his neighborhood. After all the residing neighbors spent many hours of work trying to get this rezoned RSF 1. If this rezoning passes the entire neighborhood has lost their rights in order to appease one homeowner. I hope you as a council look at this rezoning in favor of the entire neighborhood not just one resident.

Dick McChristian
479-267-4899

August 9, 2011

Mayor Jordan

Council Member Gray

Council Member Boudreaux

Council Member Kinion

Council Member Petty

Council Member Tennant

Council Member Ferrell

Council Member Adams

Council Member Lewis

Re: RZN 11-3883; Rezone 636 Foster Lane from RSF-1 to R-A

I was not able to attend or submit written views to the Planning Commission meeting of July 25, 2011 as my wife and I were out of town. However, I request this document be placed into the record for the appropriate Council meeting.

My wife and I, while living out of state, purchased a 10.5 acre property on Foster Lane in 2009. One of the primary criteria my wife and I required in purchasing our property was the zoning designation of RSF-1 and that the immediate and neighborhood properties surrounding us be zoned RSF-1. We specifically avoided properties zoned R-A, but had we wanted R-A zoning there was plenty available in NW Arkansas in 2009, and probably still is. Our due diligence involved using a knowledgeable local realtor, multiple trips to the area, and careful research of a property that was under control of a bank. After purchasing the property and before breaking ground for our house in July 2010, there was extensive research by our realtor, our chosen contractor, and us, to make sure we were in compliance with all rules and regulations before we ever broke ground

I do not support Mr. and Mrs. Foster's request for rezoning their property from RSF-1 to R-A. While I am empathetic to their personal desire to stable a horse on their property, their property does not meet the minimum requirements set forth in current Fayetteville Zoning and Land Approval plans to be R-A. Mr. Foster stated he was unaware until the day of closing that the land he was purchasing was in the city limits of Fayetteville rather than Farmington; due diligence in finding a property to build a home and accommodate his horse should have caused him to investigate if the Fayetteville parcel met his desired use(s). Rather than pause his intended purchase and determine if the land could meet his needs, he chose to carry forward and purchased the land.

The consequence of his decision has led him to attempt to make the Fayetteville parcel fit his needs despite zoning requirements to the contrary and also apparently contrary to

the preferences of his immediate neighbors. A great deal of effort by affected residents went into annexing the Foster Lane area and nearby areas into the City of Fayetteville in 2006, including the zoning of the area as RSF-1. Those residents voted to be annexed to Fayetteville, requested zoning of RSF-1; their reasonable expectations as citizens, tax payers, and property owners in Fayetteville should receive top consideration. The homes and properties immediately adjacent to the subject property are close to one another, and I completely understand their desire to not have a horse in such close proximity, and would likely feel the same way if I were adjacent to the site.

During the planning process and before construction began, Mr. Foster was made aware that a rezoning would be necessary to have a horse on the property, and that at least one neighbor was not in agreement with that rezoning (Planning Commission meeting of November 8, 2010). The Fosters chose to proceed with their construction plan, without first determining if they would be successful in changing the zoning of the land they bought. A property buyer should know there is inherent risk that a rezoning request might be unsuccessful and the property not fit your needs. The fact that construction of the shop and house is well under way should have no bearing on the rezoning issue.

As information, we currently border a 100 acre parcel to our north that currently accommodates cattle, and a 20 acre property to the east that currently accommodates horses, but there is plenty of space for the animals and no negative aspects related to proximity. Both properties are zoned RSF-1, but are "grandfathered" and we respect the existing land use of those owners who were here before us. That being said, I would vigorously oppose those adjacent property owners requesting rezoning to R-A.

My interpretation of the requirements for a zone designation of R-A as published in the Fayetteville web site is that Mr. and Mrs. Foster's property does not meet even minimum requirements for that designation. Further, the neighbors adjoining 636 Foster would be negatively impacted by a horse being on the property, and their objection(s) to the application for rezoning should be given first consideration.

I encourage the Council to deny the request for rezoning 636 Foster Lane to R-A.

Sincerely,

Mark Aasmundstad
Lynne Thomas
668 Foster Lane
Fayetteville, AR

Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
August 16, 2011**

A meeting of the Fayetteville City Council was held on August 16, 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, Boudreaux, 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: None

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the August 2, 2011 City Council meeting minutes.

Approved

Dell Marketing – Computer Servers: A resolution authorizing the purchase of two (2) high performance computer servers with associated equipment in the amount of \$104,501.90 from Dell Marketing pursuant to bids through the Western States Contracting Alliance.

Resolution 137-11 as recorded in the office of the City Clerk.

Office of Intergovernmental Services Division Grant – Underage Drinking Laws: A resolution authorizing acceptance of a grant in the amount of \$31,500.00 from the Office of Intergovernmental Services Division of the Arkansas Department of Finance and Administration to enforce underage drinking laws, and approving a budget adjustment.

Resolution 138-11 as recorded in the office of the City Clerk.

Fayetteville Chamber of Commerce: A resolution approving a participation and unsecured loan agreement with the Fayetteville Chamber of Commerce to perform energy retrofit services in the amount of \$13,918.00 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

Resolution 139-11 as recorded in the office of the City Clerk.

Mount Sequoyah Center, Inc.: A resolution approving a participation and unsecured loan agreement with Mount Sequoyah Center, Inc. to perform energy retrofit services in the amount of \$121,000.08 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

Resolution 140-11 as recorded in the office of the City Clerk.

CPS of NWA, Inc. (Bid #11-47): A resolution awarding Bid #11-47 and approving a contract with CPS of NWA, Inc. in the amount of \$35,200.00 for the purchase of spray foam and insulation as part of the Community Revolving Loan Fund for Energy Efficiency, and approving a fifteen percent (15%) project contingency.

Resolution 141-11 as recorded in the office of the City Clerk.

Community Services Donation Revenue: A resolution approving a budget adjustment in the total amount of \$478.00 representing \$228.00 in citizen donation revenue to the Ranger's Pantry Pet Food Bank for the second quarter of 2011 and a \$250.00 donation from the University of Arkansas Student Affairs Office for the Fest of All event.

Resolution 142-11 as recorded in the office of the City Clerk.

Grant Offer Acceptance: A resolution authorizing application and acceptance of a Federal Aviation Administration 95% project cost grant and an Arkansas Department of Aeronautics 5% matching grant, for the Drake Field Runway Rejuvenation Project.

Resolution 143-11 as recorded in the office of the City Clerk.

CDBG Reimbursement: A resolution to approve a contract to release Habitat For Humanity of Washington County, Inc. and the City of Fayetteville from The Real Estate Sales Contract of November 15, 2006 and to reconvey the property to the City of Fayetteville and to approve a budget adjustment of \$90,000.00.

Resolution 144-11 as recorded in the office of the City Clerk.

Benefits Renewal: A resolution approving a 2012 employee benefits package.

Resolution 145-11 as recorded in the office of the City Clerk.

Alderman Boudreaux moved to approve the Consent Agenda as read. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

RZN 11-3870 (2012 West Martin Luther King Blvd./USA Drug): An ordinance rezoning that property described in rezoning petition RZN 11-3870, for approximately 0.50 acres, located at 2012 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family 24 units per acre to C-1, Neighborhood Commercial. *This ordinance was left on the First Reading at the August 2, 2011 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Alderman Lewis moved to amend the ordinance zoning to Community Services for the entire property. Alderman Adams seconded the motion.

City Attorney Kit Williams: Right now the back half of the lot is RMF-24 and they are asking that be zoned C-1. They are not asking to rezone the front half of the lot which is currently C-2.

Jeremy Thompson with H2 Engineering representing the applicant USA Drug: We worked with staff to evaluate every zoning option possible. USA Drug has a certain number of store layouts that they require. We propose to rezone the RMF-24 portion of the property to C-1. C-1 will allow this to function properly and we would like to stick with our proposed zoning.

Alderman Adams asked what it means to function properly.

Jeremy Thompson: With the size and shape of the stores and allowing adequate circulation around the building as well as to incorporate drive through potential in a good way that functions with traffic.

Alderman Ferrell: Under the other zoning you would not be able to have two drive through's?

Jeremy Thompson: I am pretty sure that we thought we needed C-2 in front.

Jeremy Pate: I don't think it is a use issue but more of a site plan layout. It is generally not staff's policy to pull in another property. We talked to H2 Engineering about incorporating the

entire property. That is not what they submitted. They were concentrating on the rear portion of the property which was multi family. We would not support an extension of C-2.

Alderman Ferrell: It sounds like to me you need it in the back for the double drives. Is that correct?

Jeremy Thompson: Correct.

Alderman Thiel: Everything adjacent to this property is C-2.

Jeremy Pate: Yes that is correct.

Alderman Thiel: Everything along there has been built out as far as the frontages to C-2 or C-1 right? Nothing has the set back requirements that Community Services has?

Jeremy Pate: That is correct. Everything is C-2 or I-1 around this property.

Alderman Thiel: I support Community Services but I see that as more for an infill area. I am not sure how something like that would look if everything adjacent to it is sitting back. I think I will support it the way it came to us from staff.

Alderman Lewis: The reason behind the request is that this is a major entry way into the City of Fayetteville. We have to start thinking about the zoning and looking at what we want there as our entry way. The neighbors wanted it be walkable, a nice entry way, and the building backed away from their houses.

Alderman Ferrell: There is heavy traffic in that area and that might affect it being walkable. Is this a deal breaker?

Jeremy Thompson: Yes it is. Unfortunately with the two drive through's and the parking requirements that we are trying to meet we could not get a concept that would function the way we need it.

Alderman Petty: I am going to support the amendment for the same reasons that Alderman Lewis pointed out.

Alderman Adams: We went door to door and it's important to consider the comments of the people in the neighborhood. I would like to see you go back and try harder to see what you could do with that.

Jeremy Thompson: Let me assure you that we have.

Alderman Thiel: Did the neighborhood understand that there will be nice sidewalks and landscaping?

Alderman Lewis: We explained that.

Gain Robinson, Vice President of real estate for USA Drug: We are a regional chain that is based in Arkansas. We will make this site a walkable site. We will provide the necessary buffers between us and the residential area behind us with the required green space. We need the zoning to be C-1 for the drive through and traffic.

Mayor Jordan: I am a little concerned because this is the first I have heard of this. I did not know anything about changing the zoning.

Upon roll call the motion failed 3-5. Alderman Petty, Adams, and Lewis voting yes. Alderman Gray, Boudreaux, Kinion, Tennant, and Ferrell voting no.

Alderman Tennant moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-1. Alderman Lewis voting no.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Lewis voting no.

Ordinance 5430 as Recorded in the office of the City Clerk

Revised Master Street Plan: A resolution approving and adopting a revised Master Street Plan and street cross-sections. *This resolution was tabled at the June 21, 2011 City Council meeting to the July 5, 2011 City Council meeting. This resolution was tabled at the July 5, 2011 City Council meeting to the August 16, 2011 City Council meeting.*

Alderman Petty moved to amend the resolution to have Howard Nickell Road remain classified as an arterial classification. There was no second to the motion.

Jeremy Pate gave a brief presentation on the proposed revised Master Street Plan. He gave a brief history on why Ruppel Road was planned the way it is. He stated the Master Street plan states that Ruppel Road and Howard Nickell Road should remain a major arterial. We think a four lane can be very safe and functional. The city has made an investment in this corridor. The increase in traffic will not stop it will still come unless we stop growth. This decision impacts more than just this neighborhood. It also impacts the future mobility and planning for continued growth in west Fayetteville. As staff we recommend the City Council amend the Master Street plan back to retain the principle arterial designation as was originally presented by staff to the Planning Commission.

Alderman Ferrell: The development that had the alley, how long has that been there?

Jeremy Pate: I believe it was developed in the early 2000's. It is the Salem Village subdivision that connects Salem with Ruppel. It is a different context, it is a residential street. In this

particular case it is slow moving traffic and that is what we would like to have throughout all neighborhoods.

Alderman Ferrell: Have there been any problems articulated with the entrance onto that since it has been built?

Jeremy Pate: Not that I am aware of.

Alderman Adams: I have had some reports of problems in the neighborhood mainly because of cutting through and going the wrong way. What does it look like under the plan that you are proposing?

Jeremy Pate gave a brief description of the cross section and what the area will look like.

Alderman Lewis: When was the Traffic Study conducted and projected.

Jeremy Pate: It was conducted in 2003 for a 20 year projection.

Alderman Petty: You mean they projected to 2023 that four lanes would not be needed until that point?

Jeremy Pate: That is what their study indicated.

Alderman Petty: Anytime we have a development go in that is going to impact this corridor will another traffic study be completed to determine if that widening is necessary?

Jeremy Pate: It is not necessary for every development. It is done on a case by case basis.

Alderman Petty: Would you expect if the westward movement of Fayetteville's population center continues that another traffic study would be warranted before 2023.

Jeremy Pate: Certainly before 2023 I would guess.

Alderman Lewis clarified what they were voting on.

City Attorney Kit Williams: The first thing that the City Council will vote on is the proposed amendment that Alderman Petty put forward. That is to go back to the way the Planning Department proposed this originally. Once that has been done you will vote on the resolution itself.

Michael Maulden with The Estates of Salem Hills Subdivision spoke against the arterial road classification due to safety concerns and the additional traffic this will create.

Rick Woods, resident of 3684 Howard Nickell Road asked Jeremy Pate if he said the City had no control over the subdivision.

Jeremy Pate: No that is not what I said. We do not have control over how the houses are placed within a subdivision in the planning area.

Rick Woods: Usually you control that with curb cuts.

Jeremy Pate: The City does not, no sir.

Rick Woods stated this subdivision came before the Planning Commission. He spoke on what was discussed and approved at that meeting.

Susan Slaughter, resident of 3606 Howard Nickell Road: We have been lead to believe that this road would be built 20 to 30 years off and we got the impression from the Mayor that he wants to build it as a four lane.

Mayor Jordan: I have always supported that as a four lane.

Susan Slaughter: We as a neighborhood would like to give the two lane grid a try.

Alderman Petty: Jeremy can you remind us which two portions of the arterial are included in the bond issue?

Jeremy Pate: Ruppel Road south of Persimmon and the Van Ashe extension west of Gregg to Highway 112.

Mayor Jordan: All that has to be built before we even get to Phase II.

Alderman Ferrell: What year was the sales tax election held?

Mayor Jordan: 2006.

Alderman Ferrell: The next one is going to be in 2014 so you have stuff spread out all that time. If there was one in 2014 you are going to have to expect a period in there for another eight years. So that is quite some time.

Bob Wasiluk, resident of 2029 Howard Nickell Road expressed his concerns with safety. He spoke against the arterial road classification.

Ashley Woods, resident of 3684 Howard Nickell Road expressed her concerns with the children's safety. She spoke against the arterial road classification.

Gregory Smith, a resident near Howard Nickell Road also expressed his concerns with children's safety in this area and asked the Council to put this off for another seven years and revisit the idea then.

Peter Ungar, a citizen also expressed his concerns with children's safety. He spoke against the arterial road classification.

Hugh Earnest, resident of 2260 Briarwood spoke on the importance of growth in Fayetteville. He stated approval of a road network outside our cities limits does not make a lot of long term sense for this city. He asked the Council to consider the message that is being sent and how this ties to the City Plan that has previously been adopted.

Flint Harris, resident of 3597 Howard Nickell Road spoke in favor of two lane roads as opposed to four lane roads. This is about preserving a neighborhood.

Bob Costrell: Spoke on the cost of acquiring right of way that the city does not have but could purchase. He asked the city to talk to all the neighborhoods in the area of Howard Nickell Road. He requested that Howard Nickell Road remain a two lane road. He spoke against the arterial road classification.

Eric Schermerhorn, resident of 3785 W. Cedar Ridge Lane spoke against the arterial road classification due to traffic concerns.

Alderman Lewis: Jeremy can you speak a little about Salem Road?

Jeremy Pate explained the classifications and details about Salem Road.

Alderman Lewis: In the plan it is slated to be a collector.

Jeremy Pate: That is correct and it has been for some time.

City Attorney Kit Williams gave a history of Salem Road. He stated there were neighborhoods there that did not want the collector to go through there.

Jeremy Pate pointed out the area that City Attorney Kit Williams was referring to on the map. He continued to explain Salem Road.

Dorothy Rader, resident of 2733 W. Howard Nickell Road voiced her concerns with the safety and asked the council to keep it as a residential area.

Jeff Bishop, General Manager of the NWA Mall and President of the Uptown Fayetteville Association expressed the importance of planning today for the future. He spoke in favor of the arterial road classification.

Alderman Lewis: Do you know anything about the County's plans for that area?

Jeff Bishop: I am not familiar with the County's plans but when you say you are going to bring a road into the Uptown Fayetteville area we are in support of it.

Shirley Lucas, resident of Ward 4: As a Councilman I was a strong protector of neighborhoods. I am an even stronger advocate of the City as a whole and for planning for the future. We need a way of getting traffic around our city without having to go through the city all the time. I see this as planning for the future of Fayetteville. The City has invested a lot of money in planning.

As an Alderman you have to make tough decisions and you make people unhappy. I encourage the Council to support the Planning staff and their recommendations.

Steve Clark, President of the Fayetteville Chamber of Commerce spoke on the affects of growth in our city and pointed out that you have to plan for it. He urged the Council not to change the plan.

Mya Ungar, resident of 2885 Howard Nickell Road spoke on behalf of the children and asked the Council to think of them and their futures.

Diane Ungar, resident of 2885 Howard Nickell Road spoke on how this proposal conflicts with the 2025 goals of the City. She spoke against the arterial road classification.

Jeff Montgomery, a Fayetteville resident spoke against the arterial road classification. He stated he did not feel it was necessary right now. There are currently not many businesses in this area. He stated this is not a busy area.

Maggie Lee, 3615 N. Hayfield Circle spoke against the arterial road classification. She expressed her concerns with speed of the vehicles using the road.

Rochelle Costrell, 3683 W. Howard Nickell Road spoke on safety. She spoke against the arterial road classification.

Alderman Petty: I appreciate the neighborhood being so adamant. I wish the rest of our citizens in the community were so involved. We are not talking about building a four lane road right now. Fayetteville is still growing and that is why this is an important decision. The only way we are going to wrangle in sprawl on the west side of town is to make these plans. That is why I am going to support it.

Alderman Kinion: I always support neighborhoods. I do not support the amendment but I do support the revised street plan because I support the neighborhoods. We have a community and a neighborhood please do not split it up. The right thing to do is support the Planning Commission and not support this amendment.

Alderman Thiel: I do not argue the need for providing additional access to the mall. I do not support making Ruppel Road a four lane road all the way. I think we have other options and I will not support your amendment. I will support the recommendation from the Planning Commission.

Alderman Lewis: Jeremy, can you talk more about what the new proposed cross-section is?

Jeremy Pate gave a brief explanation of the proposed cross-section for an arterial in that location.

Alderman Lewis spoke on the design and plan. We need to really think about how we are investing our funds. This is a plan and that is why we consider this every five years. Ward 4

residents need ways to exit Ward 4. The way this is drawn will cause a bottleneck in that area for Ward 4 residents trying to move around in Ward 4. I commend the staff for considering the cross sections and the way that it is proposed. Before any construction would come forward, a design would have to come forward, before anything could be done in the future. This is about that one little stretch and how to deal with that. The rest of it is being proposed in the Master Street Plan as an arterial. I think it makes sense to continue, with the idea that when that would come forward in what sounds like beyond ten years, that would need to be considered then.

Alderman Adams: This has been very difficult for me. I have spent a number of hours as we all have on this issue. I hate to disappoint you because I am going to change my mind after learning more about the facts. I have to remind myself that this vote is not about this neighborhood, or the people I care about in this neighborhood, it is about a Master Street Plan and planning for the City of Fayetteville which I was elected to represent. I have learned through this experience. It is painful to disappoint people when I committed and I am sorry. I believe good infrastructure makes for a good city. I believe in business and planning for the city and looking to the future. I urge the Council to keep looking for ideas and consider what the possibilities are. I am going to vote for the amendment.

Alderman Tennant: Safety is going to be an issue. There seems to be creative ways to build two lane roads that keep traffic slow but still moving, and people will get from point "A" to point "B" safely without a four lane road through that neighborhood. I support the Planning Commission but not the amendment.

Alderman Ferrell: We have to plan street corridors that could be built out in the future. We have to ask ourselves would changing this be better for all Fayetteville citizens. It is more efficient and safe for the whole city to stay with the arterial plan. We need to represent our wards but at the end of the day we need to look at the whole and that is the City.

Alderman Gray: I feel like following our plan is the best plan. What do you anticipate the speed to be on that four lane road?

Jeremy Pate: It's really hard to say, we would have to look at both the design of the road and what is surrounding it.

Alderman Gray: I can't see this four lane road being anything like I-540 or Highway 265.

Jeremy Pate: One of the reasons we need an arterial north south on this side of town is because I-540 is so congested. We have the ability to design it the way we feel is appropriate as opposed to designing it the way the Highway Department feels is appropriate.

Alderman Gray: I think we have to change our way of thinking. It is not going to be a speedway and I feel very strongly that we must look at Fayetteville as a whole and what is best for our city and community. I will be supporting the amendment.

Mayor Jordan gave some of his past experiences on the Street Committee and gave other examples of road widenings. You have to look at the overall plan of the city and I will be supporting the amendment.

Upon roll call the motion to amend the resolution to have Howard Nickell Road remain an arterial classification passed 5-3. Alderman Gray, Petty, Ferrell, Adams, and Lewis voting yes. Alderman Boudreaux, Kinion, and Tennant voting no.

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

Resolution 146-11 as recorded in the office of the City Clerk.

New Business:

Amend Chapter 169 & Chapter 170: An ordinance to amend sections of Chapter 169: Physical Alteration of Land and Chapter 170: Stormwater Management, Drainage and Erosion Control.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Petty: I was wondering why the Planning Commission didn't review it.

Jeremy Pate: We felt like since it was single family construction related, the Planning Commission is never involved in that part of the process. We felt it was affective to bring it forward to you as the Council. If it was related to a subdivision process then we would send it through the Planning Commission.

Alderman Lewis: The important part of this is that there is a plan and a collaborative effort based on the context. That's what I am glad to see that is maintained through this.

Aaron Worth with Cobblestone Homes and a member of NWA Homebuilders Association stated we worked with the Mayor, Engineering, and Jeremy on this and I think we worked together to find the best way to do things. We are in favor and we appreciate the help.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: It's wonderful. We talked a long time about collaborative efforts between the staff and the developers and this is wonderful for everybody.

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

Ordinance 5431 as Recorded in the office of the City Clerk

RZN 11-3880 (736 North Garland Avenue): An ordinance rezoning that property described in rezoning petition RZN 11-3880 for approximately 0.10 acres, located at 736 North Garland Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to CS, Community Services.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Lewis asked if anyone had heard anything from that area.

Jeremy Pate: We did not have any public comment at the Planning Commission meeting.

Alderman Kinion: It's surrounded by the University basically.

Alderman Lewis: It is apartments.

Alderman Thiel: I would think that this would be more in line with Community Services. I am certainly in favor of this.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5432 as Recorded in the office of the City Clerk

RZN 11-3877 (130 South Hill Ave./Eco Modern Flats): An ordinance rezoning that property described in rezoning petition RZN 11-3877, for approximately 2.92 acres, located at 130 South

Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Lewis: Is there any idea where the additional building would be?

Jeremy Pate: That is one of the reasons they are requesting this zoning. This would allow the building to be located up against the street.

Alderman Kinion: Anyone that is familiar with this project I am sure supports this. It has also been requested that we pass this tonight because there is a little bit of urgency so they can continue some activity.

Alderman Gray: I would encourage everyone to go see it. It is very interesting and something for us to indeed be proud of.

Mayor Jordan: I think we were the first in the State of Arkansas to get an apartment complex that is LEED Certified.

Seth Mims with Eco Modern Flats gave a brief explanation of Eco Modern Flats and thanked the staff for their help. I am asking for three readings tonight because we are trying to use tax credit dollars to facilitate the construction of the next building. Those dollars have to be allocated by October 14th so I have to get the large scale development in by this Thursday.

Mayor Jordan: I have looked at this and it is a top of the line project.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Lewis: I would like to point out that this is such a phenomenal effort and that is why it is going through quickly and I think that is fantastic.

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

Ordinance 5433 as Recorded in the office of the City Clerk

Amend R-PZD 04-01.00, Southern View II PZD: An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrall east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #26, Multi-Family dwellings, as a permitted use throughout all of the space in the six existing mixed-use buildings on the subject property, as described herein.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Thiel spoke on past discussions of this project and stated they have certainly tried to hang in there. They have actually extended the access road now which might make this more doable as commercial. It is my understanding that they can still use these as commercial.

Jeremy Pate: That is correct and that would not take any kind of change. Those uses were allowed within the PZD for the first floor only, but the first floor of all those buildings can still be utilized for any kind of commercial use.

Alderman Thiel: I will certainly support this.

Hugh Jarratt, on behalf of the applicant stated we have tried but commercial has not been successful. If commercial becomes viable in that location we can convert it back. We are talking about six more units that would go in there.

Alderman Lewis: I would much rather see activity in there than vacancy. It is just a livelier and safer way to have areas.

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

City Attorney Kit Williams read the ordinance.

Alderman Lewis moved to suspend the rules and go to the third and final reading. Alderman Adams 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 5434 as Recorded in the office of the City Clerk

Amend §172.05 Standards For The Number Of Spaces By Use: An ordinance to amend §172.05 Standards For The Number Of Spaces By Use, Table 3 Parking Ratios to clarify that spaces at gasoline pump islands may be counted as parking spaces.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: This gives an option whether they want to count them as parking spaces or not. It allows a little flexibility.

City Attorney Kit Williams: Currently our law says for retail fuel sales only three parking spaces per employee and spaces at pump islands are counted toward this requirement. This ordinance would more accurately show what is happening in the real world.

Dennis Blind, CEI Engineering: Mr. Williams stated it very well. This will provide flexibility for the parking ratios. Kum and Go is one of our clients and they have done some very detailed studies of parking needs in Northwest Arkansas at their facilities and their data shows that 73% of the cars that park at the gas pump never come into the stores.

Alderman Lewis: The thing that does not seem to provide flexibility is, if it is the single retail fuel with no convenience store, it says "one per employee spaces at the pump island "shall" not count as parking spaces". Can we change the "shall" to "may"?

City Attorney Kit Williams: It certainly can be. I was trying to protect the employee so the employee would have a place to park.

Alderman Lewis moved to amend a section of the ordinance as follows: Retail Fuel Sales Only: 1 per employee; spaces at pump islands shall not count as parking spaces. The amendment is to change the word "shall" to "may". Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5435 as Recorded in the office of the City Clerk

RZN 11-3883 (636 South Foster Lane): An ordinance rezoning that property described in rezoning petition RZN 11-3883, for approximately 1.29 acres, located at 636 South Foster Lane from RSF-1, Residential Single-Family, 1 unit per acre to R-A, Residential Agricultural.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. He stated R-A typically requires a two acre lot. We had several property owners speak in opposition to this. The reason for his request, to down zone this from RSF-1 to R-A, is to allow for the use of a horse on the property. The size of the property limits the scope and what can occur on this property.

Trina Pergeson gave a power point regarding RSF-1 properties in the area of this rezoning. She stated by the time you take out Foster Lane right of way, utility easements, and property that is in the middle of Double Springs Road, you are left with .52 acres of buildable acres. She also voiced her concern about the safety of the neighbors. She spoke against the rezoning

Heather Dumas stated the property is sloped and runs into a creek. She voiced her concern about future development in the area and that this proposed rezoning would not be compatible with RSF-1 zonings. When property in this area was annexed we specifically requested RSF-1. She spoke against the rezoning.

Alderman Ferrell: How far away is the nearest home or farm that has livestock on it?

Heather Dumas: There is a large 100 acre farm in the area.

Mark Aasmundstad, 668 Foster Lane: When we bought land we specifically did not want R-A land, we wanted residential land. The land we purchased was surrounded by RSF-1. There is 100 acres to the north with cattle on it. Our neighbor to the east has 20 acres with a couple of horses. We expected, should that land use change, it might be RSF-1, RSF-2, RSF-4 and we are fine with that. Our concern is if you make an exception to this, that does not meet the basic requirements for R-A, when is it going to be the next one. They made the decision to go forward with building a house without getting a change in the zoning.

Dave McChristian, 651 Foster Lane: I am in opposition to this rezoning because of the distraction a horse or horses might have and the safety of the people entering Foster Lane. Foster Lane intersects Double Springs on a dangerous blind curve. I am concerned about this causing more accidents.

Glenn Foster: We talked to several neighbors about our interest in putting a horse on the property and no one offered any opposition to that. You have heard there is not enough room for a horse and that is not true. There is opposition to the road and that is unfounded. I do not think the horse is the issue. I ask you to consider what is really going on out there. I would like to offer a Bill of Assurance. He gave the City Clerk a Bill of Assurance.

Alderman Adams: How much does your horse weight?

Glenn Foster: It is an Arabian and the size of this horse is about 14.3 hands. It weights about 850 to 900 pounds.

Alderman Adams: I love horses but this is not about do we love horses. A 1,000 pound horse produces about 50 pounds of manure a day. What are your plans for manure management and fly management.

Glenn Foster: We can compost, rake, or screed it. There is not any run off. We are not losing any soil. This should not create any runoff or any problems with any stream in that area.

Alderman Adams: Horse flies bite people. Do you have a plan for parasite management if this rezoning is passed?

Glenn Foster: I don't know what I can say about that. There is livestock around my farm. This is in the country and flies are going to be there whether I have one horse or none because there are hundreds of heads of cattle roaming the area.

Alderman Lewis: Jeremy, there are other places in town that have horses or cattle. They will create noise and smell. What is in place for that?

Jeremy Pate: Really not a lot. We have some separation requirements for breeding, boarding, and raising cattle. There is a separation requirement between those uses and adjacent structures or properties. Historically it has never been an issue therefore we have not had the need for regulation. There is a section for riding stables and they list a minimum requirement of three quarters of undeveloped land per horse.

City Attorney Kit Williams read the Bill of Assurance. He used the proper forms and voluntarily offers this to us. He has restricted himself to only having horses and not more than two horses.

Mary Ann Caldwell stated she has small children that their play structure is 25 feet from his barn. There is a significant slope to his property and our property. A 1,000 pound horse can generate about 50 pounds of manure a day as well as two to eight gallons of urine in a day. There has to be some form of runoff. If you rezone this to agriculture you are de-zoning. You will be taking away the pristine aspect of where we live. He has 1.29 acres and he is talking about gating off part of it and that is going to create a mess. I am concerned about the safety of our kids.

City Attorney Kit Williams: The Bill of Assurance runs with the property so the property could not have more than two horses on it and no other agricultural activities.

Janet McChristian: I am opposed to this rezoning. When we were annexed we felt Fayetteville had more to offer. I am concerned about a horse on this property and that the horse could get out.

Jack Pergeson, 8333 Goose Creek I am concerned about the water run off from the Foster property and Foster Lane.

Kim Witty: I think the vision for that area will be single family housing. This property is currently zoned correctly.

Matt Caldwell: When we purchased our home we asked what zoning we were in and were told it was residential single family one. We are concerned with the waste and runoff. We are also concerned about the investment of our property. I do not feel the property meets the requirements that a horse would need.

Ron Woodruff, Attorney: Zoning is a part of planning and is important. Property owners in this area wanted to become citizens of Fayetteville when their property was annexed. They wanted this zoning when they were annexed. This is a neighborhood and I am asking you to not abandon these people. He read the description of the proposed zoning. This property does not meet the minimum size for agriculture zoning. I ask you to be fair to the property owners and deny this petition.

Alderman Boudreaux: I love horses but we had a lot of land for the horses. The neighbors oppose this and it is a spot zoning. I can't support this.

Alderman Boudreaux 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 Lewis: Is there a restriction for animals on this size of property?

Jeremy Pate: There is no specific size requirement for any type of animal to be located on a property. The size requirement, for the zoning ordinance for the creation of a lot in residential agriculture zoning, is two acres. This would immediately create a nonconforming lot. You have the authority to do so under zoning and you have done so. It is not something we see a lot of.

Alderman Boudreaux: Why would staff recommend something that is nonconforming?

Jeremy Pate: The risk is really upon the applicant. What they would risk, if they have a nonconforming lot, they can no longer expand their home or shop structure without a variance from the Board of Adjustment. It is in the staff report that the size of the property does not conform to the normal R-A requirements.

Alderman Ferrell: I am sympathetic to the applicant because they are surrounded by livestock. Although I understand the request it would be inconsistent of me to advise how important planning is and not heed my own advice. Transition has caught up with you and I hope you can work something out so you can keep your horse.

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: This is in consideration of the Bill of Assurance that was offered for your vote.

City Attorney Kit Williams: We will add Subsection 3 to note the Bill of Assurance that has been offered by the petitioner.

Alderman Lewis: I understand the root of staff's recommendation. That is a transitional area and this could be a residential agricultural area. My tipping point is the size of the property. I really respect that you went about getting a Bill of Assurance. It is a good approach to try to work with your neighbors.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 1-7. Alderman Petty voting yes.

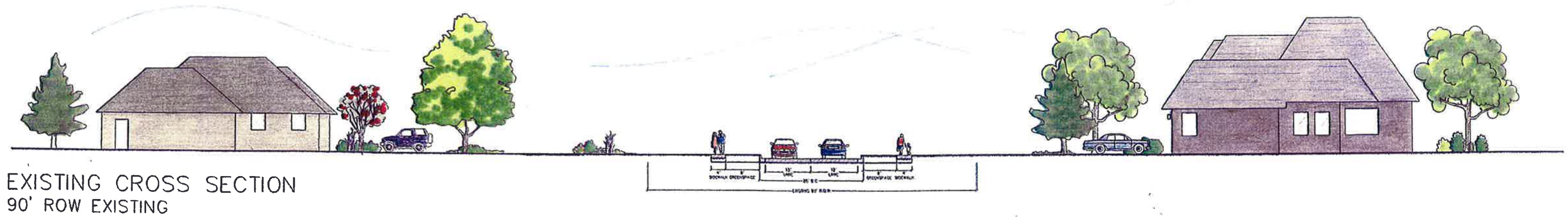
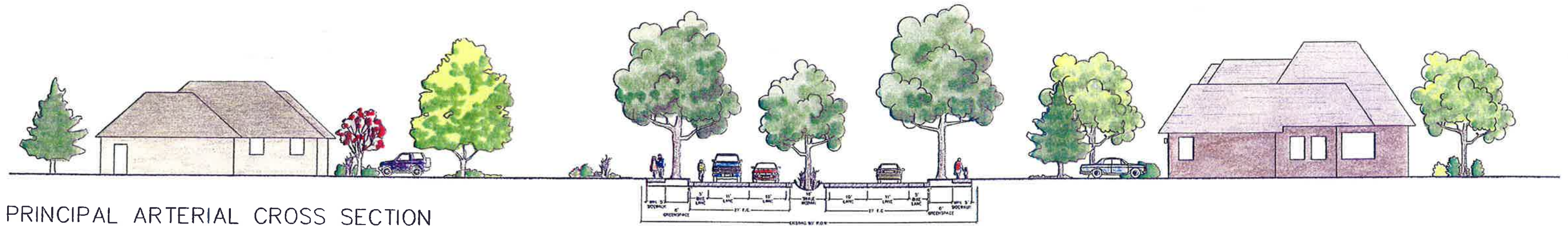
This ordinance failed.

Meeting adjourned at 10:30 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

Master Street Plan
 Handed out at the City Council Meeting 8-16-11



Foster

Handed out at the City Council Meeting 8-16-11

To Whom It May Concern:

I am the property owner of 560 N. Double Springs Road. My property borders the Foster Lane property that is requesting a re-zone from RSF-1 to R-A. I have multiple concerns regarding this request. I have highlighted my concerns in this letter; however, my main concerns are regarding the city codes that Mr. Foster is in violation of: Section 164.04, 161.03, 161.05, 150.2. My concerns not only lie with the city codes, but the potential hazards of housing an Arabian horse 25 feet from my children's play structure (i.e., attractive nuisances and surface run off of waste).

I have listed my concerns below:

- Average 1,000 pound horse will generate 60-70 pounds of stall waste a day.
8 ½ tons of waste a year (2)
- Urine production can range from 2-1/4 to 8 gallons per day depending upon diet, activity and environmental conditions (University of Nevada Fact sheet 95-11)
- Ground slope should not be greater than 3% , According to fact sheet 95-11 from University of Nevada slopes of greater than 3% could lead to surface water/waste run-off



- The minimum separation distance recommended for property lines 50-100 feet. Residence or place of business is 200-500 feet (University of Nevada Fact Sheet 95-11)

Fact:

Our children's play equipment is 25 feet from the property line



Fact:

Fayetteville City Code: R-A requires 20' side setback from property line. Section 164.04 Animals and Fowl (E) Separation of use. The following uses, where permitted shall be conducted no nearer than the following stated number of feet to the boundary of an R District, or to a dwelling on the same premise. Boarding or Training of horses- 100 feet. .Farm: for raising cattle, goats, horses, sheep, rabbits and poultry- 100 feet. Livestock: assembly, breeding, feeding, sales or shipment-200 feet.

Fact:

Mr. Fosters property is only 186.77 feet wide.

If this property were to be rezoned the boarding, training or feeding of a horse would not be allowed within 100 feet along three sides of this property.

- High protein diets generally result in a "spoiled meat" like odor in the manure. Also, when horses are consuming alfalfa hay, urinary volume will increase with a higher level of ammonia. Horses consuming high levels of dietary grain (carbohydrates) may have a distinct sour-like odor in their manure (University of Nevada Fact Sheet 95-11)

Fact:

Mr. Foster stated in his letter to the planning commission that his Arabian horse, Jamangi would consume the highest quality of grain, which would decrease the foul smell of the manure. As it states in the fact sheet attached, horses that consume grain have a "sour-like" odor in their manure.

Fact:

Fayetteville City Codes states in 92.06 Animal Waste, Offensive Odors Prohibited

(A) The owner of an animal shall be responsible for the removal of any excreta deposited by his animal(s) on public walks, recreation areas, public parks, or private property.

(B) It shall be unlawful for any person keeping or harboring any animal to fail to keep the premises where such animal is kept free from offensive odors to the extent that such odors are disturbing to any person residing within a reasonable proximity of said premises; and it shall be unlawful to allow the premises where any animal is kept to become unclean and a threat to the public health by failing to diligently and systematically remove all waste material from the premises.

(Ord. No. 3588, Sec. 2, 1-21-92; Code 1991, Sec. 92.06; Ord. 5002, 4-17-07)

- A quiet horse at rest or light work will produce more feces than an active horse. (1)
Mr. Foster has **1.29 acres which is 68% of the required acreage for a home in R-A**. This is including the house, barn, and driveway
- Dust from horse operations can create a localized nuisance during dry periods and intense use of arenas. Dust can create a nuisance to neighbors and equestrians. It can even be detrimental to the health of horses and riders. It can cause irritation to the eyes and respiratory system. (1)

Our family has documented asthma issues requiring daily maintenance.

- Storage: Manure should be disposed of on a daily basis.
 1. Provide a storage area sufficient in size for the number of horses you have and expected storage time. Remember to provide slightly more storage than actual need to account for snow or mud conditions that may prevent timely removal.
 2. Place the storage area in an appropriate location that is convenient

for loading and unloading.

3. Storage area should be constructed to prevent leaching to streams, ditches, and ground water.
4. It would be most desirable to keep stored manure in a fly-tight area during the warm summer months. However, as this may not be practical, it may be necessary to develop a fly abatement program.
5. Fresh horse manure should not be applied to horse pastures. It should be stored in a suitable covered pit for at least 6-10 weeks before spreading on a pasture. This will insure that adequate heat will be generated to destroy parasites and weed seeds

Mr. Foster has yet to produce or show plans for his waste removal or storage. If he deems it necessary to rezone R-A, we as property owners have the right to be presented with a concrete plan for waste management. If the city counsel approves the request there needs to be conditions attached to the approval regarding the management and storage of waste

Zoning is determined by the property not the property owner. Once a property is rezoned anything allowed in that zoning district may be allowed by right. While Mr. Foster's intent may only be a single horse the subsequent owners could house or farm any number or kind of animal they want and it would be within their rights.

We purchased our property knowing the zone regulations. We did our research and purchased our property solely based on the fact that it was annexed into Fayetteville, which provided protection of our investment.

The biggest concern is the health and safety of our children. Our 9 month old baby crawls on the ground around the playground equipment. Based on the amount of manure and urine a horse produces on a daily basis this could potentially pose a health and safety risk. Would you want your children crawling and playing around equine waste (surface) runoff? A horse is an attractive nuisance and will peak the curiosity of our children. This is of great concern, based on the distance from the property and our children's backyard, which they play on a daily basis.

We are asking you to reconsider the planning commissions decision to rezone this property to R-A not only based on the codes set forth by the city of Fayetteville but for our children's health and safety.

Thank you, Maryanne Caldwell

1. www.unce.unr.edu/publications/files/ag/other/fs9511.pdf (attached)
2. <http://pubs.ext.vt.edu/406/406-208/406-208.html>

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Glenn Foster, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to the same restrictions as RSF-1 plus the R-A allowance of a maximum of two horses.

2. Other restrictions including number and type of structures upon the property are limited to the same restrictions as RSF-1.

3. Specific activities will not be allowed upon petitioner's property include any kind R-A activity or use other than related to the enjoyment of our horse(s)

4. (Any other terms or conditions) None.

5. Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Glenn Foster, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

8-16-11
Date
1653 N. Saddlehorn Ave
Address
Fayetteville, AR 72703

Glenn Foster
Printed Name
[Signature]
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON } .ss

And now on this the 16 day of August, 2011, appeared before me,
Brandon Humphries, a Notary Public, and after being placed upon his/her oath swore
or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her
name above.

[Signature]
NOTARY PUBLIC

My Commission Expires:

5/15/18

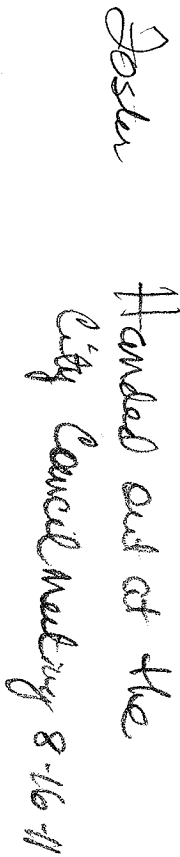
OFFICIAL SEAL
BRANDON HUMPHRIES
NOTARY PUBLIC . ARKANSAS
WASHINGTON COUNTY
COMMISSION # 12365994
COMMISSION EXP. 05/15/2018

Foster
Handed out at the
City Council Meeting
8-16-11

North



Development ?
160 units



Petition Annexation

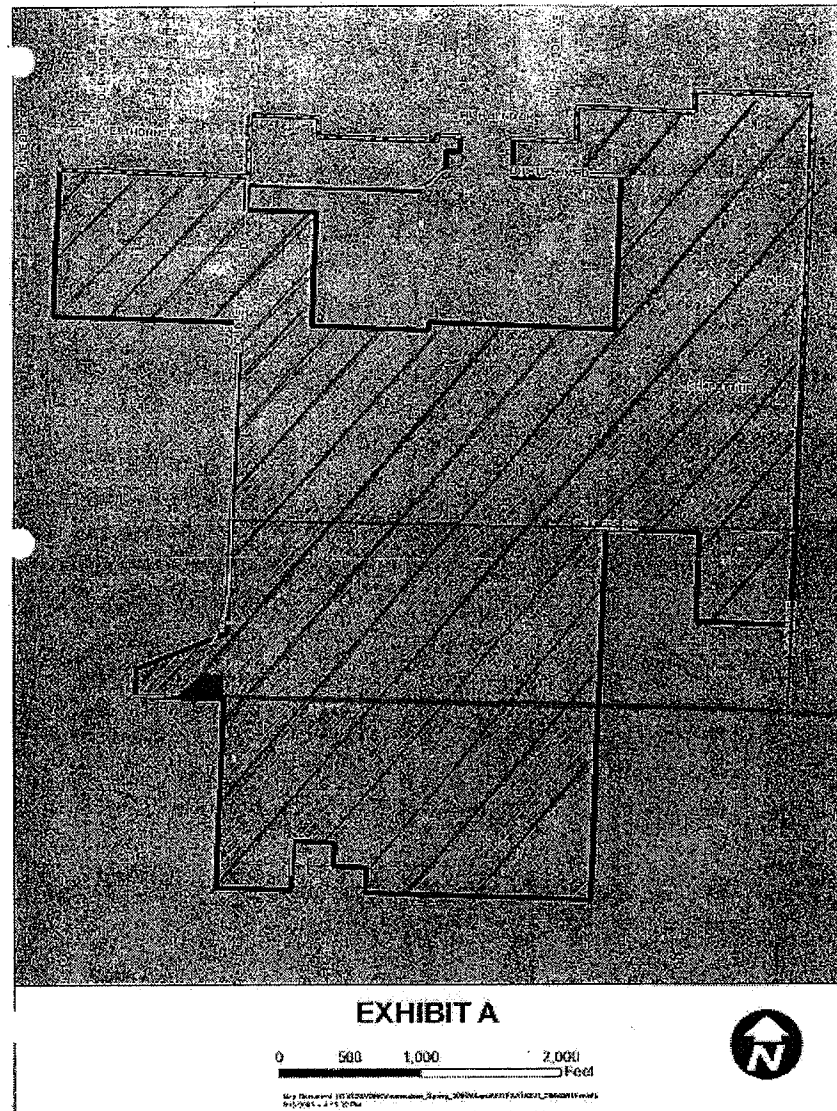
Area Annexed by Petition

Required 26 property owners
with majority of property in area
to annex

Property owners wanted
Fayetteville services and
protection

Wanted area to develop to
Fayetteville standards and not
the county's or Farmington's

Specifically requested RSF-1



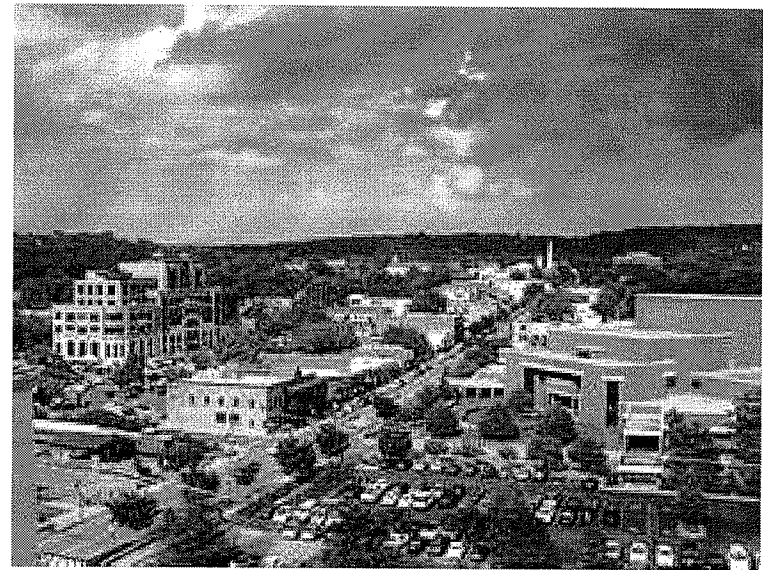
Progress and Planning

Our Past...



College Avenue, Pylesville, 1957.
Courtesy Shish Museum of Clark History/Washington County Historical Society Collection.
Orsatti, photographer

Our Present...



Progress...

For the past several years, the city of Fayetteville has been implementing intelligent, thoughtful development codes. As a result, the west side of town is developing in a consistent manner which helps keep property values the highest in the region as well as supporting a high quality of life. It is evident that adhering to the Unified Development Code makes a difference to a growing community.

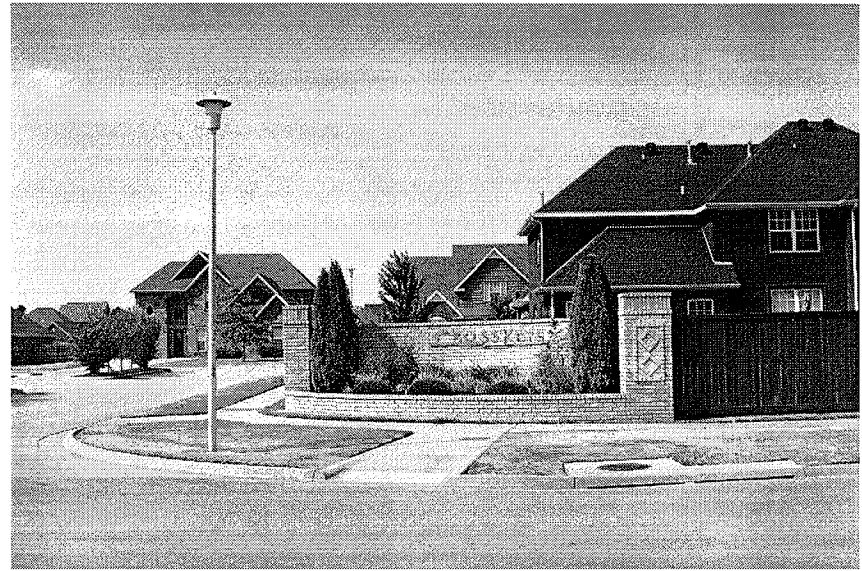


Thoughtful Planning

Providing an attractive setting in a medium density area, Ruppel Row conforms to the Unified Development Code. This area was formerly a pasture. Construction of more houses is continuing at present.

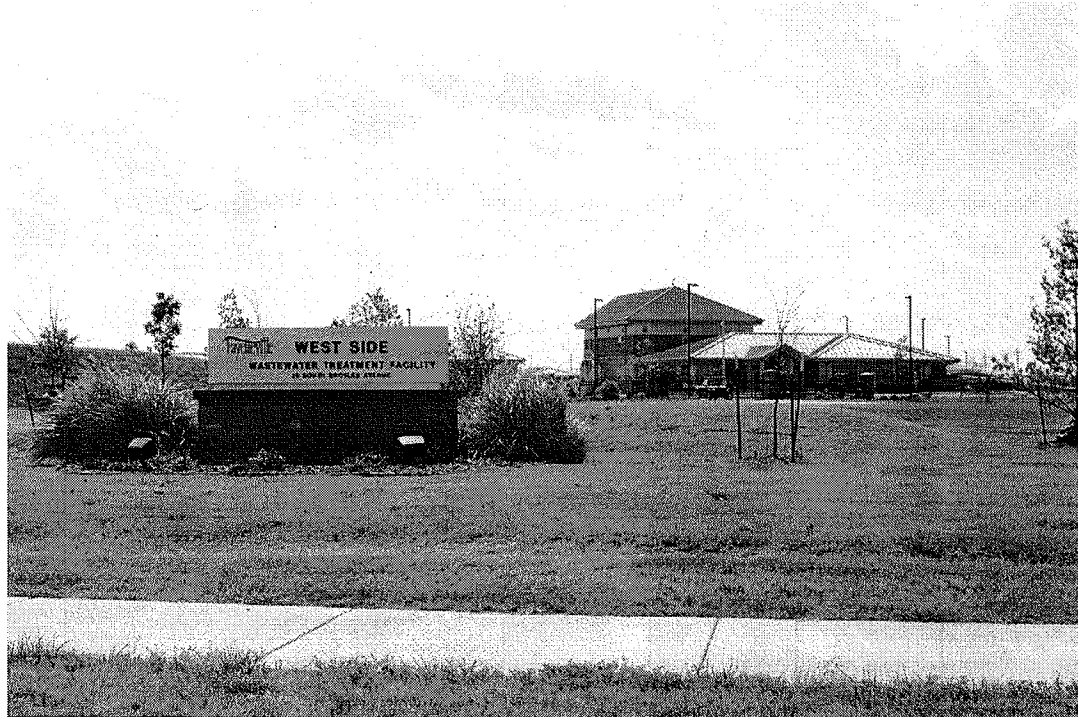


In 2006, this pasture was annexed into Fayetteville. Today it is beautifully developed and provides many families with a great place to call home. All properties were developed adhering to UDC standards.



Infrastructure

Built to support continued growth, the water from this facility runs through the parcel of land annexed in 2006. Property owners specifically requested RSF-1 zoning in anticipation of future development. The proposed rezoning is inside this annexed area. The west side of Fayetteville is positioned to accept future growth with adequate water, sewer, streets, and fire protection.



Landscaping and Bike Paths

Another example of continued growth and improvement in the area. This is located approximately one and a half miles from the proposed rezoning. Note the city provided landscaping, bike trail, and curbs.



Legacy Point Subdivision

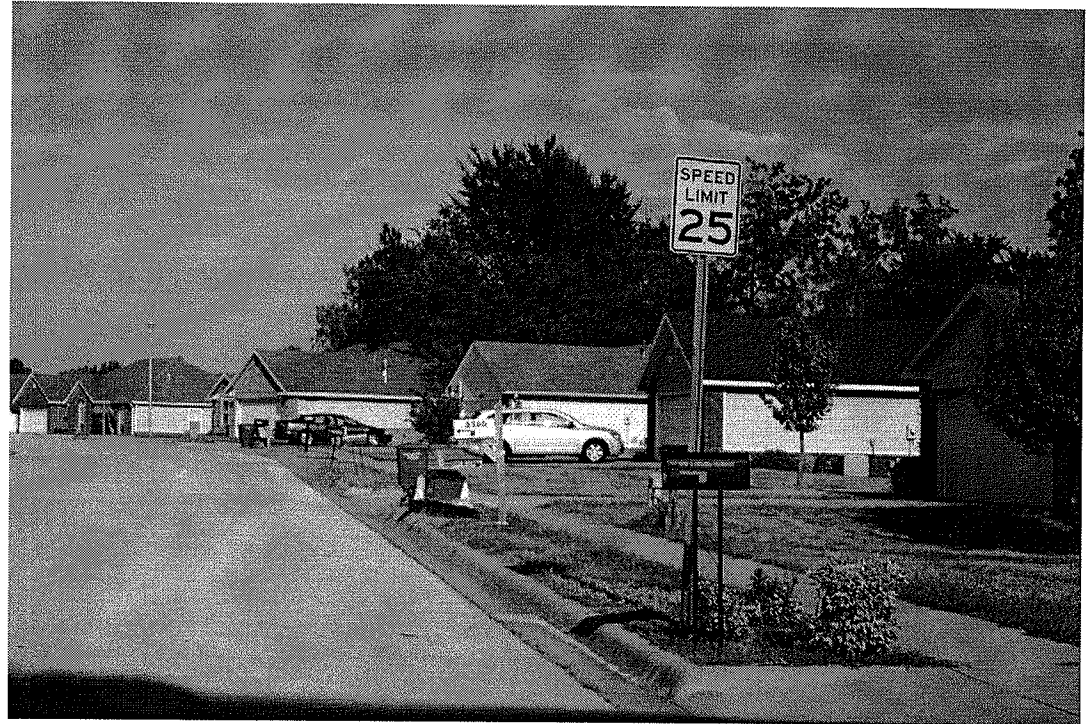
Just a few years ago this, too, was an agricultural field. Only two phases have been completed with the third phase of the development not yet started. This subdivision is located on Double Springs Road only .7 miles from the proposed rezoning.



Owl Creek Subdivision

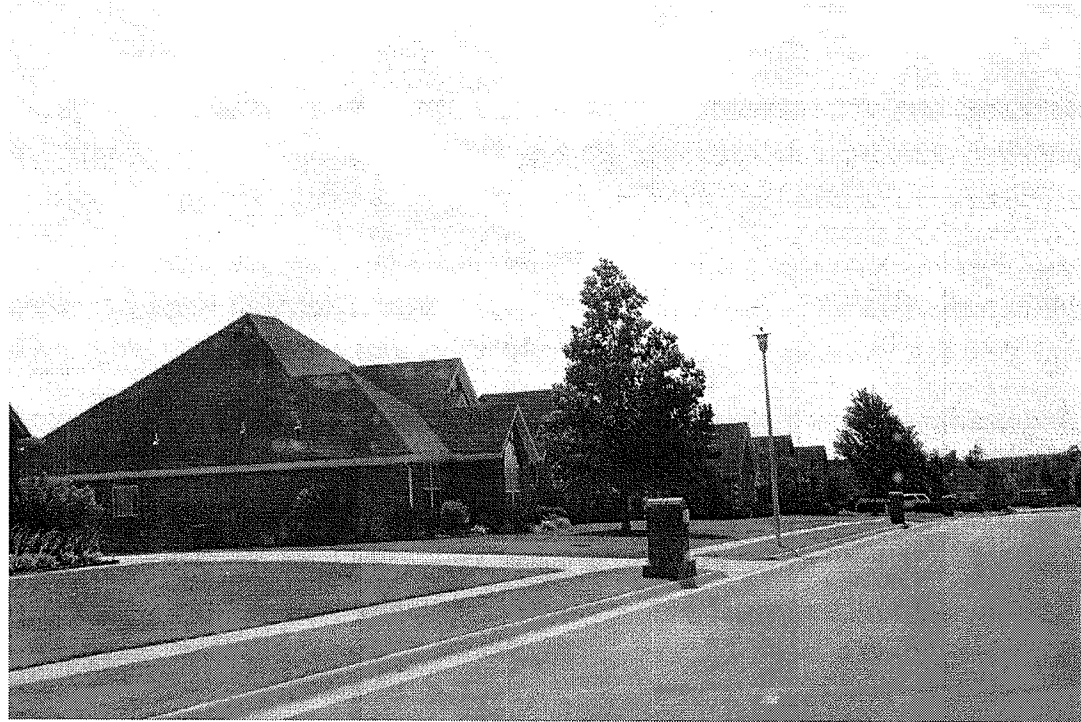
Located on Double Springs Road and less than one mile from the proposed rezoning. This was formerly a pasture.

Planned, unified development is evident in the area.



Silverthorne Subdivision

Some lots in this subdivision have acreage equivalent or larger to that of the proposed rezoning. The homes are zoned RSF1. Would R-A zoning be allowed here? Doubtful, even though the subdivision is backed by a parcel of land containing over a hundred acres. It is located within .06 of the proposed rezoning on the same exact road. Again, another cohesive development built to UDC expectations.



Growing Pains

In an attempt to better understand why someone would have R-A zoning in the middle of what is obviously a residential neighborhood, I drove over to the east side of Fayetteville to see a property I had heard about. The owner just happened to be outside watering his horses, so I pulled in and we had a chat.

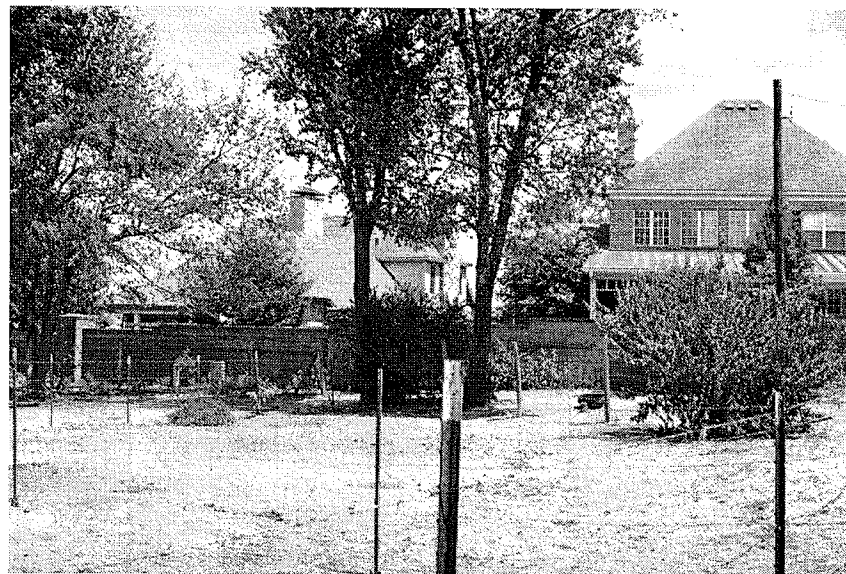
When he built his house here, the road had just been paved and he was surrounded by fields. What a difference twenty years makes.



This homeowner is a conscientious man who provides his horses with excellent care. He is using the land in a manner that is in compliance with his R-A zoning with 2.5 acres of land, yet the Humane Society and Fayetteville Animal Services receive numerous calls about the property on a consistent basis.

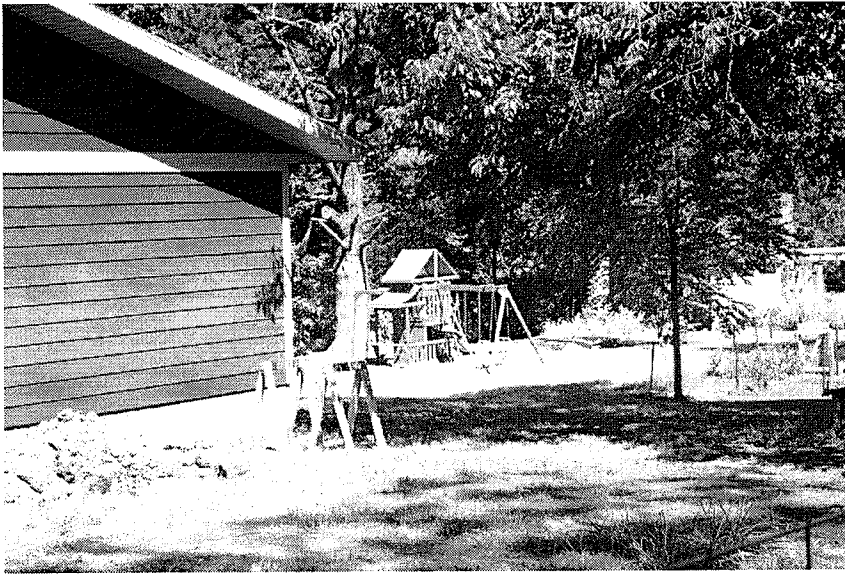
Widening the road to accommodate for growing traffic. Similarly, Double Springs is designated as a minor arterial road. Area residents use it as a major cut-through between hwy. 16 and hwy. 62.

Fayetteville will continue to grow, but upholding the standards of the Unified Development Code will help ease the growing pains. The population of Fayetteville is expected to Double by 2050, so proper planning is vital.



Proposed Rezoning

This view shows where the three RSF-1 properties converge. Note the close proximity of the proposed stable to the neighbors.



The property contains only 1.3 acres. After deducting for Foster Lane right-of-way, utility easements, and property that is in Double Springs Road the buildable area is less than .62 acres.



Safety

The proposed stable (pictured in background) is approximately 25 feet from the neighbor's children's play structure. All neighbors are zoned RSF-1. Immediate neighbors all have children or grandchildren who might find a horse an "attractive nuisance".



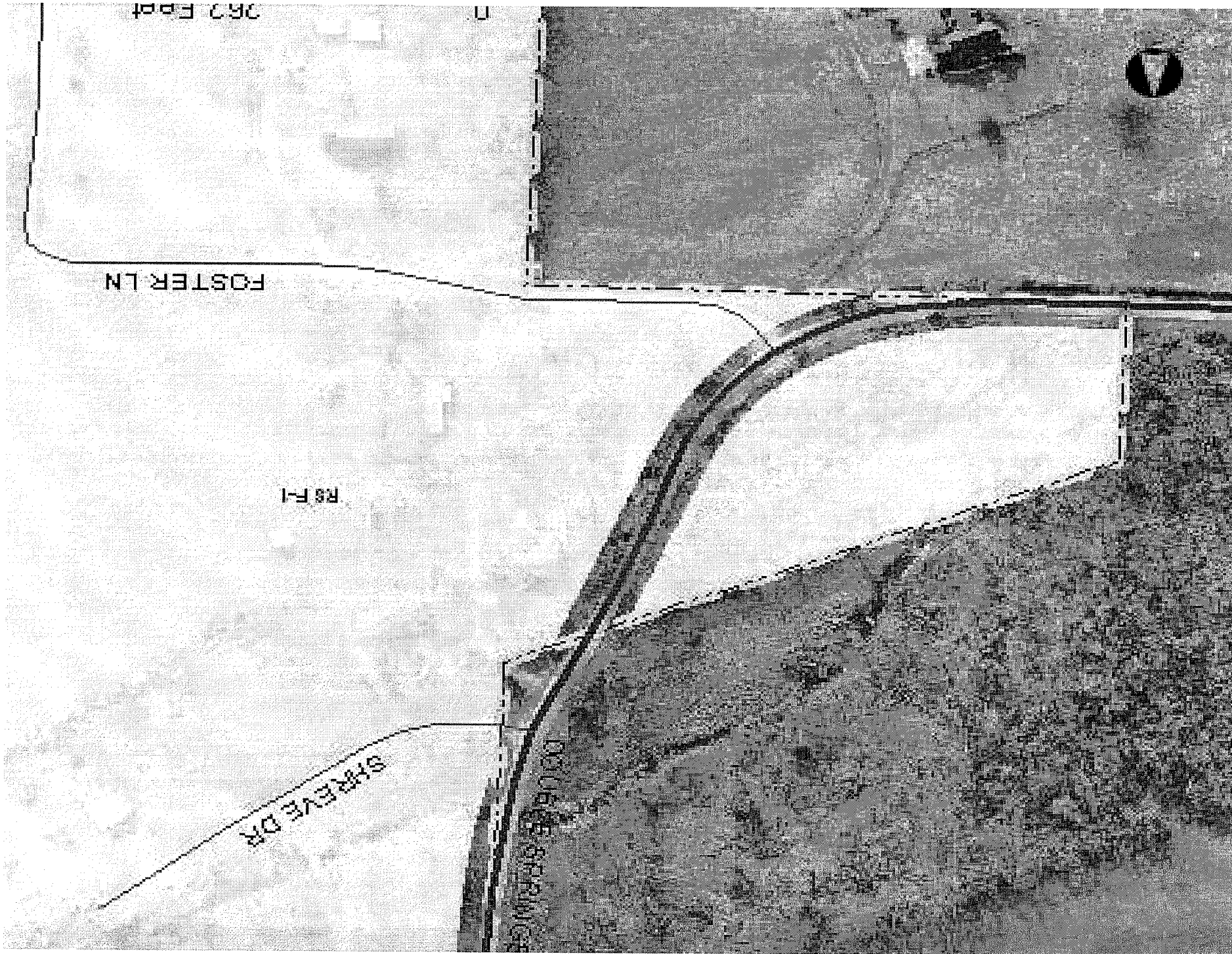
Unified Development Code

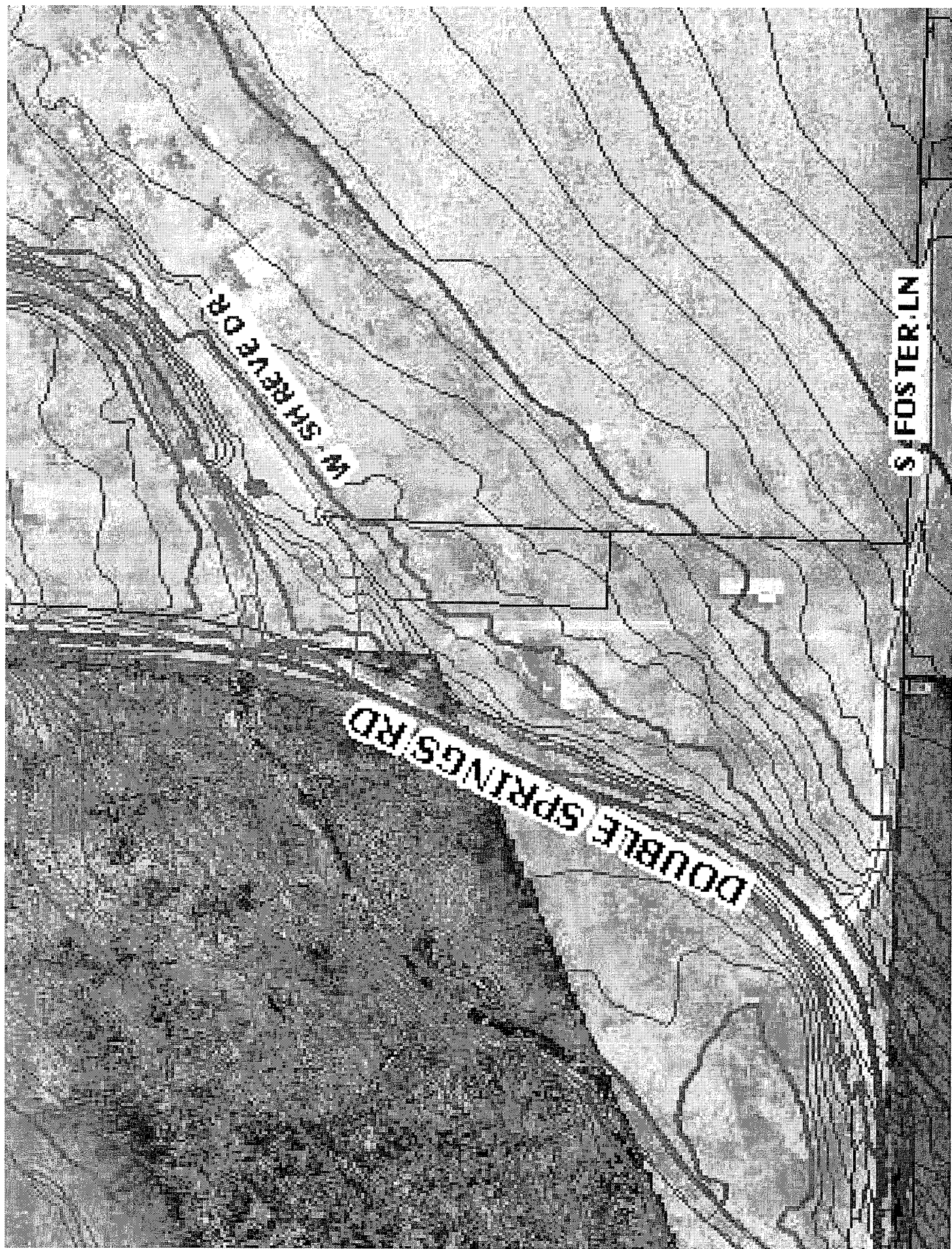
Purpose

- The UDC is adopted for the purpose of implementing the Comprehensive Land Use Plan and any other plans or policies adopted or amended by the City Council, in a manner that furthers the *health, safety and general welfare of the people of the community* and to provide *uniform standards* for the development of land and the installation of related improvements.

Our Future

- Adhering to codes help make Fayetteville the best place to live in Northwest Arkansas... **now and into the future.**





Foster
Handed out at the City Council
Meeting 8/16/11

ORDINANCE NO. 4923

AN ORDINANCE TO ANNEX INTO THE CITY OF FAYETTEVILLE, ARKANSAS A PARCEL OF LAND COMPLETELY SURROUNDED BY THE INCORPORATED LIMITS OF THE CITY OF FAYETTEVILLE, ARKANSAS

WHEREAS, the annexation policy of the City of Fayetteville adopted by the City Council is to annex those parcels of land which have become completely surrounded by incorporated city limits; and

WHEREAS, pursuant to A.C.A § 14-40-501 (a)(1), because the incorporated limits of The City of Fayetteville has completely surrounded the land described in Exhibits A & B, the City of Fayetteville has the statutory right to annex this land if it complies with one of the five requirements of A.C.A § 14-40-302; and

WHEREAS, after annexation into the City of Fayetteville, the inhabitants of those lands will be afforded the same services of police and fire protection and solid waste collection as current citizens of Fayetteville enjoy; and

WHEREAS, all the lands identified in Exhibit A (map) and Exhibit B (legal description) comply with at least one of the five requirements for annexation stated in A.C.A. § 14-40-302; and

WHEREAS, at the time of the adoption of this ordinance, the highest and best use of these lands is NOT for agricultural or horticultural 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 annexes into the City of Fayetteville, Arkansas the lands identified in Exhibit A (map) and Exhibit B (legal description).

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



Section 3: That the City Council of the City of Fayetteville, Arkansas hereby assigns the zoning of these lands to be RSF-1, Residential Single Family, one unit per acre.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby assigns these lands to Ward 4.

PASSED and APPROVED this the 19th day of September, 2006.

APPROVED:

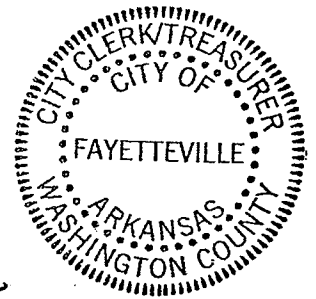
ATTEST:

By:

DAN COODY, Mayor

By:

SONDRA SMITH, City Clerk



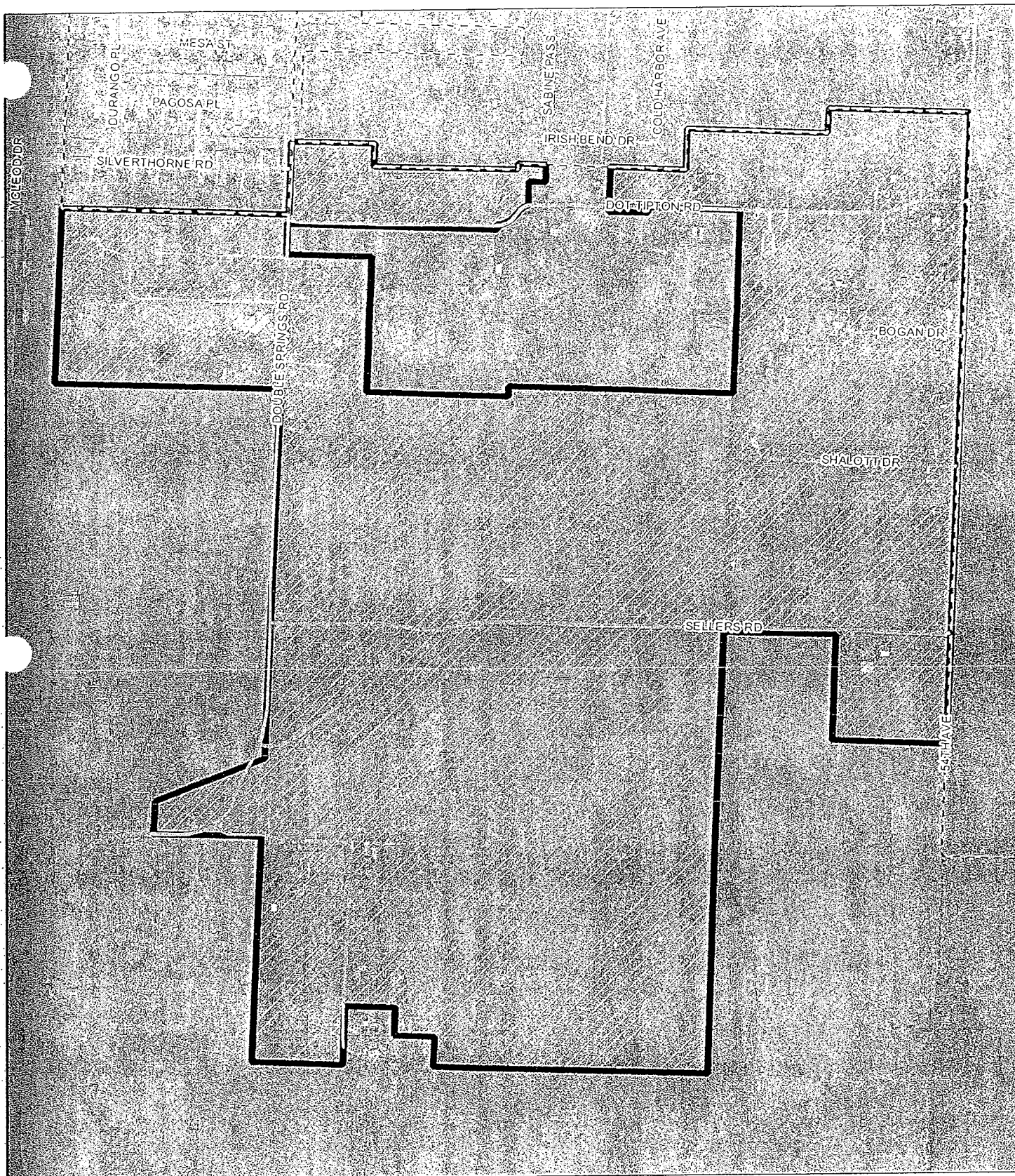


EXHIBIT A

0 500 1,000 2,000 Feet



Map Document (G:\GIS\WORK\Annexation_Spring_2006\MapSVAT\EXHIBIT A_20060815.mxd)
8/15/2006 - 4:56:39 PM

Division 7 Land Co. Survey 9/25/05
 A - Ray, B - Ray, C - Ray

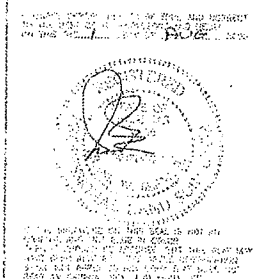
SURVEY DESCRIPTION:
 A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER AND A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, ALL IN SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 15 AND RUNNING THENCE WEST 140.42' TO THE CENTERLINE OF DOUBLE SPRINGS ROAD, THENCE ALONG SAID CENTERLINE N68°21'01"E 135.21', N53°33'07"E 73.14', N69°45'07"E 31.24', N57°27'07"E 55.55', THENCE LEAVING SAID CENTERLINE EAST 219.12' TO A FOUND IRON PIN, THENCE N69°45'07"E 31.24' TO A SET IRON PIN, THENCE NORTH 185.98' TO A FOUND IRON PIN, THENCE N53°33'07"E 131.16', THENCE S53°33'07"E 131.16' TO A FOUND IRON PIN, THENCE SOUTH 341.52' TO A FOUND IRON PIN, THENCE WEST 352.51' TO THE POINT OF BEGINNING, CONTAINING 3.92 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

TRACT A:
 A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER AND A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, ALL IN SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 15 AND RUNNING THENCE WEST 430.42' TO THE CENTERLINE OF DOUBLE SPRINGS ROAD, THENCE ALONG SAID CENTERLINE N68°21'01"E 135.21', N53°33'07"E 73.14', N69°45'07"E 31.24', N57°27'07"E 55.55', THENCE LEAVING SAID CENTERLINE EAST 219.12' TO A FOUND IRON PIN, THENCE N69°45'07"E 31.24' TO A SET IRON PIN, THENCE WEST 36.07' TO THE POINT OF BEGINNING, CONTAINING 1.30 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

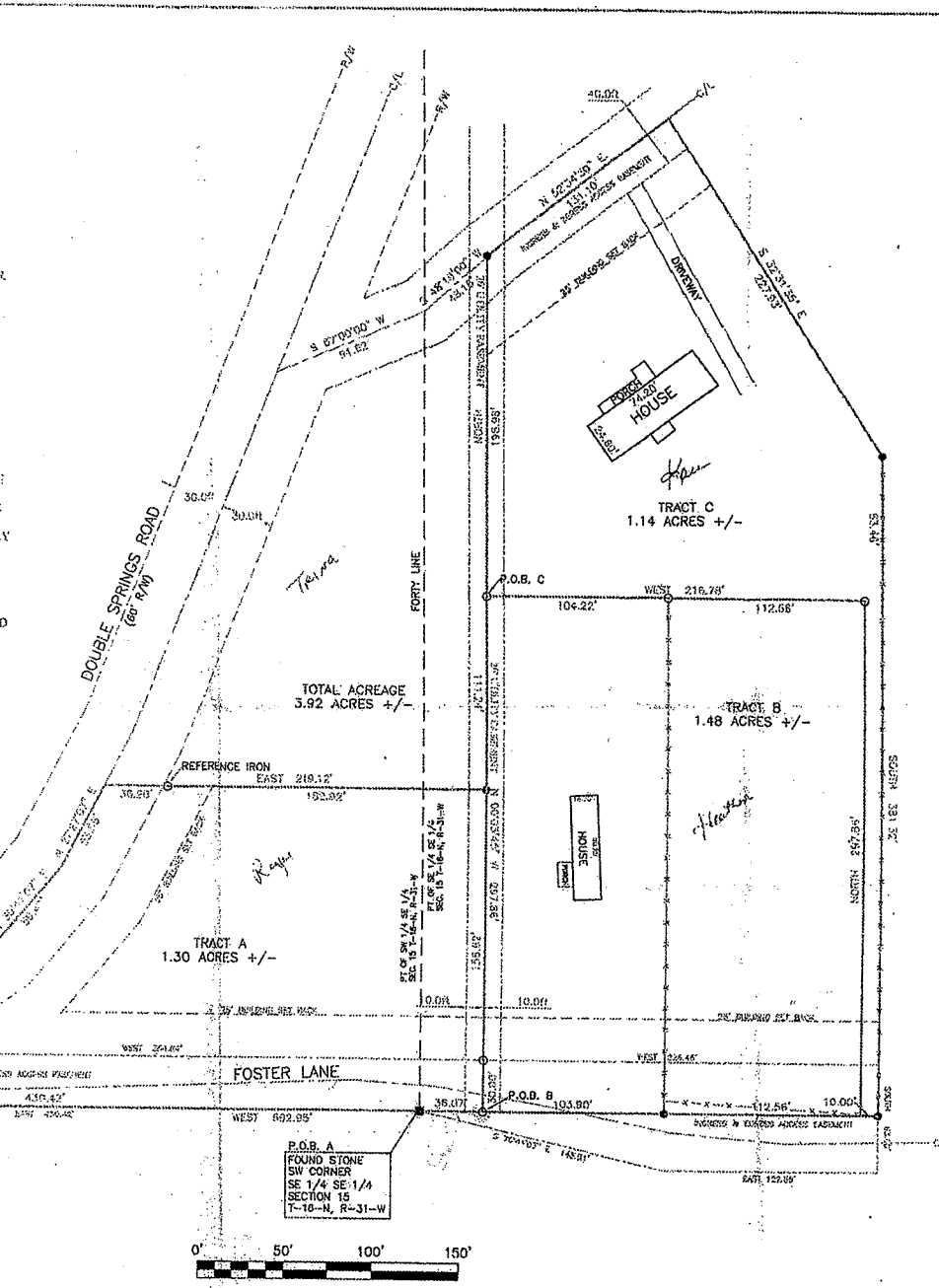
TRACT B:
 A PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS EAST 36.07' FROM THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 15 AND RUNNING THENCE NORTH 195.98' TO A FOUND IRON PIN, THENCE WEST 185.98' TO A SET IRON PIN, THENCE SOUTH 341.52' TO A FOUND IRON PIN, THENCE EAST 219.12' TO A SET IRON PIN, THENCE SOUTH 257.98' TO THE POINT OF BEGINNING, CONTAINING 1.48 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

TRACT C:
 A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS EAST 36.07' AND 430.42' FROM THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 15 AND RUNNING THENCE NORTH 195.98' TO A FOUND IRON PIN, THENCE WEST 185.98' TO A SET IRON PIN, THENCE SOUTH 341.52' TO A FOUND IRON PIN, THENCE EAST 219.12' TO THE POINT OF BEGINNING, CONTAINING 1.14 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

EASEMENT DESCRIPTION:
 SUBJECT TO AND WITH RIGHTS TO A 40' WIDE AND 10' DEEP EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15, THENCE NORTH 195.98' TO A FOUND IRON PIN, THENCE WEST 185.98' TO A SET IRON PIN, THENCE SOUTH 341.52' TO A FOUND IRON PIN, THENCE EAST 219.12' TO THE POINT OF BEGINNING.



THIS SURVEY WAS MADE BY THE SURVEYOR OR UNDER HIS CLOSE PERSONAL SUPERVISION AND IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE ARKANSAS SURVEYING BOARD. THE SURVEYOR CERTIFIES THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE ARKANSAS SURVEYING BOARD AND THAT THE SURVEY IS TRUE AND CORRECT.



LEGEND

THIS SURVEY WAS MADE BY THE SURVEYOR OR UNDER HIS CLOSE PERSONAL SUPERVISION AND IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE ARKANSAS SURVEYING BOARD.

1. SURVEYOR'S SEAL 2. SURVEYOR'S NAME 3. SURVEYOR'S NO. 4. SURVEYOR'S COMMISSION EXPIRATION DATE 5. SURVEYOR'S SIGNATURE 6. SURVEYOR'S ADDRESS 7. SURVEYOR'S PHONE NO. 8. SURVEYOR'S FAX NO. 9. SURVEYOR'S E-MAIL ADDRESS 10. SURVEYOR'S WEBSITE ADDRESS	1. SURVEYOR'S SEAL 2. SURVEYOR'S NAME 3. SURVEYOR'S NO. 4. SURVEYOR'S COMMISSION EXPIRATION DATE 5. SURVEYOR'S SIGNATURE 6. SURVEYOR'S ADDRESS 7. SURVEYOR'S PHONE NO. 8. SURVEYOR'S FAX NO. 9. SURVEYOR'S E-MAIL ADDRESS 10. SURVEYOR'S WEBSITE ADDRESS
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STATE RECORDING NUMBER:

300-104-31-12-220-73-0036

DRAWING NO. 407

RZN11-3883

One Mile View

FOSTER

Owl Creek Subdivision

Cross Keys Subdivision

Silverthorne Subdivision

Legacy Pointe Subdivision

Platted for 160 units

Platted for 130 units

Platted for 300 units

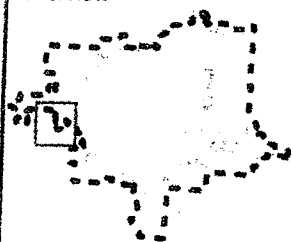
Platted for 150 units

Legend

- Multi-Use Trail (Existing)
- Future Trails
- Multi-Use Trail (Existing)
- Future Trails

Hillside-Hilltop Overlay District

Overview



Legend

Subject Property

RZN11-3883

Boundary

0 0.25 0.5

RZN11-3883

Design Overlay District

Planning Area

Fayetteville

1
Miles

CHAPTER 150: GENERAL PROVISIONS

150.01 Title

This title shall be known and may be cited as the Unified Development Code, Code of Fayetteville, and may be cited and abbreviated as "UDC."

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

150.02 Purpose

The UDC is adopted for the purpose of implementing the Comprehensive Land Use Plan and any other plans or policies adopted or amended by the City Council, in a manner that furthers the health, safety and general welfare of the people of the community and to provide uniform standards for the development of land and the installation of related improvements. The UDC sets forth the procedures, requirements, and minimum standards intended to promote an appropriate mix of land uses in an orderly manner; enhance aesthetic quality, moderate street congestion, secure safety from events such as fire, flood, erosion and landslides; prevent overcrowding of land; provide adequate light and air; and provide for circulation, recreation, and other public services and facilities. The UDC provides for, but is not limited to, development of land uses which protect established neighborhoods, and commercial and industrial districts; allows compatible infill of established areas; provides flexibility for mixing of uses to achieve traditional neighborhood developments; protects significant environmental resources; and makes a livable community.

(Code 1965, App. C, Art. 1, §A; Ord. No. 1750, 7-6-70; Code 1991, §158.02; Code 1965, §17B-14 Ord. No., 1893, 12-19-72; Code 1991, §160.001; Code 1965, App. A, Art. 13; Ord. No. 1747, 6-29-70; Code 1991, §150.02; Code 1965, §17B-14; Ord. No. 1893, 12-19-72; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4919, 9-05-06)

150.03 Authority

The provisions contained in the UDC are adopted pursuant to the authority conferred on the city by the General Assembly of the State of Arkansas, A.C.A. §14-54-103, General Powers of Cities and Towns; A.C.A. §14-54-104; Additional Powers of Cities of the First Class; and A.C.A. Title 14, Chapter 56, Municipal Building and Zoning Regulations--Planning; as amended.

(Code 1965, App. C, Art. I, §B; Ord. No. 1750, 7-6-70; Code 1991, §159.02; Ord. No. 4100, §2 (Ex. A), 6-16-98)

150.04 Jurisdiction

The city's planning jurisdiction is the area within the corporate boundaries as well as the area described in the planning area boundary description as filed with the City Clerk and Washington County Circuit Clerk's office. Such planning area boundary description may be modified from time to time in accordance with A.C.A. §14-56-413.

(Code 1965, App. C, Art. 1, §C; Ord. No. 1750, 7-6-70; Code 1991, §159.03; Ord. No. 3895, §1, 6-20-95; Code 1991, §163.04(A); Ord. No. 4100, §2 (Ex. A), 6-16-98).

150.05 Relationship To Previous Development Ordinances

The UDC shall be considered a restatement of previously adopted development ordinances and not a new enactment unless otherwise specifically provided. Any situation which was considered nonconforming under the ordinances previously in force does not achieve lawful, conforming status under this chapter merely by the repeal of the previous ordinances to enact the UDC.

(Ord. No. 4100, §2 (Ex. A), 6-16-98).

150.06 Relationship To Other Provisions Of The Code Of Fayetteville

The use of buildings and land shall be subject to all other applicable provisions of the *Code of Fayetteville* regardless of cross references within the UDC. Cross references to other provisions of the *Code of Fayetteville* are for the convenience of the reader. Lack of a cross reference shall not be construed as an indication that other provisions of the *Code of Fayetteville* do not apply.

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

150.07 Conflicts

- (A) *UDC/other code requirements.* The provisions of the UDC shall be held to be minimum requirements. Where requirements of the UDC are at a variance with other requirements within the *Code of Fayetteville*, the highest or most restrictive requirements shall apply.
- (B) *UDC/UDC.* Where a conflict arises between one section of the UDC and another section of the UDC, the most stringent section shall apply.
- (C) *UDC/Comprehensive Land Use Plan.* The regulations contained herein are adopted giving due consideration to the Comprehensive Land Use Plan. Thus, the requirements of the UDC shall take precedence over the policies of the Comprehensive Land Use Plan. Any conflict therewith should not be considered basis for challenge.
- (D) *UDC/private agreements.* The UDC is not intended to abrogate any private agreements, deed restrictions, covenants, easements, or other private agreements on the use of land. Where the UDC is more restrictive or imposes higher standards than the private agreement, the UDC shall control. Where the provisions of a private

61.05 District RSF-1, Residential Single-Family – One Unit Per Acre

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of one unit per acre. The district is designed to permit and encourage the development of very low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(D) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(E) *Density.*

Units per acre	1
----------------	---

(F) *Bulk and area regulations.*

Lot width minimum	150 ft.
Lot area minimum	35,720 Sq. Ft.
Land area per dwelling unit	35,720 Sq. Ft.

(G) *Setback requirements.*

Front	Side	Rear
-------	------	------

35 ft.	20 ft.	35 ft.
--------	--------	--------

(H) *Building height regulations.*

Building Height Maximum	45 ft.
-------------------------	--------

Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(I) *Building area.* None.

161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.*

Units per acre One-half

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres

Lot area per dwelling unit	2 acres
----------------------------	---------

E) *Setback requirements.*

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

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

Fayetteville Code of Ordinances

(Code 1965, App. A., Art. 7(24); Ord. No. 1747, 6-29-70; Ord. No. 3132, 10-1-85; Code 1991, §160.094; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5271, 9-1-09)

Cross reference(s)—Parking and Loading, Ch. 172.

164.04 Animals And Fowl

- (A) It shall be unlawful for any person to permit or allow any domesticated animal or fowl to run at large within the corporate limits of the city.
- (B) Animals traditionally associated with the practice of livestock raising or farm animals, such as horses, goats, swine, chickens, cows and other such animals are not considered pets and are not permitted within any zoning district in the city limits, with the exception of R-A, Residential Agricultural or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Animal Husbandry are permitted uses by right, unless otherwise stated herein.
- (C) It shall be lawful for any person to keep, permit or allow any fowl within the corporate limits of the city in all Residential zones under the following terms and conditions:
- (1) The principal use of the property shall be a single family dwelling. No fowl shall be allowed in multi-family complexes, including two-family and three-family dwellings.
 - (2) No more than four (4) hens shall be allowed for each single-family dwelling.
 - (3) No roosters shall be allowed.
 - (4) There shall be no outside slaughtering of hens.
 - (5) All hens must be kept in a secure, fenced enclosure constructed with a minimum area of 100 square feet. All hens shall be kept in the side or rear yard, and may not be permitted in the front yard area.
 - (6) A chicken coop/roost area shall not be located closer than twenty-five (25) feet to any residential structure on an adjacent lot, and shall meet building setbacks.
 - (7) Enclosures must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons.

(8) Fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of this Ordinance.

(9) The City may further restrict the use of fowl within residential districts if it causes a public nuisance or public health issue as defined in City Codes.

(10) All regulations administered by the Animal Services Division shall be enforceable by law, and this ordinance shall not supersede or replace any regulation thereof.

(D) The above Section C is not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl kept in areas of the City which are zoned R-A, Residential Agricultural, or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Animal Husbandry are permitted uses by right.

(E) *Separation of use.* The following uses, where permitted, shall be conducted no nearer than the following stated number of feet to the boundary of an R District, or to a dwelling on the same premises.

25 FEET

Chicken Coop in Residential districts (from residential dwelling on adjacent lot)

50 FEET

Animal hospital; serving household pets and similar small animals

Commercial breeding, raising

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

Kennel

Egg farm

100 FEET

Animal hospital: serving livestock and similar animals

Boarding or training of horses

Dairy farm

Poultry farm

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

200 FEET

Hog raising

Livestock: assembly, breeding, feeding, sales or shipment

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

CHAPTER 156: VARIANCES

156.01 General Requirements

All applications for variances shall be submitted in writing to the person responsible for administration of the referenced section.

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)—Administration, Ch. 152.

156.02 Zoning Regulations

Certain variances of the zoning regulations may be applied for as follows:

(A) *General regulations.* A variance shall not be granted unless and until an application demonstrates:

(1) *Special conditions.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or building in the same district.

(2) *Deprivation of rights.* That literal interpretation of the provisions of the zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning regulations.

(3) *Resulting actions.* That the special conditions and circumstances do not result from the actions of the applicant.

(4) *No special privileges.* That granting the variance requested will not confer on the applicant any special privilege that is denied by Zoning, Chapters 160 through 165, to other lands, structures, or building in the same district.

(5) *Nonconforming uses.* No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(B) *Consideration by the Planning Commission.* Applications for variances of the following shall be considered by the Planning Commission.

(1) *Design Overlay District.*

(a) *Special conditions.* The purpose of this section is to authorize in specific cases such variances from the regulations of the Design Overlay District as will not be

contrary to the public interest, where, owing to special conditions, a literal enforcement of the Design Overlay District regulations would result in unnecessary hardship.

(b) *Variance requested.* A variance from the terms of the Design Overlay District regulations shall not be granted by the Planning Commission unless and until the applicant provides from what section a variance is requested. This shall be submitted along with the large scale development plan.

(c) *Findings.* The Planning Commission shall make the following findings:

(i) *Requirements met.* That the requirements of §156.02.(A) have been met by the applicant for a variance.

(ii) *Minimum variance.* That the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(iii) *Harmony with general purpose.* That the granting of the variance will be in harmony with the general purpose and intent of the Design Overlay District, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(d) *Conditions and safeguards.* In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this section.

(2) *Access to structure.* The Planning Commission shall have the authority to waive the requirement that every building hereafter erected or moved shall be located on a lot which has frontage on a public street when the property owner provides safe and convenient access for fire protection and sanitation vehicles.

(3) *Building height variance in all zoning districts.*

Glenn & Lynnette Foster
1047 Glenn Lane
Fayetteville, AR 72703
479-466-1634
Email: gafis1@cox.net

September 30 2010

City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

Ref: Conditional Use Permit

Dear Sirs;

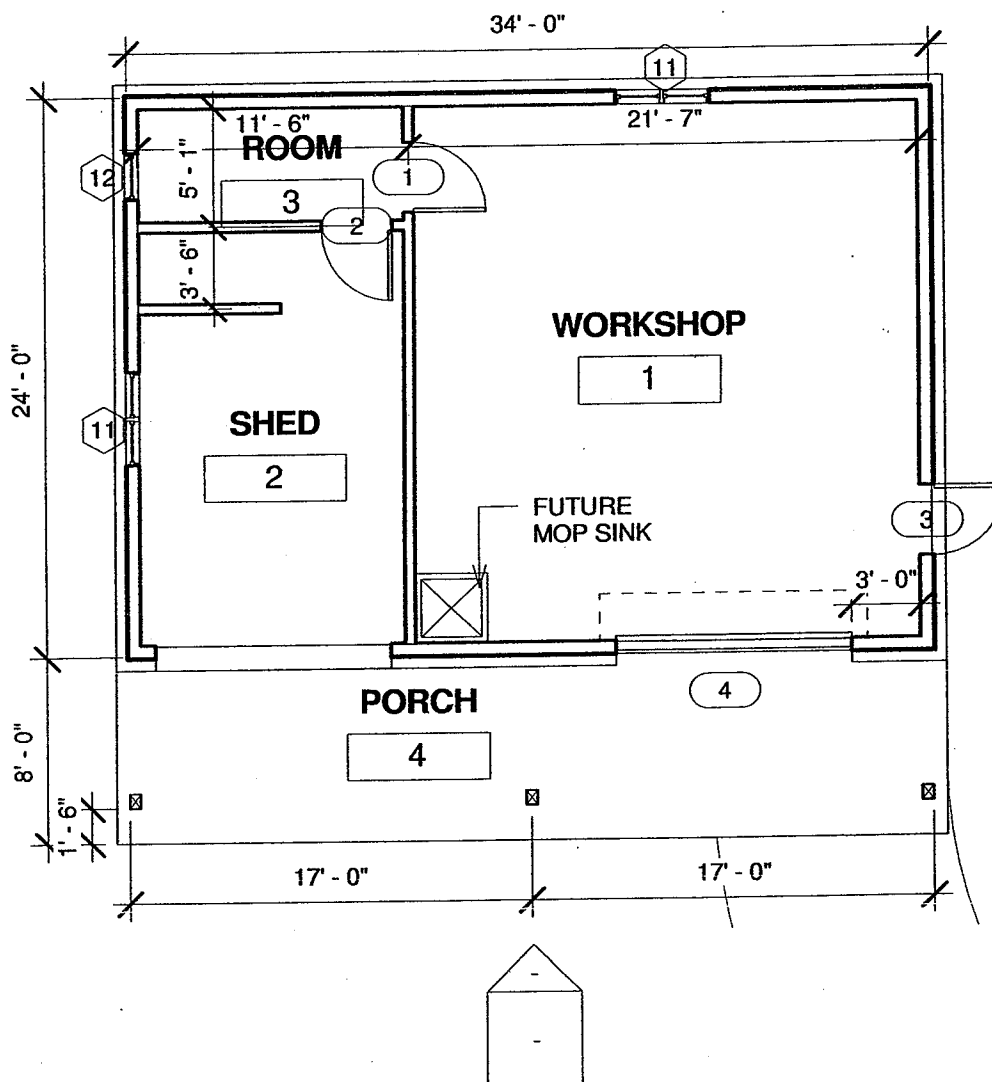
I am requesting a Conditional Use Permit to build an accessory structure before the house is built on 636 Foster Lane. The reason for the permit request is because of a delay in closing of our present home which would give us the funds to start our new home and detached garage/shop on the proposed property. We have the house plans, site plans, septic engineering completed for our new home site. Both structures will be of like construction (i.e. same type framing, siding, stone veneer, roof design and slope, shingles and shingle color). We have a contractor and the funds to build the detached garage/shop and would like to start in advance of the house to ease the tools and material storage for maintenance of the land and the eventual house construction. We are hoping to start the house construction around the first of the 2011.

Information:

- * Rural Resident Single Family
- * Home size w/garage = 1834 s/f
- * Accessory Structure size = 816 s/f
- * 1.4 acres
- * City Water
- * No Sewer; Septic required and permits have been secured from engineering and State of Arkansas

If there is other information required or questions regarding our request please call or contact me. Thank you!

Sincerely
Glenn A. Foster



① FLOORPLAN
1/8" = 1'-0"

Glenn and
Lynn Foster
Foster Home

WORKSHOP

Project number	023	A102
Date	7-30-2010	
Drawn by	Author	Scale 1/8" = 1'-0"
Checked by	Checker	

Cindy Monreal - ucp 10-3687

From: Heather Dumas
To:
Date: 11/8/2010 4:40 PM
Subject: ucp 10-3687

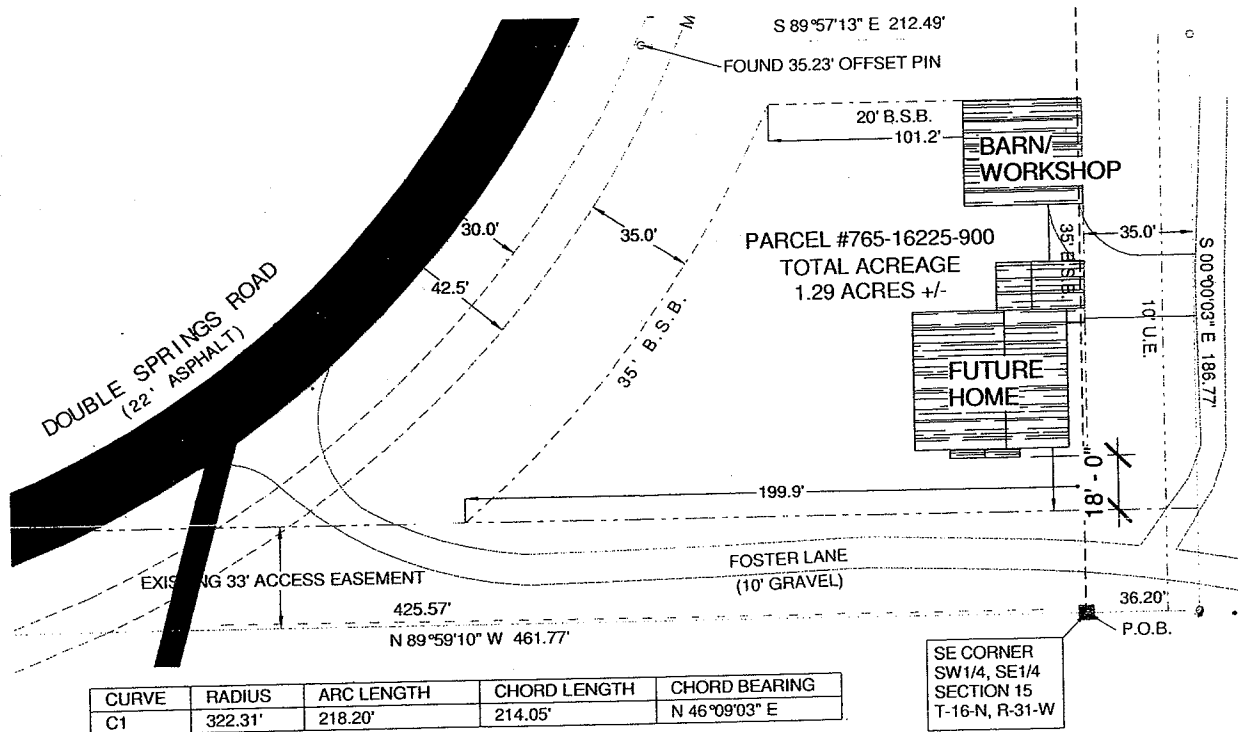
I would like to oppose the conditional use permit requested by Mr. Foster for 636 Foster Lane for a number of reasons. I do not believe that proper notification was given as required by your ordinances. I received no written notification and as of last week neither had any of the other adjoining property owners. I only found out about this request by accident, had I not come into town for other business and happen to talk with one of the neighbors I would not have know at all. The sign that was required to be posted was found in the ditch in the weeds.

Mr. Foster has told all of my neighbors how he plans to build a barn and put horses on this property. I believe that there is not enough room on this property for that kind of use. I believe Mr. Foster needs to follow proper procedure and have his principle structure constructed first before he begins any other construction projects.

I believe my neighbor Mathew and his wife agree with me and should be at the meeting tonight to represent our interests. As they have proven to be good, reliable neighbors my interest will fall in line with theirs as I would like to see them stay.

Thank you
Heather Dumas

N 20
S 20
E 35
W 35



① Site
1" = 60'-0"

636 S Foster Ln.
ADDRESS 44197

PERMIT #
CONSTRUCTION CONFORMS TO SITE DRAWING
SUBMITTED FOR APPROVAL AND MINIMUM SET
BACKS ARE NOT VIOLATED

OWNER/APPLICANT *Glenn and Lynn Foster* DATE 11-15-10

BUILDING OFFICIAL _____ DATE _____
FAYETTEVILLE
BUILDING SAFETY & PLANNING DIVISION

Glenn and
Lynn Foster
Foster Home

SITE PLAN

Project number 023
Date 7-30-2010
Drawn by jkc
Checked by jkc

A101

Scale 1" = 60'-0"

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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
August 16, 2011**

A meeting of the Fayetteville City Council will be held on August 16, 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 August 2, 2011 City Council meeting minutes.
2. **Dell Marketing – Computer Servers:** A resolution authorizing the purchase of two (2) high performance computer servers with associated equipment in the amount of \$104,501.90 from Dell Marketing pursuant to bids through the Western States Contracting Alliance.

3. **Office of Intergovernmental Services Division Grant – Underage Drinking Laws:** A resolution authorizing acceptance of a grant in the amount of \$31,500.00 from the Office of Intergovernmental Services Division of the Arkansas Department of Finance and Administration to enforce underage drinking laws, and approving a budget adjustment.
4. **Fayetteville Chamber of Commerce:** A resolution approving a participation and unsecured loan agreement with the Fayetteville Chamber of Commerce to perform energy retrofit services in the amount of \$13,918.00 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.
5. **Mount Sequoyah Center, Inc.:** A resolution approving a participation and unsecured loan agreement with Mount Sequoyah Center, Inc. to perform energy retrofit services in the amount of \$121,000.08 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.
6. **CPS of NWA, Inc. (Bid #11-47):** A resolution awarding Bid #11-47 and approving a contract with CPS of NWA, Inc. in the amount of \$35,200.00 for the purchase of spray foam and insulation as part of the Community Revolving Loan Fund for Energy Efficiency.
7. **Community Services Donation Revenue:** A resolution approving a budget adjustment in the total amount of \$478.00 representing \$228.00 in citizen donation revenue to the Ranger’s Pantry Pet Food Bank for the second quarter of 2011 and a \$250.00 donation from the University of Arkansas Student Affairs Office for the Fest of All event.
8. **Grant Offer Acceptance:** A resolution authorizing application and acceptance of a Federal Aviation Administration 95% project cost grant and an Arkansas Department of Aeronautics 5% matching grant, for the Drake Field Runway Rejuvenation Project.

B. Unfinished Business:

1. **RZN 11-3870 (2012 West Martin Luther King Blvd./USA Drug):** An ordinance rezoning that property described in rezoning petition RZN 11-3870, for approximately 0.50 acres, located at 2012 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family 24 units per acre to C-1, Neighborhood Commercial. *This ordinance was left on the First Reading at the August 2, 2011 City Council meeting.*

Left on the First Reading

2. **Revised Master Street Plan:** A resolution approving and adopting a revised Master Street Plan and street cross-sections. *This resolution was tabled at the June 21, 2011 City Council meeting to the July 5, 2011 City Council meeting. This resolution was tabled at the July 5, 2011 City Council meeting to the August 16, 2011 City Council meeting.*

C. New Business:

- 1. CDBG Reimbursement:** A resolution to approve a contract to release Habitat For Humanity of Washington County, Inc. and the City of Fayetteville from The Real Estate Sales Contract of November 15, 2006 and to reconvey the property to the City of Fayetteville and to approve a budget adjustment of \$90,000.00.
- 2. Benefits Renewal:** A resolution approving a 2012 employee benefits package.
- 3. Amend Chapter 169 & Chapter 170:** An ordinance to amend sections of Chapter 169: Physical Alteration of Land and Chapter 170: Stormwater Management, Drainage and Erosion Control.
- 4. RZN 11-3880 (736 North Garland Avenue):** An ordinance rezoning that property described in rezoning petition RZN 11-3880 for approximately 0.10 acres, located at 736 North Garland Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to CS, Community Services.
- 5. RZN 11-3883 (636 South Foster Lane):** An ordinance rezoning that property described in rezoning petition RZN 11-3883, for approximately 1.29 acres, located at 636 South Foster Lane from RSF-1, Residential Single-Family, 1 unit per acre to R-A, Residential Agricultural.
- 6. RZN 11-3877 (130 South Hill Ave./Eco Modern Flats):** An ordinance rezoning that property described in rezoning petition RZN 11-3877, for approximately 2.92 acres, located at 130 South Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.
- 7. Amend R-PZD 04-01.00, Southern View II PZD:** An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrell east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #26, Multi-Family dwellings, as a permitted use throughout all of the space in the six existing mixed-use buildings on the subject property, as described herein.
- 8. Amend §172.05 Standards For The Number Of Spaces By Use:** An ordinance to amend §172.05 Standards For The Number Of Spaces By Use, Table 3 Parking Ratios to clarify that spaces at gasoline pump islands may be counted as parking spaces.

City Council Tour: Monday, August 15, 2011 at 4:30 p.m. The Council will tour the Water/Sewer Facility, Tanks, and Pump Stations.

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
Dell Marketing - Computer Servers
Page 1 of 10

City Council Agenda Items
and
Contracts, Leases or Agreements

8/16/2011

City Council Meeting Date
Agenda Items Only

Greg Tabor

Submitted By

Police

Division

Police

Department

Action Required:

Council approve the purchase of 2 high performance servers and switch with storage from Dell Marketing. This purchase is based on Western States Contracting Alliance approved pricing and will cost \$104,501.90 .

\$ 104,502.00

Cost of this request
4470-9470-5210.00

4470-9470-5801.00

Account Number

06002-1

Project Number

\$ 186,775.00

Category / Project Budget

\$ 3,933.65

Funds Used to Date

\$ 182,841.35

Remaining Balance

Police Technology Improvements

Program Category / Project Name

Program / Project Category Name

Sales Tax Capital Improvement

Fund Name

Budgeted Item ☒Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Services Director

Date

Received in City Clerk's Office 07-29-11 P01:46 RCVD

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and Members of the City Council

From: Greg Tabor, Chief of Police 

Date: July 26, 2011

Subject: Purchase Computer Servers and Storage

PROPOSAL:

The Fayetteville Police Department is working on creating an off-site disaster recovery center by purchasing 2 Power Edge R710 Chassis with an extended warranty. Within this project we would also purchase 2 Dell EqualLogic PS4000XV, 600GB HighPreformance, 15 K SAS Drives for storage and the PowerConnect switch. The total cost utilizing Western States Contracting Alliance (WSCA) pricing for both sites is \$104,501.90. One server with storage and switch would be located at the Fayetteville Police Department Server Room with the second identical system being located at the EJ Ball Building the City's Server room. This system will replace fifteen outdated and undersized servers that reside at the Police Department. By utilizing the two new servers our power consumption and cooling costs will be reduced.

RECOMMENDATION:

Staff recommends authorizing the purchase of server, storage and switch from DELL Marketing LP, 1Dell Way, Round Rock, TX. The quotes being considered are based on WSCA pricing in the amount of \$104,501.90.

BUDGET IMPACT:

This purchase is included within the 2011 Police Department's Information Technology Improvement Project budget.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING PURCHASE OF TWO (2) HIGH PERFORMANCE COMPUTER SERVERS WITH ASSOCIATED EQUIPMENT IN THE AMOUNT OF \$104,501.90 FROM DELL MARKETING PURSUANT TO BIDS THROUGH THE WESTERN STATES CONTRACTING ALLIANCE

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 purchase of two (2) high performance computer servers with associated equipment in the amount of \$104,501.90 from Dell Marketing pursuant to bids through the Western States Contracting Alliance.

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)
All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Vendor #: 2978 Vendor Name: Dell Marketing LP

Address: 1 Dell Way State: TX Fob Point: Zip Code: 78682-0026 Ship to code: 021

City: Rock State: TX Requester's Employee #: 75

Requester: Judy cohea Extension: 581

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Dell Equal Logic PS4000XV, 15K SAS Drives (224-6038)	2	EA	37,320.98	\$74,641.96	4470-9470-5801.00	06002-1		
2	PowerConnect 5424, 24 Gbe Ports/Managed Switch	2	EA	1,309.94	\$2,619.88	4470-9470-5210.00	06002-1		
3	PE R710 /Chassis for up to 8.2.5" hard drives	2	EA	9,085.28	\$18,170.56	4470-6470-5801.00	06002-1		
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling	1	Lot	242.00	\$242.00				

Special Instructions: Per quotes using WSCA pricing Contract #WNN97ABZ Quote #591777529,591775842,591779545

Subtotal: \$95,674.40
Tax: \$8,827.50
Total: \$104,501.90

Approvals: Purchasing Manager: _____

Mayor: _____ Department Director: _____

Finance & Internal Services Director: _____ Budget Manager: _____

Dispatch Manager: _____ Utilities Manager: _____

DELL**QUOTATION**A. 2
Dell Marketing - Computer Servers
Page 5 of 10**QUOTE #:** 591775842**Customer #:** 809720**Contract #:** WN97ABZ**Customer Agreement #:** B27160**Quote Date:** 7/22/11**Date:** 7/22/11 1:46:15 PM**Customer Name:** CITY OF FAYETTEVILLE

TOTAL QUOTE AMOUNT:	\$81,644.69		
Product Subtotal:	\$74,641.96		
Tax:	\$6,912.73		
Shipping & Handling:	\$90.00		
Shipping Method:	3rd Day	Total Number of System Groups:	1

GROUP: 1	QUANTITY: 2	SYSTEM PRICE: \$37,320.98	GROUP TOTAL: \$74,641.96
Base Unit:		Dell EqualLogic PS4000XV, HighPerformance, 15K SAS Drives (224-6038)	
Processor:		7.2 Terabyte capacity, 16 X 450GB, 15K SAS, Dual Controller (341-9446)	
Documentation Diskette:		EqualLogic array may not be returned (468-8817)	
Factory Installed Software:		Asynchronous Replication (468-7110)	
Software Disk Two:		Snaps/Clones with integration for MS SQL, Exchange, Hyper V and VMware (468-7155)	
Feature		SAN HQ multi group monitoring software (468-7156)	
Service:		Dell Hardware Limited Warranty Extended Year (994-7578)	
Service:		Dell Hardware Limited Warranty Initial Year (994-7617)	
Service:		Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, 4 Year Extended (989-3844)	
Service:		Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, Initial Year (994-4340)	
Service:		EqualLogic Advanced Software Warranty and Service,7x24 Access,5 Year (994-7628)	
Service:		MISSION CRITICAL PACKAGE: Enhanced Services, 5 Year (994-7737)	
Service:		ProSupport : 7x24 HW / SW Tech Support and Assistance , 5 Year (989-3964)	
Service:		Thank you choosing Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-800-9 (989-3439)	
Installation:		PS array Customer Self Install Support Service (990-0658)	
Support:		Proactive Maintenance Service Declined (926-2979)	
Service Two:		Proactive Maintenance Service Declined (926-2979)	
		PartnerDirect order, thank youfor your partnership with Dell (992-6087)	

COMMENTS

DEALID# 2576058

SALES REP:	Celinda Garza	PHONE:	1-866-537-0706	A. 2
Email Address:	celinda_garza@dell.com	Phone Ext:	5139087	Dell Marketing - Computer Servers Page 6 of 10

Please review this quote carefully. If complete and accurate, you may place your order online at www.dell.com/qto (use quote number above). POs and payments should be made to **Dell Marketing L.P.**

If you do not have a separate agreement with Dell that applies to your order, please refer to www.dell.com/terms as follows:

If purchasing for your internal use, your order will be subject to *Dell's Terms and Conditions of Sale-Direct* including Dell's U.S. Return Policy, at www.dell.com/returnpolicy#total. If purchasing for resale, your order will be subject to *Dell's Terms and Condition of Sale for Persons or Entities Purchasing to Resell*, and other terms of Dell's PartnerDirect program at www.dell.com/partner. If your order includes services, visit www.dell.com/servicecontracts for service descriptions and terms.

Quote information is valid for U.S. customers and U.S. addresses only, and is subject to change. Sales tax on products shipped is based on "Ship To" address, and for downloads is based on "Bill To" address. Please indicate any tax-exempt status on your PO, and fax your exemption certificate, with seller listed as *Dell Marketing L.P.*, to Dell's Tax Department at 800-433-9023. Please include your Customer Number.

For certain products shipped to end-users in California, a State Environmental Fee will be applied. For Asset Recovery/Recycling Services, visit www.dell.com/assetrecovery.



QUOTATION

A. 2
Dell Marketing - Computer Servers
Page 7 of 10

QUOTE #: 591779545

Customer #: 809720

Contract #: WN97ABZ

Customer Agreement #: B27160

Quote Date: 7/22/11

Date: 7/22/11 1:46:17 PM

Customer Name: CITY OF FAYETTEVILLE

TOTAL QUOTE AMOUNT:	\$19,982.45		
Product Subtotal:	\$18,170.56		
Tax:	\$1,691.89		
Shipping & Handling:	\$120.00		
Shipping Method:	3rd Day	Total Number of System Groups:	1

GROUP: 1	QUANTITY: 2	SYSTEM PRICE: \$9,085.28	GROUP TOTAL: \$18,170.56
Base Unit:	PE R710 with Chassis for Up to 8, 2.5-Inch Hard Drives (224-8461)		
Processor:	PowerEdge R710 Shipping (330-4124)		
Memory:	48GB Memory (6x8GB), 1333MHz, Dual Ranked LV RDIMMs for 2 Procs, Optimized (317-4391)		
Monitor:	Embedded Broadcom, GB Ethernet NICS with TOE and iSCSI Offload Enabled (430-2970)		
Monitor:	Embedded Broadcom, GB Ethernet NICS with TOE (430-1764)		
Video Card:	Intel Xeon E5649 2.53GHz, 12M Cache, 5.86 GT/s QPI, 6C (317-6155)		
Video Memory:	Intel Xeon E5649 2.53GHz, 12M Cache, 5.86 GT/s QPI, 6C (317-6164)		
Video Memory:	PowerEdge R710 Heat Sinks for 2 Processors (317-1213)		
Hard Drive:	146GB 15K RPM Serial-Attach SCSI 6Gbps 2.5in Hotplug Hard Drive (342-0427)		
Hard Drive Controller:	PERC 6/i SAS RAID Controller 2x4 Connectors, Internal, PCIe256MB Cache, x8 Chassis (341-8712)		
Floppy Disk Drive:	Power Saving BIOS Setting (330-3491)		
Operating System:	No Operating System (420-6320)		
NIC:	Intel Gigabit ET NIC, Quad Port, Copper, PCIe-4 (430-0657)		
Modem:	iDRAC6 Express (467-8649)		
CD-ROM or DVD-ROM Drive:	DVD ROM, SATA, INTERNAL (313-9092)		
Sound Card:	Bezel (313-7517)		
Speakers:	Riser with 2 PCIe x8 + 2 PCIe x4 Slot (320-7886)		
Documentation Diskette:	Dell Management Console (330-5280)		
Documentation Diskette:	Electronic System Documentation and OpenManage DVD Kit (330-3485)		
Additional Storage Products:	146GB 15K RPM Serial-Attach SCSI 6Gbps 2.5in Hotplug Hard Drive (342-0427)		
Feature	RAID 1 for H700, PERC 6/i, H200 or SAS 6/iR Controllers (341-8699)		
Feature	ReadyRails Sliding Rails With CableManagement Arm (330-3477)		
Service:	Thank you choosing Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-800-9 (989-3439)		
Service:	Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, 2 Year Extended (992-8162)		
Service:	ProSupport : 7x24 HW / SW Tech Support and Assistance , 3 Year (992-8352)		
Service:	Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, Initial Year (993-2200)		
Service:	Dell Hardware Limited Warranty Plus On Site Service Initial Year (993-8447)		
Service:	Dell Hardware Limited Warranty Extended Year (993-8458)		
Service:	MISSION CRITICAL PACKAGE: Enhanced Services, 3 Year (993-8518)		
Installation:	On-Site Installation Declined (900-9997)		
Misc:	High Output Power Supply Redundant, 870W (330-3475)		

Misc:	Power Cord, NEMA 5-15P to C13, 15 amp, wall plug, 10 feet / 3 meter (310-8509)	A. 2
Misc:	Power Cord, NEMA 5-15P to C13, 15 amp, wall plug, 10 feet / 3 meter (310-8509)	Dell Marketing - Computer Servers
	PartnerDirect order, thank you for your partnership with Dell (992-6087)	Page 8 of 10

COMMENTS

DEALID# 2576058

SALES REP:	Celinda Garza	PHONE:	1-866-537-0706
Email Address:	celinda_garza@dell.com	Phone Ext:	5139087

Please review this quote carefully. If complete and accurate, you may place your order online at www.dell.com/qto (use quote number above). POs and payments should be made to *Dell Marketing L.P.*

If you do not have a separate agreement with Dell that applies to your order, please refer to www.dell.com/terms as follows:

If purchasing for your internal use, your order will be subject to *Dell's Terms and Conditions of Sale-Direct* including Dell's U.S. Return Policy, at www.dell.com/returnpolicy#total. If purchasing for resale, your order will be subject to *Dell's Terms and Condition of Sale for Persons or Entities Purchasing to Resell*, and other terms of Dell's PartnerDirect program at www.dell.com/partner. If your order includes services, visit www.dell.com/servicecontracts for service descriptions and terms.

Quote information is valid for U.S. customers and U.S. addresses only, and is subject to change. Sales tax on products shipped is based on "Ship To" address, and for downloads is based on "Bill To" address. Please indicate any tax-exempt status on your PO, and fax your exemption certificate, with seller listed as *Dell Marketing L.P.*, to Dell's Tax Department at 800-433-9023. Please include your Customer Number.

For certain products shipped to end-users in California, a State Environmental Fee will be applied. For Asset Recovery/Recycling Services, visit www.dell.com/assetrecovery.



QUOTATION

A. 2
Dell Marketing - Computer Servers
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QUOTE #: 591777529

Customer #: 809720

Contract #: WN97ABZ

Customer Agreement #: B27160

Quote Date: 7/22/11

Date: 7/22/11 1:46:16 PM

Customer Name: CITY OF FAYETTEVILLE

TOTAL QUOTE AMOUNT:	\$2,897.20		
Product Subtotal:	\$2,619.88		
Tax:	\$245.32		
Shipping & Handling:	\$32.00		
Shipping Method:	3rd Day	Total Number of System Groups:	1

GROUP: 1	QUANTITY: 2	SYSTEM PRICE: \$1,309.94	GROUP TOTAL: \$2,619.88
Base Unit:	PowerConnect 5424, 24 GbE Ports Managed Switch, Layer 2, iSCSI optimized (223-4644)		
Service:	DECLINED CRITICAL BUSINESS SERVER OR STORAGE SOFTWARE SUPPORT PACKAGE- CALL YOUR DELL SALES REP IF UPGRADE NEED (989-1739)		
Service:	Basic: Business Hours (5X10) Next Business Day On Site Hardware Warranty Repair Initial Year (985-6720)		
Service:	Dell Hardware Warranty Initial Year (989-1727)		
Service:	Dell Hardware Warranty Extended Year(s) (989-1728)		
Service:	Basic: Business Hours (5X10) Next Business Day On Site Hardware Warranty Repair 2 Year Extended (985-1272)		
Installation:	On-Site Installation Declined (950-8997)		
	Partner Direct order, thank you for your partnership with Dell (992-6087)		

COMMENTS

DEALID# 2576058

SALES REP: Celinda Garza

PHONE: 1-866-537-0706

Email Address: celinda_garza@dell.com

Phone Ext: 5139087

Please review this quote carefully. If complete and accurate, you may place your order online at www.dell.com/qto (use quote number above). POs and payments should be made to Dell Marketing L.P.

If you do not have a separate agreement with Dell that applies to your order, please refer to www.dell.com/terms as follows:

If purchasing for your internal use, your order will be subject to *Dell's Terms and Conditions of Sale-Direct* including Dell's U.S. Return Policy, at www.dell.com/returnpolicy#total. If purchasing for resale, your order will be subject to *Dell's Terms and Condition of Sale for Persons or Entities Purchasing to Resell*, and other terms of Dell's PartnerDirect program at www.dell.com/partner. If your order includes services, visit www.dell.com/servicecontracts for service descriptions and terms.

A. 2

Dell Marketing - Computer Servers

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Quote information is valid for U.S. customers and U.S. addresses only, and is subject to change. Sales tax on products shipped is based on "Ship To" address, and for downloads is based on "Bill To" address. Please indicate any tax-exempt status on your PO, and fax your exemption certificate, with seller listed as *Dell Marketing L.P.*, to Dell's Tax Department at 800-433-9023. Please include your Customer Number.

For certain products shipped to end-users in California, a State Environmental Fee will be applied. For Asset Recovery/Recycling Services, visit www.dell.com/assetrecovery.

City of Fayetteville Staff Review Form

A. 3
Office of Intergovernmental Services
Division Grant - Underage Drinking Laws
Page 1 of 14

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

8/16/2011

City Council Meeting Date
Agenda Items Only

G Tabor
Submitted By

Patrol
Division

Police
Department

Action Required:

Approval of the non-matching grant award for Enforcing Underage Drinking Laws Grant and budget adjustment in the amount of \$31,500.00.

\$ 31,500.00
Cost of this request

\$ -
Category / Project Budget

Underage Drinking Prevention Grant
Program Category / Project Name

1010-2920-5120.00
Account Number

\$ -
Funds Used to Date

Grant
Program / Project Category Name

08068- 2011
Project Number

\$ -
Remaining Balance

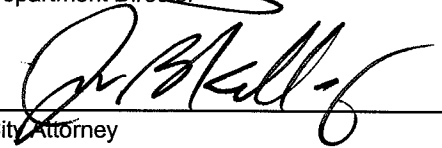
General
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒


Department Director

7-29-11
Date

Previous Ordinance or Resolution #


City Attorney

7/29/11
Date

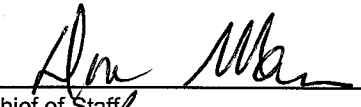
Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

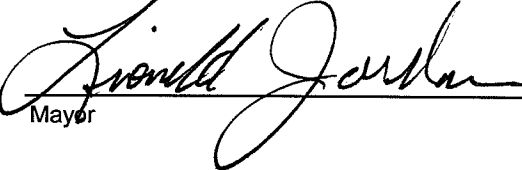
7-31-2011
Date

Received in City
Clerk's Office 07-29-11 P01:51 RCVD



Chief of Staff

Date

Received in
Mayor's Office


Mayor

8/1/11
Date

Received in
Mayor's Office

Comments:



www.accessfayetteville.org

A. 3

Office of Intergovernmental Services

Division Grant - Underage Drinking Laws

Page 2 of 14

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and Members of the City Council

From: Greg Tabor, Chief of Police 

Date: July 27, 2011

Subject: Enforcing Underage Drinking Laws Grant

PROPOSAL:

The Office of Intergovernmental Services Division of the Arkansas Department of Finance and Administration has awarded a grant in the amount of \$31,500.00 to the Fayetteville Police Department to enforce underage drinking laws. The Fayetteville Police Department will use these funds to offset the expenditure of a number of details to monitor and inspect alcohol permitted outlets in the enforcement of underage drinking laws throughout the year. This will include overtime and crime prevention supplies. This is a reimbursement grant with no matching funds required.

RECOMMENDATION:

Staff recommends approval the non-matching grant award for Enforcing Underage Drinking Laws and a budget adjustment in the amount of \$31,500.

BUDGET IMPACT:

A budget adjustment is attached accepting the award.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT IN THE AMOUNT OF \$31,500.00 FROM THE OFFICE OF INTERGOVERNMENTAL SERVICES DIVISION OF THE ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION TO ENFORCE UNDERAGE DRINKING LAWS, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of a grant in the amount of \$31,500.00 from the Office of Intergovernmental Services Division of the Arkansas Department of Finance and Administration to enforce underage drinking laws.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A".

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 3 V11.0425
Office of Intergovernmental Services
Division Grant Underage Drinking Laws
Part 11.0425
Adjustment Number

Record the acceptance of the 2011-2012 Enforcing Underage Drinking Laws Grant in the amount of \$31,5000.

[illegible]

EXHIBIT
A

Attachment 1

Grantee Acknowledgement of EUDL Grant Requirements and Restrictions

I, Lionel Jordan, agency head for City of Fayetteville
acknowledge the specific requirements outlined in the Notification of Award.

I will ensure the timely submission of all reports and will ensure the reimbursement requests are submitted only for qualified expenses and for only the approved amounts as outlined in the *Approved Budget*.

Contact Information: 100 A. West Rock Street, Fayetteville, AR 72701

Lioneld Jordan
Agency Head- Printed Name

Mayor
Title

Signature

8/16/2011
Date

Authorized Agent/Award Manager contact information:

Name: Craig Stout

Title: Sergeant

Phone: (479) 587-3580

Other: cstout@ci.fayetteville.ar.us

Alternate Person contact information: (at least one required)

Name: Greg Tabor

Title: Chief of Police

Phone: (479) 587-3500

Other: gtabor@ci.fayetteville.ar.us

Name: Judy Cohea

Title: Support Services Manager

Phone: (479) 587-3581

Other: jcohea@ci.fayetteville.ar.us



**ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF INTERGOVERNMENTAL SERVICES
ENFORCING UNDERAGE DRINKING LAWS**

A. 3
Office of Intergovernmental Services
Division Grant - Underage Drinking Laws
Page 6 of 14

MINI-GRANT BUDGET SPREADSHEET

Applicant Name	City of Fayetteville
Project Name	Underage Alcohol Enforcement
Sub-grant award date:	Sub-grant award amount:
July 15, 2011 to May 16, 2012	\$31,500

Cops-N-Shops

<List line item>	Individual Line Item (amounts)
6 officers x 7 hrs x \$35.00	\$1,470.00
6 officers x 7 hrs x \$35.00	\$1,470.00
6 officers x 7 hrs x \$35.00	\$1,470.00
6 officers x 7 hrs x \$35.00	\$1,470.00
6 officers x 7 hrs x \$35.00	\$1,470.00
6 officers x 7 hrs x \$35.00	\$1,470.00
6 officers x 7 hrs x \$35.00	\$1,470.00
6 officers x 7 hrs x \$35.00	\$1,470.00
6 officers x 7 hrs x \$35.00	\$1,470.00
TOTAL CATEGORY AMOUNT	<u>\$13,230.00</u>

Bar Patrol

<List line item>	Individual Line Item (amounts)
6 officers x 5 officers x \$35.00	\$1,050.00
6 officers x 5 officers x \$35.00	\$1,050.00
6 officers x 5 officers x \$35.00	\$1,050.00
6 officers x 5 officers x \$35.00	\$1,050.00
6 officers x 5 officers x \$35.00	\$1,050.00
6 officers x 5 officers x \$35.00	\$1,050.00
TOTAL CATEGORY AMOUNT	<u>\$6,300.00</u>

Compliance Checks

	Individual Line Item (amounts)
(2 officers x 3 hrs x \$35.00) + (1 minor x 3 hrs x \$10.00)	\$240.00
(2 officers x 3 hrs x \$35.00) + (1 minor x 3 hrs x \$10.00)	\$240.00
(2 officers x 3 hrs x \$35.00) + (1 minor x 3 hrs x \$10.00)	\$240.00
(2 officers x 3 hrs x \$35.00) + (1 minor x 3 hrs x \$10.00)	\$240.00
(2 officers x 3 hrs x \$35.00) + (1 minor x 3 hrs x \$10.00)	\$240.00
(2 officers x 3 hrs x \$35.00) + (1 minor x 3 hrs x \$10.00)	\$240.00
(2 officers x 3 hrs x \$35.00) + (1 minor x 3 hrs x \$10.00)	\$240.00
TOTAL CATEGORY AMOUNT	<u>\$1,920.00</u>

Bikes, Blues, BBQ

<List line item>	Individual Line Item (amounts)
4 officers x 8hrs x \$35.00 (Bar Patrol)	\$1,120.00
4 officers x 8hrs x \$35.00 (Bar Patrol)	\$1,120.00
<List line item>	\$0.00
<List line item>	\$0.00
<List line item>	\$0.00
TOTAL CATEGORY AMOUNT	<u>\$2,240.00</u>

U of A Football Games

<List line item>	Individual Line Item (amounts)
4 officers x 5hrs x \$35.00 (pre-game Cops-N-Shop)	\$700.00
6 officers x 5hrs x \$35.00 (post game bar patrol)	\$1,050.00
4 officers x 5hrs x \$35.00 (pre-game Cops-N-Shop)	\$700.00
6 officers x 5hrs x \$35.00 (post game bar patrol)	\$1,050.00
4 officers x 5hrs x \$35.00 (pre-game Cops-N-Shop)	\$700.00
6 officers x 5hrs x \$35.00 (post game bar patrol)	\$1,050.00

<List line item>	\$0.00
TOTAL CATEGORY AMOUNT	<u>\$5,250.00</u>

Education Efforts

<List line item>	Individual Line Item (amounts)
2 officersx 2 hrs x \$35.00	\$140.00
2 officersx 2 hrs x \$35.00	\$140.00
2 officersx 2 hrs x \$35.00	\$140.00
2 officersx 2 hrs x \$35.00	\$140.00
2 officersx 2 hrs x \$35.00	\$140.00
2 officersx 2 hrs x \$35.00	\$140.00
2 officersx 2 hrs x \$35.00	\$140.00
TOTAL CATEGORY AMOUNT	<u>\$980.00</u>

Advertising & Training

<List line item>	Individual Line Item (amounts)
Materials for Program in Entertainment District	\$1,580.00
<List line item>	\$0.00
<List line item>	\$0.00
<List line item>	\$0.00
TOTAL CATEGORY AMOUNT	<u>\$1,580.00</u>

TOTAL OF ALL CATEGORY AMOUNTS	<u>\$31,500.00</u>
--------------------------------------	---------------------------

Lioneld Jordan
AGENCY HEAD-PRINTED NAME

SIGNATURE

Mayor
TITLE

8/16/2011
DATE



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

A. 3

Office of Intergovernmental Services
Division Grant - Underage Drinking Laws
Page 8 of 14

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) 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 grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a

public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1986, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) 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;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) 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 (a),

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) 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;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) 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

(2) 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;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. 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.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ If the State has elected to complete OJP Form 4061/7.

**DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 87, Subpart F, for grantees, as defined at 28 CFR Part 87; Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

City of Fayetteville, 100 A West Rock Street, Fayetteville, AR 72701

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

Enforce Underage Drinking Laws

71-6018462

4. Typed Name and Title of Authorized Representative

5. Signature

8/16/2011

6. Date



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

**Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions
(Sub-Recipient)**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 67, Section 67.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211).

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Lioneld Jordan, Mayor

Name and Title of Authorized Representative

8/16/2011

Signature

Date

City of Fayetteville

Name of Organization

100 A. West Rock St., Fayetteville, AR 72701

Address of Organization



ASSURANCES

The Applicant hereby assures and certifies compliance with all Federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars No. A-21, A-87, A-110, A-122, A-133; E.O. 12372 and Uniform Administrative Requirements for Grants and Cooperative Agreements - 28 CFR, Part 66, Common Rule, that govern the application, acceptance and use of Federal funds for this federally assisted project. Also the Applicant assures and certifies that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurance contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It ensures that individuals with limited English proficiency (LEP) will be provided access to its program and activities.
3. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally - assisted programs.
4. It will comply with provisions of Federal law which limit certain political activities of employees of a State or local unit of government whose principal employment is in connection with an activity financed in whole or part by Federal grants or subgrants. (5 USC 1501, et. seq.)
5. It will comply with the minimum wage and maximum hours provision of the Federal and State Fair Labor Standards Act if applicable.
6. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
7. It will give the Department of Finance and Administration, or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the subgrant.
8. It will comply with all requirements imposed by the Federal sponsoring agency or the Department of Finance and Administration concerning special requirements of law, program requirements, and other administrative requirements.
9. It will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Department of Finance and Administration and the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
10. It will comply with the flood insurance purchase requirements of Section 102 (a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976, Section 102 (a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
11. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470), Executive Order 11593, and the Archeological and Historical Preservation Act of 1966 (16 USC 569 a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
12. It will comply, and assure the compliance of all its subgrantees and contractors, with the applicable provisions of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Justice and Delinquency Prevention Act, or the Victims of Crime Act, as appropriate; the provisions of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1; and all other applicable Federal laws, orders, circulars, or regulations.
13. It will comply with the provisions of 28 CFR applicable to grants and cooperative agreements including Part 18, Administrative Review Procedure; Part 20 Criminal Justice Information Systems; Part 22 Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30 Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination/Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Federal laws or regulations applicable to Federal Assistance Programs.

14. It will comply, and all its contractors, with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789 (d), or Victims of Crime Act (as appropriate); Title VI of the Civil Rights of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39.
15. In the event a Federal or State court, or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Department of Finance and Administration, Office of Intergovernmental Services.
16. It will provide an Equal Employment Opportunity Program if required to maintain one, where the application is for \$500,000 or more.
17. It will comply with the provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC 3501 et seq.) which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.
18. Will comply, as applicable, with provisions of the Hatch Act (5 USC 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
19. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations" and Department of Finance and Administration audit requirements.
20. It will have complete and well-organized books, records and other original documentation relating to any and all subgrant expenditures, reimbursement or payment claims, receipt of funds, personnel employed, services rendered, individuals served, and all other records pertinent to the subgrant award. Furthermore, its bookkeeping shall be adequate to track the receipt and expenditure of all organizational funds, separately. It shall also maintain a functioning internal control structure which includes accounting and service delivery procedures that segregate subgrant funds from other organization funds and services.
21. It will provide for fund accounting, auditing, monitoring and evaluation procedures, as necessary to keep such records as the Department of Finance and Administration shall prescribe, to assure fiscal control, proper fund management and effective disbursement of funds received under the subgrant award.
22. No income eligibility standard will be imposed on individuals receiving assistance or services supported with funds appropriated or designated to carry out the subgrant project.
23. Subgrant funds made available under this subaward will not be used as direct payment of cash or any other monetary transaction with any victim or dependent of a victim for any purpose.
24. It will not, and all its subgrantees and contractors will not, hire illegal aliens.
25. That the address or location of any shelter-facility assisted under the subgrant project will not be made public, except with the written authorization of the person or persons responsible for the operation of such shelter.
26. It will comply with the Department of Finance and Administration, Office of Intergovernmental Services, Subgrant Administration Guide (June 2002, as amended, or its successor).
27. It will comply, and assure the compliance of all its subgrantees and contractors, with the disclosure required by Governor's Executive Order 98-04 and acknowledges that disclosure is a condition of the subgrant award and that the Department of Finance and Administration cannot enter into any such subgrant award for which disclosure is not made.

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of a subgrant award. Any subgrantee who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the Department of Finance and Administration.
28. Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or Local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

Signature of Authorized Official / Date

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SUBCONTRACTOR:

SUBCONTRACTOR NAME:

☐ Yes ☒ No

TAXPAYER ID NAME:

City of Fayetteville

IS THIS FOR:

☐ Goods?

☐ Services? ☒ Both?

YOUR LAST NAME:

Jordan

FIRST NAME:

Lioneld

M.I.:

ADDRESS:

113 W. Mountain Street

CITY:

Fayetteville

STATE: AR

ZIP CODE:

72701

COUNTRY:

United States

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held [senator, representative, name of board/ commission, data entry, etc.]	For How Long?		What is the person(s) name and how are they related to you? [i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.]	
	Current	Former		From MM/YY	To MM/YY	Person's Name(s)	Relation
General Assembly	☐	☐					
Constitutional Officer	☐	☐					
State Board or Commission Member	☐	☐					
State Employee	☐	☐					

☐ None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held [senator, representative, name of board/ commission, data entry, etc.]	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?		
	Current	Former		From MM/YY	To MM/YY	Person's Name(s)	Ownership Interest (%)	Position of Control
General Assembly	☐	☐						
Constitutional Officer	☐	☐						
State Board or Commission Member	☐	☐						
State Employee	☐	☐						

☐ None of the above applies

Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.

2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.

3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature _____ Title Mayor Date 8/16/2011

Vendor Contact Person Greg Tabor Title Chief of Police Phone No. (479)587-3500

Agency use only

Agency Number _____	Agency Name _____	Agency Contact Person _____	Contact Phone No. _____	Contract or Grant No. _____
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City of Fayetteville Staff Review Form

A. 4
Fayetteville Chamber of Commerce
Page 1 of 22

City Council Agenda Items
and
Contracts, Leases or Agreements

8/16/2011

City Council Meeting Date
Agenda Items Only

John Coleman

Submitted By

Division

Sustainability & Strategic Planning

Department

Action Required:

A resolution to approve an agreement with the Fayetteville Chamber of Commerce to perform energy retrofit services in the amount of \$13,918 and set a schedule for repayment to the City of Fayetteville with energy savings to defray the costs.

\$ 13,918.00

Cost of this request

\$ 220,000.00

Category / Project Budget

Energy Block Grant

Program Category / Project Name

\$ -

Funds Used to Date

Energy Block Grant

Program / Project Category Name

09011.0020

Project Number

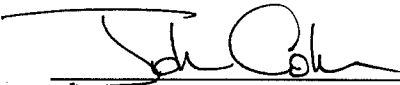
\$ 220,000.00

Remaining Balance

Energy Block Grant

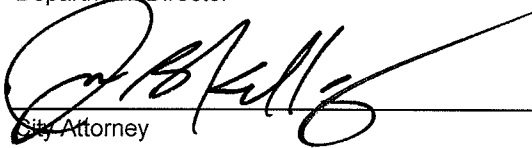
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐


Department Director

7/29/11
Date

Previous Ordinance or Resolution #


City Attorney

7/29/11
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

8-1-2011
Date

07-29-11 P01:57 RCVD
Received in City Clerk's Office 


Chief of Staff

8-1-11
Date

Received in
Mayor's Office

ENTERED
7/29/11
JH


Mayor

8/1/11
Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8272

CORRESPONDENCE

TO: Lioneld Jordan, Mayor *sc*
FROM: John Coleman, Director of Sustainability & Strategic Planning
Thru: Don Marr, Chief of Staff
DATE: July 28, 2011
SUBJECT: Community Revolving Loan Fund – Chamber of Commerce

Description

Using funds from the Energy Efficiency and Conservation Block Grant as part of the American Recovery and Reinvestment Act (ARRA), the City has allocated \$220,000 to create the Community Revolving Loan Fund. This Fund provides low interest loans to non-profits to perform energy efficiency and renewable energy improvements for which they payback using the energy savings.

The purpose of this resolution is to approve an agreement in the amount of \$13,918 with the Fayetteville Chamber of Commerce. Through this agreement the City will pay for energy retrofit services and set a schedule for repayment utilizing energy savings to defray the costs. The scope of work is for retrofits of the Chamber of Commerce building at 123 West Mountain using service contracts previously approved by the City Council. Those service contracts include Resolution 70-11 (Heating & Air Conditioning) and Resolution 135-10 (Electrical Services).

Budget Impact

The \$13,918 cost of the project will be paid for by Energy Efficiency and Conservation Block Grant funding as obtained by the City of Fayetteville in September 2009.

RESOLUTION NO. _____

A RESOLUTION APPROVING A PARTICIPATION AND UNSECURED LOAN AGREEMENT WITH THE FAYETTEVILLE CHAMBER OF COMMERCE TO PERFORM ENERGY RETROFIT SERVICES IN THE AMOUNT OF \$13,918.00 AS PART OF THE CITY OF FAYETTEVILLE COMMUNITY REVOLVING LOAN FUND FOR ENERGY EFFICIENCY

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 participation and unsecured loan agreement with the Fayetteville Chamber of Commerce to perform energy retrofit services in the amount of \$13,918.00 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

COMMUNITY REVOLVING LOAN FUND FOR ENERGY EFFICIENCY
PARTICIPATION AND UNSECURED LOAN AGREEMENT

THIS AGREEMENT, made and entered this 29th day of July, 2011, by and between the City of Fayetteville, Arkansas, an Arkansas municipal corporation with its principal offices at 113 W. Mountain Street, Fayetteville, Arkansas 72701 ("City"), and Fayetteville Chamber of Commerce, an Arkansas (corporation/limited liability company) with its principal offices at 123 West Mountain, Fayetteville, Arkansas, 72701 ("Borrower"), herein collectively referred to as the "parties".

IN CONSIDERATION OF THE MUTUAL OBLIGATIONS AND COVENANTS CONTAINED HEREIN, AND OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Borrower agrees to participate in the City's Community Revolving Loan Fund for Energy Efficiency ("fund") for the provision of energy efficiency upgrades to real estate located at 123 West Mountain, Fayetteville, Arkansas 72701 ("property") pursuant to its approved application and description of work which are incorporated into this Agreement as Exhibit 1.

2. Borrower covenants that it has good and marketable title to said property, is financially sound, has not, within the past ten (10) years, filed for bankruptcy protection under Title 11 of the United States Code, and has no plans to do so.

3. Borrower agrees that the provision of energy efficiency upgrades to the property by the City is made pursuant a fund program established by the City and funded by a federal grant. Usage of said fund is governed by local, state and federal law and regulations, as well as conditions in the City's grant agreement with the federal government. Borrower agrees that it will, in all ways, comply with any and all requirements imposed as a condition of the grant, or as otherwise required by law.

4. Borrower agrees to pay to the City the costs incurred by the City for energy efficiency upgrades to the property, and further agrees to execute a promissory note, payable to the City of Fayetteville, upon completion of the work, in the full amount of the costs of the upgrades performed on the property.

5. City agrees to procure and effectuate energy efficiency upgrades for the property pursuant to the approved application and description of work incorporated as Exhibit 1,

and agrees to accept a promissory note from Borrower in an amount equal to the cost of all energy efficiency improvements performed by the City and/or its contractors or agents on the property.

6. Default. The occurrence of any of the following shall constitute default under this Agreement:

- (a) Borrower's failure to pay the City the costs incurred by the City for energy efficiency upgrades to the property;
- (b) Borrower's failure to execute a promissory note payable to the City in the total amount of the cost of the energy efficiency upgrades to the property;
- (c) Borrower's failure to observe, perform, or comply with any non-monetary conditions or covenants of this Agreement, including failure to abide by applicable local, state or federal law, or applicable federal grant requirements of the City, or any other condition of the fund;
- (d) Any change in the status of the Borrower as an Arkansas corporation or limited liability company authorized to do business in the State of Arkansas;
- (e) Borrower's failure to pay any debt when due or Borrower's filing for bankruptcy protection under Title 11, United States Code.
- (f) Any sale, pledge, assignment, transfer or hypothecation of the property in any manner without the City's prior written consent;
- (g) Borrower's failure to comply with any requirement relating to its corporate status or qualification; and
- (h) Borrower's failure to comply with any condition, requirement or purpose of the City's fund, as created and authorized pursuant to federal grant funding provided pursuant to the American Recovery and Reinvestment Act of 2009 and applicable federal regulations.

7. This Agreement represents the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral and written agreements.

8. This Agreement and all other documents, including the promissory note to be executed by Borrower, shall be governed by the laws of the State of Arkansas. No change, modification or waiver of any provision thereof shall be valid unless in writing, and signed by the party to be charged. The parties hereby agree that the forum for any and all legal disputes arising regarding this Agreement shall be in the Circuit Court of Washington County, Arkansas, with Arkansas law to apply.

9. Indemnification. Borrower shall indemnify City and its officers, employees, and agents and defend and hold each harmless from and against all claims, injury, damage, loss and liability, cost and expense (including attorneys' fees, costs, and expenses) of any and every kind to any persons or property by reason of (i) the work procured by this Agreement or the operation or maintenance of the property, (ii) any construction on or about the property, (iii) any environmental matters or hazardous materials located on or about the property, (iv) any Default, as defined herein, or (v) any other matter arising in connection with the loan, Borrower, the property or the work procured by this Agreement as a whole.

10. Insurance. Borrower shall at all times maintain liability insurance on the property.

11. All notices, requests, demands, consents, waivers and other communications given under any of the provisions of this Agreement shall be in writing and shall be delivered by first-class U.S. Mail, addressed as stated below or to such other address as the addressee may have specified in a notice duly given to the other addresses.

To City: City of Fayetteville
Office of Mayor
113 W. Mountain
Fayetteville, AR 72701

To Borrower: Fayetteville Chamber of Commerce
123 West Mountain
Fayetteville, Arkansas 72701

12. Severability. If any provision of this Agreement shall, for any reason, be held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability

shall not affect any other provision of the Agreement, the Agreement shall be construed as if such illegal, invalid or unenforceable provision had never been contained herein.

13. No delay or failure on the part of the City in exercising any rights under this Agreement, or the promissory note to be executed pursuant hereto, and no partial or single exercise thereof, shall constitute a waiver of such rights or of any other rights under the Agreement or promissory note.

14. Freedom of Information Act. City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City, Borrower will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (Ark. Code Ann. § 25-19-101, et seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by its duly-authorized representative as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS,
An Arkansas Municipal Corporation

By: _____
Mayor

Attest: _____
City Clerk/Treasurer

Fayetteville Chamber of Commerce
An Arkansas corporation/limited liability company
By: Jim Clark, President & CEO
Name
Authorized Agent

**COMMUNITY REVOLVING LOAN FUND FOR ENERGY EFFICIENCY
UNSECURED NOTE**

\$ 13,918

29th day of July, 2011

FAYETTEVILLE, ARKANSAS

FOR VALUE RECEIVED, the undersigned (the "Borrower") promises to pay to the order of THE CITY OF FAYETTEVILLE, ARKANSAS ("Payee"), the principal sum of **Thirteen Thousand Nine Hundred and Eighteen Dollars** (\$13,918). Provided that no event of default exists hereunder, this Promissory Note shall bear interest from the date of this Promissory Note at the rate of ONE percent (1 %) per annum. In the event of a default hereunder, this Promissory Note shall bear interest at the maximum rate of interest allowable under the laws of the state of Arkansas. This Promissory Note shall become due and payable, as follows:

Principal and interest shall be due and payable in One Hundred and Twenty (120) consecutive monthly installments of \$122 each. The first such installment shall be due and payable on January 6, 2012 and each successive monthly installment shall be due and payable on the first day of each calendar month thereafter until this Promissory Note is paid in full. All payments shall be applied first to interest and the balance to principal.

The Borrower and any maker, endorsers, sureties, guarantors, and all other persons now or hereafter liable hereon waive presentment, demand for payment, protest and notice of dishonor, and the endorsers, sureties, and guarantors consent that the Payee or holder hereof shall have the right, without notice, to deal in any way at any time with any party hereto or to grant to any such party any extensions of time for payment of any of said indebtedness or any other indulgences or forbearances whatever without in any way affecting the personal liability of any party hereunder.

If at any time any payment under this Promissory Note becomes more than sixty (60) days past due, the Payee or holder of this Promissory Note shall have the right and option to declare the entire unpaid balance of principal and interest due and owing hereunder to be immediately due and payable.

If this obligation, after default, is placed in the hands of an attorney for collection, the Borrower will be obligated to pay the Payee or the holder hereof an additional sum as an attorney's fee, not to exceed ten percent (10%) of the unpaid principal plus all accrued interest together with all costs and expenses of collection.

Any notices required to be given hereunder shall be deemed effective if made to the following addresses:

CITY OF FAYETTEVILLE, ARKANSAS
OFFICE OF MAYOR
113 W. MOUNTAIN
FAYETTEVILLE, ARKANSAS 72701

If to Borrower:

Fayetteville Chamber of Commerce
123 West Mountain
Fayetteville, AR 72701

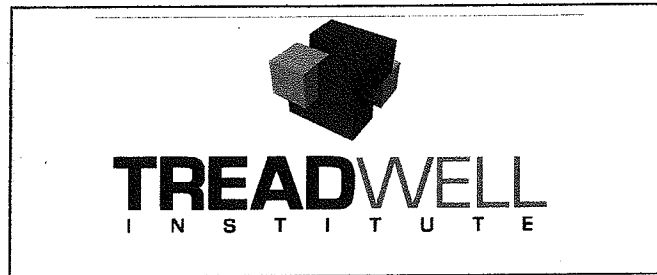
Any party to this Promissory Note may change their respective address for notice by the giving of written notice to each party.

The loan evidenced by this Promissory Note was negotiated and consummated in the state of Arkansas and it is understood and agreed that the legality, enforceability, and construction hereof shall be governed by Arkansas law, and to the extent applicable, by the laws of the United States of America.

This Promissory Note can be pre-paid in whole or in part at any time without penalty.

BORROWER:

Fayetteville Chamber of Commerce
By: [Signature] President & CEO
AUTHORIZED AGENT



Fayetteville Chamber

Final Scope and Costs

Mikel Lolley

29 July 2011





Building Upgrade Value Calculator

For Office Properties

Version 1.0

Use Sample
Data

Glossary

Print

The Building Upgrade Value Calculator allows practitioners to analyze the financial value of capital investments in energy efficiency measures in commercial real estate. Enter the inputs below and select the "Calculate" button to determine the investment's financial and energy benefits. This tool presents the results in two ways: a printable report that summarizes the financial and energy results, and a letter that you can modify and use to make a compelling business case to fund the investment.

Property Information

Property Name
 Square Footage
 Annual Utility Bill

Financial Information

Analysis Term (years)
 Discount Rate
 Capitalization Rate

If Financing,

Loan Period (in years)
 Number of Loan Payments (per year)
 Interest Rate

Energy Project Information

Energy Efficiency Measure	Cost	Annual Savings
T8 Relamp	\$2,652	\$600
HVAC Replacement	\$11,266	\$300
Sub Total	\$13,918	\$900

Additional Annual Savings
for Labor and Supplies

ENERGY STAR Rating

Rebates (if any)

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>
 For questions or comments about this calculator, please email: buildingscalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

According to the U.S. EPA, investing in energy performance can improve the financial performance of commercial real estate. For the energy efficiency measures you entered, EPA estimates that if all the benefits were to flow to the bottom line, your property would:

- Reduce annual operating expense by: \$ (563)
- Improve net operating income by: \$ (563)
- Enhance asset value by: \$ (9,385)

Financial Summary

Net Investment Cost	\$ 13,918
Net Investment Cost per SF	\$ 3.48
Simple Payback Period (SPP)	0
Return On Investment (ROI)	-4%
Net Present Value (NPV)	(\$17,696)
Internal Rate of Return (IRR)	0%
Potential Impact on Net Operating Income (NOI)	\$ (563)
Potential Impact on Asset Value	\$ (9,385)

Energy Project Summary

	Before Upgrade	After Upgrade	Estimated Savings
ENERGY STAR Rating	72	90	18 points
Annual Energy Cost	\$ 3,000	\$ 2,100	\$ 900
Annual Energy Cost per SF	\$ 0.75	\$ 0.53	\$ 0.23

Annual Energy Savings Summary

	T8 Relamp	HVAC Replacement	Labor and Supplies Savings	Net Operating Expense Reduction	Operating Expense Reduction per SF
Year 1	\$600	\$300	\$0	(\$563)	(\$0.14)
Year 2	\$600	\$300	\$0	(\$563)	(\$0.14)
Year 3	\$600	\$300	\$0	(\$563)	(\$0.14)
Year 4	\$600	\$300	\$0	(\$563)	(\$0.14)
Year 5	\$600	\$300	\$0	(\$563)	(\$0.14)
Year 6	\$600	\$300	\$0	(\$563)	(\$0.14)
Year 7	\$600	\$300	\$0	(\$563)	(\$0.14)
Year 8	\$600	\$300	\$0	(\$563)	(\$0.14)
Year 9	\$600	\$300	\$0	(\$563)	(\$0.14)
Year 10	\$600	\$300	\$0	(\$563)	(\$0.14)

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>
For questions or comments about this calculator, please email: buildingcalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

Financing Summary

Loan Amount	\$ 13,918
Loan Period	10
Scheduled Payment	\$ 122
Number of Payments	120
Interest Rate	1%
Monthly Utility Bill Savings	\$75

Payment Summary

Period	Total Payments	Total Principal	Total Interest
Year 1	\$ 1,463	\$ 1,330	\$ 133
Year 2	\$ 1,463	\$ 1,343	\$ 120
Year 3	\$ 1,463	\$ 1,357	\$ 106
Year 4	\$ 1,463	\$ 1,370	\$ 93
Year 5	\$ 1,463	\$ 1,384	\$ 79
Year 6	\$ 1,463	\$ 1,398	\$ 65
Year 7	\$ 1,463	\$ 1,412	\$ 51
Year 8	\$ 1,463	\$ 1,426	\$ 37
Year 9	\$ 1,463	\$ 1,441	\$ 22
Year 10	\$ 1,463	\$ 1,455	\$ 8
TOTAL	\$ 14,631	\$ 13,918	\$ 713

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>

For questions or comments about this calculator, please email: buildingscalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

Financing Details

Payment Number	Beginning Balance	Scheduled Payment	Principal	Interest	Ending Balance
1	\$ 13,918	\$ 122	\$ 110	\$ 12	\$ 13,807
2	\$ 13,807	\$ 122	\$ 110	\$ 12	\$ 13,697
3	\$ 13,697	\$ 122	\$ 111	\$ 11	\$ 13,586
4	\$ 13,586	\$ 122	\$ 111	\$ 11	\$ 13,476
5	\$ 13,476	\$ 122	\$ 111	\$ 11	\$ 13,365
6	\$ 13,365	\$ 122	\$ 111	\$ 11	\$ 13,254
7	\$ 13,254	\$ 122	\$ 111	\$ 11	\$ 13,143
8	\$ 13,143	\$ 122	\$ 111	\$ 11	\$ 13,033
9	\$ 13,033	\$ 122	\$ 111	\$ 11	\$ 12,921
10	\$ 12,921	\$ 122	\$ 111	\$ 11	\$ 12,810
11	\$ 12,810	\$ 122	\$ 111	\$ 11	\$ 12,699
12	\$ 12,699	\$ 122	\$ 111	\$ 11	\$ 12,588
13	\$ 12,588	\$ 122	\$ 111	\$ 10	\$ 12,476
14	\$ 12,476	\$ 122	\$ 112	\$ 10	\$ 12,365
15	\$ 12,365	\$ 122	\$ 112	\$ 10	\$ 12,253
16	\$ 12,253	\$ 122	\$ 112	\$ 10	\$ 12,141
17	\$ 12,141	\$ 122	\$ 112	\$ 10	\$ 12,030
18	\$ 12,030	\$ 122	\$ 112	\$ 10	\$ 11,918
19	\$ 11,918	\$ 122	\$ 112	\$ 10	\$ 11,806
20	\$ 11,806	\$ 122	\$ 112	\$ 10	\$ 11,694
21	\$ 11,694	\$ 122	\$ 112	\$ 10	\$ 11,581
22	\$ 11,581	\$ 122	\$ 112	\$ 10	\$ 11,469
23	\$ 11,469	\$ 122	\$ 112	\$ 10	\$ 11,357
24	\$ 11,357	\$ 122	\$ 112	\$ 9	\$ 11,244
25	\$ 11,244	\$ 122	\$ 113	\$ 9	\$ 11,132
26	\$ 11,132	\$ 122	\$ 113	\$ 9	\$ 11,019
27	\$ 11,019	\$ 122	\$ 113	\$ 9	\$ 10,906
28	\$ 10,906	\$ 122	\$ 113	\$ 9	\$ 10,794
29	\$ 10,794	\$ 122	\$ 113	\$ 9	\$ 10,681
30	\$ 10,681	\$ 122	\$ 113	\$ 9	\$ 10,568
31	\$ 10,568	\$ 122	\$ 113	\$ 9	\$ 10,454
32	\$ 10,454	\$ 122	\$ 113	\$ 9	\$ 10,341
33	\$ 10,341	\$ 122	\$ 113	\$ 9	\$ 10,228
34	\$ 10,228	\$ 122	\$ 113	\$ 9	\$ 10,115
35	\$ 10,115	\$ 122	\$ 114	\$ 8	\$ 10,001
36	\$ 10,001	\$ 122	\$ 114	\$ 8	\$ 9,887
37	\$ 9,887	\$ 122	\$ 114	\$ 8	\$ 9,774
38	\$ 9,774	\$ 122	\$ 114	\$ 8	\$ 9,660
39	\$ 9,660	\$ 122	\$ 114	\$ 8	\$ 9,546
40	\$ 9,546	\$ 122	\$ 114	\$ 8	\$ 9,432
41	\$ 9,432	\$ 122	\$ 114	\$ 8	\$ 9,318
42	\$ 9,318	\$ 122	\$ 114	\$ 8	\$ 9,204
43	\$ 9,204	\$ 122	\$ 114	\$ 8	\$ 9,090
44	\$ 9,090	\$ 122	\$ 114	\$ 8	\$ 8,975
45	\$ 8,975	\$ 122	\$ 114	\$ 7	\$ 8,861
46	\$ 8,861	\$ 122	\$ 115	\$ 7	\$ 8,746
47	\$ 8,746	\$ 122	\$ 115	\$ 7	\$ 8,632
48	\$ 8,632	\$ 122	\$ 115	\$ 7	\$ 8,517
49	\$ 8,517	\$ 122	\$ 115	\$ 7	\$ 8,402
50	\$ 8,402	\$ 122	\$ 115	\$ 7	\$ 8,287
51	\$ 8,287	\$ 122	\$ 115	\$ 7	\$ 8,172
52	\$ 8,172	\$ 122	\$ 115	\$ 7	\$ 8,057
53	\$ 8,057	\$ 122	\$ 115	\$ 7	\$ 7,942
54	\$ 7,942	\$ 122	\$ 115	\$ 7	\$ 7,827
55	\$ 7,827	\$ 122	\$ 115	\$ 7	\$ 7,711
56	\$ 7,711	\$ 122	\$ 116	\$ 6	\$ 7,596
57	\$ 7,596	\$ 122	\$ 116	\$ 6	\$ 7,480
58	\$ 7,480	\$ 122	\$ 116	\$ 6	\$ 7,364
59	\$ 7,364	\$ 122	\$ 116	\$ 6	\$ 7,249
60	\$ 7,249	\$ 122	\$ 116	\$ 6	\$ 7,133
61	\$ 7,133	\$ 122	\$ 116	\$ 6	\$ 7,017
62	\$ 7,017	\$ 122	\$ 116	\$ 6	\$ 6,901
63	\$ 6,901	\$ 122	\$ 116	\$ 6	\$ 6,784
64	\$ 6,784	\$ 122	\$ 116	\$ 6	\$ 6,668
65	\$ 6,668	\$ 122	\$ 116	\$ 6	\$ 6,552
66	\$ 6,552	\$ 122	\$ 116	\$ 5	\$ 6,435
67	\$ 6,435	\$ 122	\$ 117	\$ 5	\$ 6,319
68	\$ 6,319	\$ 122	\$ 117	\$ 5	\$ 6,202
69	\$ 6,202	\$ 122	\$ 117	\$ 5	\$ 6,085
70	\$ 6,085	\$ 122	\$ 117	\$ 5	\$ 5,969
71	\$ 5,969	\$ 122	\$ 117	\$ 5	\$ 5,852
72	\$ 5,852	\$ 122	\$ 117	\$ 5	\$ 5,735
73	\$ 5,735	\$ 122	\$ 117	\$ 5	\$ 5,617

74	\$	5,817	\$	122	\$	117	\$	5	\$	5,500
75	\$	5,500	\$	122	\$	117	\$	5	\$	5,383
76	\$	5,383	\$	122	\$	117	\$	4	\$	5,265
77	\$	5,265	\$	122	\$	118	\$	4	\$	5,148
78	\$	5,148	\$	122	\$	118	\$	4	\$	5,030
79	\$	5,030	\$	122	\$	118	\$	4	\$	4,912
80	\$	4,912	\$	122	\$	118	\$	4	\$	4,795
81	\$	4,795	\$	122	\$	118	\$	4	\$	4,677
82	\$	4,677	\$	122	\$	118	\$	4	\$	4,559
83	\$	4,559	\$	122	\$	118	\$	4	\$	4,441
84	\$	4,441	\$	122	\$	118	\$	4	\$	4,322
85	\$	4,322	\$	122	\$	118	\$	4	\$	4,204
86	\$	4,204	\$	122	\$	118	\$	4	\$	4,086
87	\$	4,086	\$	122	\$	119	\$	3	\$	3,967
88	\$	3,967	\$	122	\$	119	\$	3	\$	3,848
89	\$	3,848	\$	122	\$	119	\$	3	\$	3,730
90	\$	3,730	\$	122	\$	119	\$	3	\$	3,611
91	\$	3,611	\$	122	\$	119	\$	3	\$	3,492
92	\$	3,492	\$	122	\$	119	\$	3	\$	3,373
93	\$	3,373	\$	122	\$	119	\$	3	\$	3,254
94	\$	3,254	\$	122	\$	119	\$	3	\$	3,135
95	\$	3,135	\$	122	\$	119	\$	3	\$	3,015
96	\$	3,015	\$	122	\$	119	\$	3	\$	2,896
97	\$	2,896	\$	122	\$	120	\$	2	\$	2,776
98	\$	2,776	\$	122	\$	120	\$	2	\$	2,657
99	\$	2,657	\$	122	\$	120	\$	2	\$	2,537
100	\$	2,537	\$	122	\$	120	\$	2	\$	2,417
101	\$	2,417	\$	122	\$	120	\$	2	\$	2,297
102	\$	2,297	\$	122	\$	120	\$	2	\$	2,177
103	\$	2,177	\$	122	\$	120	\$	2	\$	2,057
104	\$	2,057	\$	122	\$	120	\$	2	\$	1,937
105	\$	1,937	\$	122	\$	120	\$	2	\$	1,817
106	\$	1,817	\$	122	\$	120	\$	2	\$	1,696
107	\$	1,696	\$	122	\$	121	\$	1	\$	1,576
108	\$	1,576	\$	122	\$	121	\$	1	\$	1,455
109	\$	1,455	\$	122	\$	121	\$	1	\$	1,335
110	\$	1,335	\$	122	\$	121	\$	1	\$	1,214
111	\$	1,214	\$	122	\$	121	\$	1	\$	1,093
112	\$	1,093	\$	122	\$	121	\$	1	\$	972
113	\$	972	\$	122	\$	121	\$	1	\$	851
114	\$	851	\$	122	\$	121	\$	1	\$	729
115	\$	729	\$	122	\$	121	\$	1	\$	608
116	\$	608	\$	122	\$	121	\$	1	\$	487
117	\$	487	\$	122	\$	122	\$	0	\$	365
118	\$	365	\$	122	\$	122	\$	0	\$	244
119	\$	244	\$	122	\$	122	\$	0	\$	122
120	\$	122	\$	122	\$	122	\$	0	\$	0
TOTAL										
		\$	14,631	\$	13,918	\$	713			

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>
For questions or comments about this calculator, please email: buildingscalculators@energystar.gov

KING ELECTRICAL CONTRACTORS
2145 W MOORE LANE
FAYETTEVILLE AR 72701

479-443-0006 FAX 479-443-1719

Email Chris@ckingelectric.net

PROPOSAL

TO: City of Fayetteville	PHONE	DATE 6-28-11
	JOB NAME Chamber of Commerce Lamp and ballast replacement	
JOB DESCRIPTION Furnish and install 150 new lamps and 50 used ballasts, ballasts supplied by owners, in existing 3 and 4 lamp fixtures. Three new lamps will be installed in each fixture to match the requirement of electronic ballasts. An additional lamp could be installed at a later date in the 4 lamp fixtures if needed, without adding another ballast. There are currently 50 ballasts and 170 lamps in these fixtures- \$2651.69 Furnish and install 22 new ballasts and 44 new lamps in existing 2 lamp fixtures. The used ballasts must have at least 3 or 4 lamps to work, so these fixtures would not be able to work with used ballasts- \$1559.03 All material and labor would be billed per King Electric's contract with the City of Fayetteville Contractors License #0063870412		
PROPOSAL GOOD FOR 30 DAYS	DOLLARS: Base Bid \$	
TERMS: PAYMENT DUE UPON RECEIPT OF INVOICE A FINANCE CHARGE WILL BE CHARGED ON ALL PAST DUE ACCOUNTS OF .0833% PER MONTH. ALL ATTORNEY FEES WILL BE COLLECTED ON PAST DUE ACCOUNTS.	AUTHORIZED SIGNATURE	
THE ABOVE PRICES SPECIFICATIONS AND CONDITIONS ARE SATISFACTORY AND ARE HEREBY ACCEPTED. YOU ARE AUTHORIZED TO DO WORK AS SPECIFIED. PAYMENT WILL BE MADE AS OUTLINED ABOVE.	ACCEPTANCE SIGNATURE	

Proposal
King Electrical Contractors
2145 W Moore Lane
Fayetteville AR 72704
479-443-0006 Fax 479-443-1719
email Chris@ckingelectric.net

City of Fayetteville

Attn:

Date 7/14/2011

Job Name: Chanber of Commerce light fixtue re-lamp

Description Change light fixture lamps and ballasts per proposal

Material	\$810.22
Tax	\$74.95
Total	\$885.17
MU 30%	\$265.55

Grand Total Material	\$1,150.71
----------------------	------------

Labor	\$30.00	
Hours	102	\$3,060.00
Labor	\$25.00	
Hours		\$0.00

Grand Total Material and Labor	\$4,210.71
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P.O. Box 1760
2300 N Lowell Rd
Springdale, AR 72765
(479) 751-7411
Fax: (479) 751-0316
www.multi-craft.net

A. 4
Fayetteville Chamber of Commerce
Page 18 of 22
Arkansas Contractors: 0025810311
Arkansas Electrical: M2320
Arkansas HVAC: 135450
Arkansas Plumbing: MP3613

June 2, 2011
Mikel Lolley
Treadwell Institute
706 West Treadwell St.
Fayetteville, AR 72701

Quote: 1QS06021341
PH: 479-841-7801
mikel.lolley@gmail.com

RE: Replace package units @ Fayetteville Chamber of Commerce

AirWorks, Inc. a division of Multi-Craft Contractors, Inc. is pleased to present the following proposal.

Scope of work: Identical for each unit (7 different units)

- Lock out and disconnect electrical circuits and gas line to unit.
- Remove and dispose of existing unit per E.P.A. guidelines.
- Provide a curb adapter to transition new unit to existing duct work.
- Install new 16 SEER, R-410A, 2 stage cooling-2stage heat electric/gas package unit with variable speed fan, hinged filter access door with 2" filter, 0-100% economizer with reference enthalpy, crank case heater and evaporator defrost control.
- Provide all labor and materials required to connect existing electrical circuits and gas line to new unit.
- Provide all labor and materials required to run new drain line from unit to roof drain.
- Provide and install a new digital, programmable 2 stage thermostat.
- Start system and verify proper operation.
- All crane fees and permits are included in this proposal.
- WARRANTY: The new equipment will carry standard manufacturer's warranties; AirWorks will provide a 1 year labor warranty.
- EXCLUSIONS: Any and all high voltage wiring, wire, disconnects conduit, devices or breakers. Any and all carpentry, sheetrock, painting, roofing or framing. Any and all fire detection, protection or suppression. Any and all building management systems, components, wiring or devices. Any engineering or design information or data. Concrete cutting or coring. Impact fees

Total Price to Replace All 7 Units: \$ 60,255.00 (includes all applicable taxes)

Total Price to Replace 1-3 ton Unit: \$ 9,530.00 (includes all applicable taxes)
(4-3 ton units on building)

Total Price to Replace 1-4 ton Unit: \$ 10,380.00 (includes all applicable taxes)
(1-4 ton unit on building)

Total Price to Replace 1-5 ton Unit: \$ 11,266.00 (includes all applicable taxes)
(2-5 ton units on building)

This price is based upon all work being performed during normal daytime business hours. Above stated price is valid for thirty (30) days.

We appreciate this opportunity to be of service to you. If you have any questions, please contact us.

Sincerely,

Bob Miller

Bob Miller
Commercial Sales
ram@multi-craft.net
PH: 479-236-8529 cell

Accepted By: _____

Date: _____

If accepted please sign and Fax: 479-751-0316.

TERMS AND CONDITIONS

- A. Customer will provide and permit reasonable access to all necessary areas. Air Works, Inc. will be allowed to start and stop equipment as necessary to perform its services and be permitted access to existing facilities and building services covered under this Agreement.
- B. In the unlikely event of failure to perform its obligations, Air Works, Inc.'s liability is limited to repair or replacement at its option. Under no circumstances will Air Works, Inc. be responsible for loss of use, loss of profits, or increased operating claims of the customer, or any special, indirect or consequential damages.
- C. The agreement does not include responsibility for system design deficiencies, such as, but not limited to poor air distribution, water flow imbalances, etc. It does not include responsibility for system, equipment and component obsolescence, electrical failures, unserviceable equipment, and operating the system(s).
- D. Air Works, Inc. will not be liable for delays or failure to obligate due to fire, flood, freezing, unavailability of material, riots, acts of God, or any cause beyond reasonable control.
- E. This agreement does not include any services occasioned by improper operation, negligence except the negligence of Air Works, vandalism, or alterations, modifications, abuse, or misuse, or repairs to equipment not performed by Air Works, Inc. Also excluded is the furnishing of materials and supplies for painting or refurbishing equipment.
- F. Air Works, Inc. shall not be required to furnish any items of equipment, labor, or make special tests recommended or required by insurance companies, Federal, State, Municipal or other authorities except as otherwise included in this Agreement.
- G. In the event either party must commence a legal action in order to enforce any rights under this contract, the successful party shall be entitled to all court costs and reasonable attorney's fees as determined by the court for prosecuting and defending the claim, as the case may be.
- H. Air Works, Inc. shall not be liable for the operation of the equipment nor for injuries to persons or damage to property, except those directly due to the negligent acts or omissions of its employees and in no event shall it be liable for consequential or speculative damages. It shall not be liable for expense incurred in removing, replacing or refinishing any part of the building structure necessary to the execution of this Agreement. It shall not be held liable for any loss by reason of delays in transportation, delays caused by priority or preference rating, or orders or regulations established by any government, authority, or agency.
- I. In the event of additional freight, labor, or material costs resulting from the customer's request to avoid delays with respect to equipment warranties, or accelerated delivery of parts and supplies, the customer agrees to pay these additional costs.
- J. Air Works, Inc.'s service shall not include the identification, detection, abatement, encapsulation or removal of asbestos or products or materials containing asbestos or similar hazardous substances. In the event Air Works, Inc. encounters such material in performing its work, Air Works, Inc. will have the right to discontinue work and remove its employees until the hazard is corrected or its determined no hazard exists.
- K. This Agreement contains the entire Contract and the parties hereby agree that this Agreement has been agreed to and the entire Agreement is then accepted and approved by an authorized person for both parties, and no statement, remark, agreement or, understanding, oral or written, not contained herein, will be recognized or enforced.
- L. This agreement does not include the disposal of hazardous waste. Any charges incurred for their proper disposal will be borne by the customer as an extra to the contract price.

FAYETTEVILLE Chamber of Commerce

5 ton Change Out
"1 unit"

A. 4
Fayetteville Chamber of Commerce
Page 21 of 22

SECTION A: Materials Subject to Buy American Requirements				A	B	C (A x B)	D (B + C)
Item	Description	Mark Up %	Contractors Material Cost Estimate		\$S Amount of Mark Up	\$S Amount Mark Up PLUS Material Cost	
1	General Material (Cost plus %) \$0-\$100	30 %		x	-	\$	
2	General Material (Cost plus %) \$101-\$500	25 %	400 ⁰⁰	x	100 ⁰⁰	\$ 500 ⁰⁰	
3	General Material (Cost plus %) \$501-\$1000	15 %	800 ⁰⁰	x	120 ⁰⁰	\$ 920 ⁰⁰	
4	General Material (Cost plus %) \$1001-and up	15 %		x	-	\$	
5	Purchases of New Units	15 %	5600 ⁰⁰	x	840 ⁰⁰	\$ 6440 ⁰⁰	
6	Rental Equipment (Cost plus %)	10 %	300 ⁰⁰	x	30 ⁰⁰	\$ 330	
Estimated Cost for Section A (Sum of Items 1-6):						\$ 8190 ⁰⁰	
SECTION B: Labor Subject to Davis-Bacon Wage Rates				A	B	C (A x B)	
Item	Description: Most basic trade is listed as "Rate 1". Skill set increases with increased rate number.	Estimated hours subject to change			Hourly Rate	Estimated Labor Cost	
7	HVAC - Rate 1 (Fabricator/Installer)	16	x	\$	50 ⁰⁰	\$ 800 ⁰⁰	
8	HVAC - Rate 2 (Installer/Mechanic)	16	x	\$	50 ⁰⁰	\$ 800 ⁰⁰	
9	HVAC - Rate 3 (Installer/Technician)		x	\$		\$	
10	HVAC - Rate 4 (Commissioning Agent)	8	x	\$	69 ⁰⁰	\$ 552 ⁰⁰	
Estimated Cost for Section B (Sum of Items 7-10):						2152 ⁰⁰	
**Total Estimated Cost for Items 1-10 (Sum of Section A + Section B):						\$ 10,342	
**Bid bond required on 5% of "Total Estimated Cost for Items 1-10". A 100% Performance and Payment bond is required for same within ten days after notice of contract award.							
Name of Contractor: _____							

NOTE: This DOES NOT include TAXES, Bid Bond or Performance bond charges if applicable.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or AgreementsA. 5
Mount Sequoyah Center, Inc.
Page 1 of 50

8/16/2011

City Council Meeting Date
Agenda Items Only

John Coleman

Submitted By

Sustainability & Strategic Planning

Division

Chief of Staff

Department

Action Required:

A resolution to approve an agreement with Mt. Sequoyah Retreat Center to perform energy retrofit services in the amount of \$121,000.68 and set a schedule for repayment to the City of Fayetteville with energy savings to defray the costs.

\$121,000.68

Cost of this request

\$ 220,000.00

Category / Project Budget

Energy Block Grant

Program Category / Project Name

\$ -

Funds Used to Date

Energy Block Grant

Program / Project Category Name

09011.0020

Project Number

\$ 220,000.00

Remaining Balance

Energy Block Grant

Fund Name

Budgeted Item

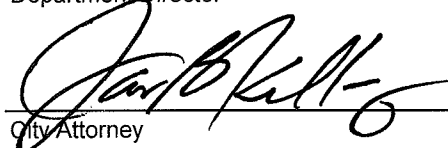
Budget Adjustment Attached


Department Director

7/29/11

Date

Previous Ordinance or Resolution #

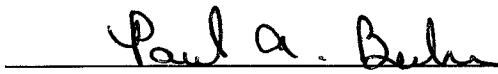

City Attorney

7/29/11

Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

8-2-2011

Date

Received in City 07-29-11 P01:57 RCVD
Clerk's Office

Chief of Staff

8-2-11

Date

Received in
Mayor's Office

Mayor

8/3/11

Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8272

CORRESPONDENCE

TO: Lioneld Jordan, Mayor *sc*
FROM: John Coleman, Director of Sustainability & Strategic Planning
Thru: Don Marr, Chief of Staff
DATE: July 28, 2011
SUBJECT: Community Revolving Loan Fund – Mt Sequoyah

Description

Using funds from the Energy Efficiency and Conservation Block Grant as part of the American Recovery and Reinvestment Act (ARRA), the City has allocated \$220,000 to create the Community Revolving Loan Fund. This Fund provides low interest loans to non-profits to perform energy efficiency and renewable energy improvements for which they payback using the energy savings.

The purpose of this resolution is to approve a contract in the amount of \$121,000.68 with Mt. Sequoyah Retreat Center. Under this agreement the City of Fayetteville will fund energy retrofit services and set a schedule for repayment with energy savings helping to defray the costs. The scope of work is for retrofits of three buildings utilizing service contracts previously approved by the City Council. Those service contracts include Resolution 70-11 (Heating & Air Conditioning), Resolution 135-10 (Electrical Services), and Resolution 72-11 (Windows and Doors). The scope of work also includes spray foam insulation from Bid 11-47 included in tonight's Council Agenda.

Budget Impact

\$121,000.68 in construction costs will be paid for by Energy Efficiency and Conservation Block Grant funding as obtained by the City of Fayetteville in September 2009.

RESOLUTION NO. _____

A RESOLUTION APPROVING A PARTICIPATION AND UNSECURED LOAN AGREEMENT WITH MOUNT SEQUOYAH CENTER, INC. TO PERFORM ENERGY RETROFIT SERVICES IN THE AMOUNT OF \$121,000.08 AS PART OF THE CITY OF FAYETTEVILLE COMMUNITY REVOLVING LOAN FUND FOR ENERGY EFFICIENCY

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 participation and unsecured loan agreement with Mount Sequoyah Center, Inc. to perform energy retrofit services in the amount of \$121,000.08 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

COMMUNITY REVOLVING LOAN FUND FOR ENERGY EFFICIENCY
PARTICIPATION AND UNSECURED LOAN AGREEMENT

THIS AGREEMENT, made and entered this 14th day of July, 2011, by and between the City of Fayetteville, Arkansas, an Arkansas municipal corporation with its principal offices at 113 W. Mountain Street, Fayetteville, Arkansas 72701 ("City"), and MOUNT SEQUOYAH CENTER, INC., an Arkansas (corporation/limited liability company) with its principal offices at 150 NW Skyline Drive, Fayetteville, AR ("Borrower"), herein collectively referred to as the "parties".

IN CONSIDERATION OF THE MUTUAL OBLIGATIONS AND COVENANTS CONTAINED HEREIN, AND OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Borrower agrees to participate in the City's Community Revolving Loan Fund for Energy Efficiency ("fund") for the provision of energy efficiency upgrades to real estate located at 150 NW Skyline Drive, Fayetteville, AR ("property") pursuant to its approved application and description of work which are incorporated into this Agreement as Exhibit 1.

2. Borrower covenants that it has good and marketable title to said property, is financially sound, has not, within the past ten (10) years, filed for bankruptcy protection under Title 11 of the United States Code, and has no plans to do so.

3. Borrower agrees that the provision of energy efficiency upgrades to the property by the City is made pursuant a fund program established by the City and funded by a federal grant. Usage of said fund is governed by local, state and federal law and regulations, as well as conditions in the City's grant agreement with the federal government. Borrower agrees that it will, in all ways, comply with any and all requirements imposed as a condition of the grant, or as otherwise required by law.

4. Borrower agrees to pay to the City the costs incurred by the City for energy efficiency upgrades to the property, and further agrees to execute a promissory note, payable to the City of Fayetteville, upon completion of the work, in the full amount of the costs of the upgrades performed on the property.

5. City agrees to procure and effectuate energy efficiency upgrades for the property pursuant to the approved application and description of work incorporated as Exhibit 1,

and agrees to accept a promissory note from Borrower in an amount equal to the cost of all energy efficiency improvements performed by the City and/or its contractors or agents on the property.

6. Default. The occurrence of any of the following shall constitute default under this Agreement:

- (a) Borrower's failure to pay the City the costs incurred by the City for energy efficiency upgrades to the property;
- (b) Borrower's failure to execute a promissory note payable to the City in the total amount of the cost of the energy efficiency upgrades to the property;
- (c) Borrower's failure to observe, perform, or comply with any non-monetary conditions or covenants of this Agreement, including failure to abide by applicable local, state or federal law, or applicable federal grant requirements of the City, or any other condition of the fund;
- (d) Any change in the status of the Borrower as an Arkansas corporation or limited liability company authorized to do business in the State of Arkansas;
- (e) Borrower's failure to pay any debt when due or Borrower's filing for bankruptcy protection under Title 11, United States Code.
- (f) Any sale, pledge, assignment, transfer or hypothecation of the property in any manner without the City's prior written consent;
- (g) Borrower's failure to comply with any requirement relating to its corporate status or qualification; and
- (h) Borrower's failure to comply with any condition, requirement or purpose of the City's fund, as created and authorized pursuant to federal grant funding provided pursuant to the American Recovery and Reinvestment Act of 2009 and applicable federal regulations.

7. This Agreement represents the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral and written agreements.

8. This Agreement and all other documents, including the promissory note to be executed by Borrower, shall be governed by the laws of the State of Arkansas. No change, modification or waiver of any provision thereof shall be valid unless in writing, and signed by the party to be charged. The parties hereby agree that the forum for any and all legal disputes arising regarding this Agreement shall be in the Circuit Court of Washington County, Arkansas, with Arkansas law to apply.

9. Indemnification. Borrower shall indemnify City and its officers, employees, and agents and defend and hold each harmless from and against all claims, injury, damage, loss and liability, cost and expense (including attorneys' fees, costs, and expenses) of any and every kind to any persons or property by reason of (i) the work procured by this Agreement or the operation or maintenance of the property, (ii) any construction on or about the property, (iii) any environmental matters or hazardous materials located on or about the property, (iv) any Default, as defined herein, or (v) any other matter arising in connection with the loan, Borrower, the property or the work procured by this Agreement as a whole.

10. Insurance. Borrower shall at all times maintain liability insurance on the property.

11. All notices, requests, demands, consents, waivers and other communications given under any of the provisions of this Agreement shall be in writing and shall be delivered by first-class U.S. Mail, addressed as stated below or to such other address as the addressee may have specified in a notice duly given to the other addresses.

To City: City of Fayetteville
Office of Mayor
113 W. Mountain
Fayetteville, AR 72701

To Borrower: Mount Sequoyah Center Inc
150 NW Skyline Drive
Fayetteville, AR 72701

12. Severability. If any provision of this Agreement shall, for any reason, be held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability

shall not affect any other provision of the Agreement, the Agreement shall be construed as if such illegal, invalid or unenforceable provision had never been contained herein.

13. No delay or failure on the part of the City in exercising any rights under this Agreement, or the promissory note to be executed pursuant hereto, and no partial or single exercise thereof, shall constitute a waiver of such rights or of any other rights under the Agreement or promissory note.

14. Freedom of Information Act. City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City, Borrower will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (Ark. Code Ann. § 25-19-101, et seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by its duly-authorized representative as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS,
An Arkansas Municipal Corporation

By: _____
Mayor

Attest: _____
City Clerk/Treasurer

Mount Sequoyah Center, Inc.
An Arkansas corporation/limited liability company

By: (Signature) EXECUTIVE DIRECTOR
Name
Authorized Agent

COMMUNITY REVOLVING LOAN FUND FOR ENERGY EFFICIENCY
UNSECURED NOTE

\$ 121,000.68

2nd day of August, 20 11

FAYETTEVILLE, ARKANSAS

FOR VALUE RECEIVED, the undersigned (the "Borrower") promises to pay to the order of THE CITY OF FAYETTEVILLE, ARKANSAS ("Payee"), the principal sum of ~~One hundred twenty one thousand~~ 121,000.68. Provided that no event of default exists hereunder, this Promissory Note shall bear interest from the date of this Promissory Note at the rate of ONE percent (1 %) per annum. In the event of a default hereunder, this Promissory Note shall bear interest at the maximum rate of interest allowable under the laws of the state of Arkansas. This Promissory Note shall become due and payable, as follows:

Principal and interest shall be due and payable in one hundred twenty (20) consecutive monthly (select one) installments of \$ 159.00 each. The first such installment shall be due and payable on 15th day and each successive monthly installment shall be due and payable on the first day of each calendar month thereafter until this Promissory Note is paid in full. All payments shall be applied first to interest and the balance to principal.

The Borrower and any maker, endorsers, sureties, guarantors, and all other persons now or hereafter liable hereon waive presentment, demand for payment, protest and notice of dishonor, and the endorsers, sureties, and guarantors consent that the Payee or holder hereof shall have the right, without notice, to deal in any way at any time with any party hereto or to grant to any such party any extensions of time for payment of any of said indebtedness or any other indulgences or forbearances whatever without in any way affecting the personal liability of any party hereunder.

If at any time any payment under this Promissory Note becomes more than sixty (60) days past due, the Payee or holder of this Promissory Note shall have the right and option to declare the entire unpaid balance of principal and interest due and owing hereunder to be immediately due and payable.

If this obligation, after default, is placed in the hands of an attorney for collection, the Borrower will be obligated to pay the Payee or the holder hereof an additional sum as an attorney's fee, not to exceed ten percent (10%) of the unpaid principal plus all accrued interest together with all costs and expenses of collection.

Any notices required to be given hereunder shall be deemed effective if made to the following addresses:

If to Payee:

CITY OF FAYETTEVILLE, ARKANSAS
OFFICE OF MAYOR
113 W. MOUNTAIN
FAYETTEVILLE, ARKANSAS 72701

If to Borrower:

Mount Sequoyah Center Inc
150 NW Skyline Drive
Fayetteville, AR 72701

Any party to this Promissory Note may change their respective address for notice by the giving of written notice to each party.

The loan evidenced by this Promissory Note was negotiated and consummated in the state of Arkansas and it is understood and agreed that the legality, enforceability, and construction hereof shall be governed by Arkansas law, and to the extent applicable, by the laws of the United States of America.

This Promissory Note can be pre-paid in whole or in part at any time without penalty.

BORROWER:

Mount Sequoyah Center, Inc.

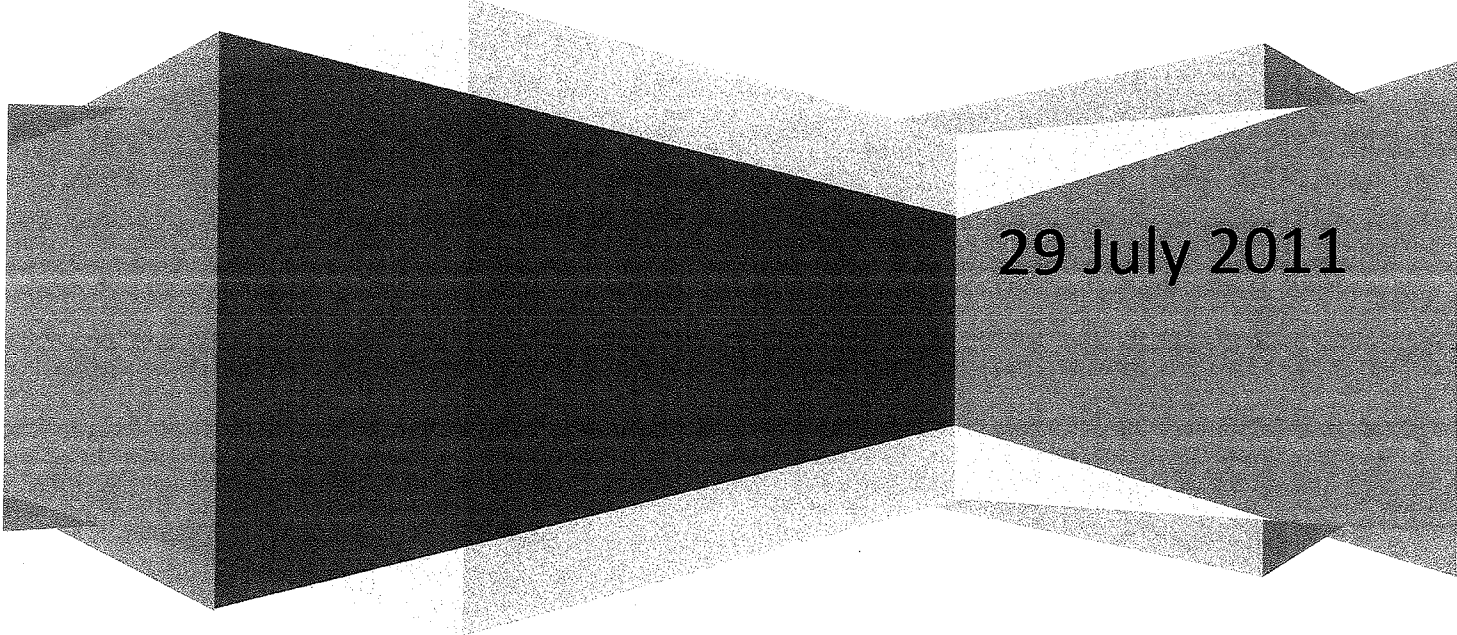
By: [Signature]
AUTHORIZED AGENT EXECUTIVE
DIRECTOR



Mount Sequoyah, Cafeteria 41

Final Scope and Costs

Mikel Lolley

A large, 3D geometric graphic consisting of several interconnected rectangular blocks of varying shades of gray and black, creating a complex, angular shape. The date "29 July 2011" is printed in a black, sans-serif font on the right side of this graphic.

29 July 2011



Building Upgrade Value Calculator

For Office Properties

Version 1.0

Use Sample
Data

Glossary

Print

The Building Upgrade Value Calculator allows practitioners to analyze the financial value of capital investments in energy efficiency measures in commercial real estate. Enter the inputs below and select the "Calculate" button to determine the investment's financial and energy benefits. This tool presents the results in two ways: a printable report that summarizes the financial and energy results, and a letter that you can modify and use to make a compelling business case to fund the investment.

Property Information

Property Name
 Square Footage
 Annual Utility Bill

Financial Information

Analysis Term (years)
 Discount Rate
 Capitalization Rate

If Financing,

Loan Period (in years)
 Number of Loan Payments (per year)
 Interest Rate

Energy Project Information

Energy Efficiency Measure	Cost	Annual Savings
T8 Relamp. (Labor Only)	\$2,800	\$1,044
Attic Seal	\$14,970	\$1,070
Door/Window Replacement	\$15,265	\$1,605
Sub Total	\$33,035	\$3,719

Additional Annual Savings
for Labor and Supplies

ENERGY STAR Rating

Rebates (if any)

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>
 For questions or comments about this calculator, please email: buildingscalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

According to the U.S. EPA, investing in energy performance can improve the financial performance of commercial real estate. For the energy efficiency measures you entered, EPA estimates that if all the benefits were to flow to the bottom line, your property would:

- Reduce annual operating expense by: \$ 247
- Improve net operating income by: \$ 247
- Enhance asset value by: \$ 4,111

Financial Summary

Net Investment Cost	\$ 33,035
Net Investment Cost per SF	\$ 5.33
Simple Payback Period (SPP)	133.92 years
Return On Investment (ROI)	1%
Net Present Value (NPV)	(\$31,380)
Internal Rate of Return (IRR)	0%
Potential Impact on Net Operating Income (NOI)	\$ 247
Potential Impact on Asset Value	\$ 4,111

Energy Project Summary

	Before Upgrade	After Upgrade	Estimated Savings
ENERGY STAR Rating	1	4	3 points
Annual Energy Cost	\$ 10,700	\$ 6,981	\$ 3,719
Annual Energy Cost per SF	\$ 1.73	\$ 1.13	\$ 0.60

Annual Energy Savings Summary

	T8 Relamp, (Labor Only)	Attic Seal	Door/Window Replacement	Labor and Supplies Savings	Net Operating Expense Reduction	Operating Expense Reduction per SF
Year 1	\$1,044	\$1,070	\$1,605	\$0	\$247	\$0.04
Year 2	\$1,044	\$1,070	\$1,605	\$0	\$247	\$0.04
Year 3	\$1,044	\$1,070	\$1,605	\$0	\$247	\$0.04
Year 4	\$1,044	\$1,070	\$1,605	\$0	\$247	\$0.04
Year 5	\$1,044	\$1,070	\$1,605	\$0	\$247	\$0.04
Year 6	\$1,044	\$1,070	\$1,605	\$0	\$247	\$0.04
Year 7	\$1,044	\$1,070	\$1,605	\$0	\$247	\$0.04
Year 8	\$1,044	\$1,070	\$1,605	\$0	\$247	\$0.04
Year 9	\$1,044	\$1,070	\$1,605	\$0	\$247	\$0.04
Year 10	\$1,044	\$1,070	\$1,605	\$0	\$247	\$0.04

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>
For questions or comments about this calculator, please email: buildingscalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

Financing Summary

Loan Amount	\$ 33,035
Loan Period	10
Scheduled Payment	\$ 289
Number of Payments	120
Interest Rate	1%
Monthly Utility Bill Savings	\$310

Payment Summary

Period	Total Payments	Total Principal	Total Interest
Year 1	\$ 3,473	\$ 3,157	\$ 316
Year 2	\$ 3,473	\$ 3,189	\$ 284
Year 3	\$ 3,473	\$ 3,221	\$ 252
Year 4	\$ 3,473	\$ 3,253	\$ 220
Year 5	\$ 3,473	\$ 3,286	\$ 187
Year 6	\$ 3,473	\$ 3,319	\$ 154
Year 7	\$ 3,473	\$ 3,352	\$ 121
Year 8	\$ 3,473	\$ 3,386	\$ 87
Year 9	\$ 3,473	\$ 3,420	\$ 53
Year 10	\$ 3,473	\$ 3,454	\$ 19
TOTAL	\$ 34,728	\$ 33,035	\$ 1,693

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>

For questions or comments about this calculator, please email: buildingscalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

Financing Details

Payment Number	Beginning Balance	Scheduled Payment	Principal	Interest	Ending Balance
1	\$ 33,035	\$ 289	\$ 262	\$ 28	\$ 32,773
2	\$ 32,773	\$ 289	\$ 262	\$ 27	\$ 32,511
3	\$ 32,511	\$ 289	\$ 262	\$ 27	\$ 32,249
4	\$ 32,249	\$ 289	\$ 263	\$ 27	\$ 31,986
5	\$ 31,986	\$ 289	\$ 263	\$ 27	\$ 31,723
6	\$ 31,723	\$ 289	\$ 263	\$ 26	\$ 31,460
7	\$ 31,460	\$ 289	\$ 263	\$ 26	\$ 31,197
8	\$ 31,197	\$ 289	\$ 263	\$ 26	\$ 30,934
9	\$ 30,934	\$ 289	\$ 264	\$ 26	\$ 30,670
10	\$ 30,670	\$ 289	\$ 264	\$ 26	\$ 30,406
11	\$ 30,406	\$ 289	\$ 264	\$ 25	\$ 30,142
12	\$ 30,142	\$ 289	\$ 264	\$ 25	\$ 29,878
13	\$ 29,878	\$ 289	\$ 265	\$ 25	\$ 29,614
14	\$ 29,614	\$ 289	\$ 265	\$ 25	\$ 29,349
15	\$ 29,349	\$ 289	\$ 265	\$ 24	\$ 29,084
16	\$ 29,084	\$ 289	\$ 265	\$ 24	\$ 28,819
17	\$ 28,819	\$ 289	\$ 265	\$ 24	\$ 28,553
18	\$ 28,553	\$ 289	\$ 266	\$ 24	\$ 28,288
19	\$ 28,288	\$ 289	\$ 266	\$ 24	\$ 28,022
20	\$ 28,022	\$ 289	\$ 266	\$ 23	\$ 27,756
21	\$ 27,756	\$ 289	\$ 266	\$ 23	\$ 27,490
22	\$ 27,490	\$ 289	\$ 266	\$ 23	\$ 27,223
23	\$ 27,223	\$ 289	\$ 267	\$ 23	\$ 26,956
24	\$ 26,956	\$ 289	\$ 267	\$ 22	\$ 26,690
25	\$ 26,690	\$ 289	\$ 267	\$ 22	\$ 26,422
26	\$ 26,422	\$ 289	\$ 267	\$ 22	\$ 26,155
27	\$ 26,155	\$ 289	\$ 268	\$ 22	\$ 25,887
28	\$ 25,887	\$ 289	\$ 268	\$ 22	\$ 25,620
29	\$ 25,620	\$ 289	\$ 268	\$ 21	\$ 25,351
30	\$ 25,351	\$ 289	\$ 268	\$ 21	\$ 25,083
31	\$ 25,083	\$ 289	\$ 269	\$ 21	\$ 24,815
32	\$ 24,815	\$ 289	\$ 269	\$ 21	\$ 24,546
33	\$ 24,546	\$ 289	\$ 269	\$ 20	\$ 24,277
34	\$ 24,277	\$ 289	\$ 269	\$ 20	\$ 24,008
35	\$ 24,008	\$ 289	\$ 269	\$ 20	\$ 23,738
36	\$ 23,738	\$ 289	\$ 270	\$ 20	\$ 23,469
37	\$ 23,469	\$ 289	\$ 270	\$ 20	\$ 23,199
38	\$ 23,199	\$ 289	\$ 270	\$ 19	\$ 22,929
39	\$ 22,929	\$ 289	\$ 270	\$ 19	\$ 22,659
40	\$ 22,659	\$ 289	\$ 271	\$ 19	\$ 22,388
41	\$ 22,388	\$ 289	\$ 271	\$ 19	\$ 22,117
42	\$ 22,117	\$ 289	\$ 271	\$ 18	\$ 21,846
43	\$ 21,846	\$ 289	\$ 271	\$ 18	\$ 21,575
44	\$ 21,575	\$ 289	\$ 271	\$ 18	\$ 21,304
45	\$ 21,304	\$ 289	\$ 272	\$ 18	\$ 21,032
46	\$ 21,032	\$ 289	\$ 272	\$ 18	\$ 20,760
47	\$ 20,760	\$ 289	\$ 272	\$ 17	\$ 20,488
48	\$ 20,488	\$ 289	\$ 272	\$ 17	\$ 20,216
49	\$ 20,216	\$ 289	\$ 273	\$ 17	\$ 19,943
50	\$ 19,943	\$ 289	\$ 273	\$ 17	\$ 19,671
51	\$ 19,671	\$ 289	\$ 273	\$ 16	\$ 19,398
52	\$ 19,398	\$ 289	\$ 273	\$ 16	\$ 19,124
53	\$ 19,124	\$ 289	\$ 273	\$ 16	\$ 18,851
54	\$ 18,851	\$ 289	\$ 274	\$ 16	\$ 18,577
55	\$ 18,577	\$ 289	\$ 274	\$ 15	\$ 18,303
56	\$ 18,303	\$ 289	\$ 274	\$ 15	\$ 18,029
57	\$ 18,029	\$ 289	\$ 274	\$ 15	\$ 17,755
58	\$ 17,755	\$ 289	\$ 275	\$ 15	\$ 17,480
59	\$ 17,480	\$ 289	\$ 275	\$ 15	\$ 17,205
60	\$ 17,205	\$ 289	\$ 275	\$ 14	\$ 16,930
61	\$ 16,930	\$ 289	\$ 275	\$ 14	\$ 16,655
62	\$ 16,655	\$ 289	\$ 276	\$ 14	\$ 16,379
63	\$ 16,379	\$ 289	\$ 276	\$ 14	\$ 16,104
64	\$ 16,104	\$ 289	\$ 276	\$ 13	\$ 15,828
65	\$ 15,828	\$ 289	\$ 276	\$ 13	\$ 15,551
66	\$ 15,551	\$ 289	\$ 276	\$ 13	\$ 15,275
67	\$ 15,275	\$ 289	\$ 277	\$ 13	\$ 14,998
68	\$ 14,998	\$ 289	\$ 277	\$ 12	\$ 14,721
69	\$ 14,721	\$ 289	\$ 277	\$ 12	\$ 14,444
70	\$ 14,444	\$ 289	\$ 277	\$ 12	\$ 14,167
71	\$ 14,167	\$ 289	\$ 278	\$ 12	\$ 13,889
72	\$ 13,889	\$ 289	\$ 278	\$ 12	\$ 13,612
73	\$ 13,612	\$ 289	\$ 278	\$ 11	\$ 13,333

74	\$	13,333	\$	289	\$	278	\$	11	\$	13,055
75	\$	13,055	\$	289	\$	279	\$	11	\$	12,777
76	\$	12,777	\$	289	\$	279	\$	11	\$	12,498
77	\$	12,498	\$	289	\$	279	\$	10	\$	12,219
78	\$	12,219	\$	289	\$	279	\$	10	\$	11,940
79	\$	11,940	\$	289	\$	279	\$	10	\$	11,660
80	\$	11,660	\$	289	\$	280	\$	10	\$	11,381
81	\$	11,381	\$	289	\$	280	\$	9	\$	11,101
82	\$	11,101	\$	289	\$	280	\$	9	\$	10,821
83	\$	10,821	\$	289	\$	280	\$	9	\$	10,540
84	\$	10,540	\$	289	\$	281	\$	9	\$	10,260
85	\$	10,260	\$	289	\$	281	\$	9	\$	9,979
86	\$	9,979	\$	289	\$	281	\$	8	\$	9,698
87	\$	9,698	\$	289	\$	281	\$	8	\$	9,416
88	\$	9,416	\$	289	\$	282	\$	8	\$	9,135
89	\$	9,135	\$	289	\$	282	\$	8	\$	8,853
90	\$	8,853	\$	289	\$	282	\$	7	\$	8,571
91	\$	8,571	\$	289	\$	282	\$	7	\$	8,289
92	\$	8,289	\$	289	\$	282	\$	7	\$	8,006
93	\$	8,006	\$	289	\$	283	\$	7	\$	7,723
94	\$	7,723	\$	289	\$	283	\$	6	\$	7,440
95	\$	7,440	\$	289	\$	283	\$	6	\$	7,157
96	\$	7,157	\$	289	\$	283	\$	6	\$	6,874
97	\$	6,874	\$	289	\$	284	\$	6	\$	6,590
98	\$	6,590	\$	289	\$	284	\$	5	\$	6,306
99	\$	6,306	\$	289	\$	284	\$	5	\$	6,022
100	\$	6,022	\$	289	\$	284	\$	5	\$	5,738
101	\$	5,738	\$	289	\$	285	\$	5	\$	5,453
102	\$	5,453	\$	289	\$	285	\$	5	\$	5,168
103	\$	5,168	\$	289	\$	285	\$	4	\$	4,883
104	\$	4,883	\$	289	\$	285	\$	4	\$	4,598
105	\$	4,598	\$	289	\$	286	\$	4	\$	4,312
106	\$	4,312	\$	289	\$	286	\$	4	\$	4,026
107	\$	4,026	\$	289	\$	286	\$	3	\$	3,740
108	\$	3,740	\$	289	\$	286	\$	3	\$	3,454
109	\$	3,454	\$	289	\$	287	\$	3	\$	3,168
110	\$	3,168	\$	289	\$	287	\$	3	\$	2,881
111	\$	2,881	\$	289	\$	287	\$	2	\$	2,594
112	\$	2,594	\$	289	\$	287	\$	2	\$	2,307
113	\$	2,307	\$	289	\$	287	\$	2	\$	2,019
114	\$	2,019	\$	289	\$	288	\$	2	\$	1,731
115	\$	1,731	\$	289	\$	288	\$	1	\$	1,443
116	\$	1,443	\$	289	\$	288	\$	1	\$	1,155
117	\$	1,155	\$	289	\$	288	\$	1	\$	867
118	\$	867	\$	289	\$	289	\$	1	\$	578
119	\$	578	\$	289	\$	289	\$	0	\$	289
120	\$	289	\$	289	\$	289	\$	0	\$	0
TOTAL										
		\$	34,728	\$	33,035	\$	1,693			

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>
For questions or comments about this calculator, please email: buildingscalculators@energystar.gov

KING ELECTRICAL CONTRACTORS
2145 W MOORE LANE
FAYETTEVILLE AR 72701

479-443-0006 FAX 479-443-1719

Email Chris@ckingelectric.net

PROPOSAL

TO: City of Fayetteville	PHONE	DATE 6-28-11
	JOB NAME Mount Sequoyah Dining Building Lamp and ballast replacement	
JOB DESCRIPTION Furnish and install 153 new lamps and 51 owner furnished ballasts in existing 4 lamp fixtures. Three new lamps will be installed in each fixture to match the requirements of electronic ballasts. An additional lamp could be installed at a later date in the 4 lamp fixtures if needed, without adding another ballast. There are currently 51 ballasts and 204 lamps in Dining building. \$2800.00 All material and labor would be billed per King Electric's contract with the City of Fayetteville Contractors License #0063870412		
PROPOSAL GOOD FOR 30 DAYS	DOLLARS: Base Bid \$	
TERMS: PAYMENT DUE UPON RECEIPT OF INVOICE A FINANCE CHARGE WILL BE CHARGED ON ALL PAST DUE ACCOUNTS OF .0833% PER MONTH. ALL ATTORNEY FEES WILL BE COLLECTED ON PAST DUE ACCOUNTS.	AUTHORIZED SIGNATURE	
THE ABOVE PRICES SPECIFICATIONS AND CONDITIONS ARE SATISFACTORY AND ARE HEREBY ACCEPTED. YOU ARE AUTHORIZED TO DO WORK AS SPECIFIED. PAYMENT WILL BE MADE AS OUTLINED ABOVE.	ACCEPTANCE SIGNATURE	

Proposal
King Electrical Contractors
2145 W Moore Lane
Fayetteville AR 72704
479-443-0006 Fax 479-443-1719
email Chris@ckingelectric.net

City of Fayetteville

Attn:

Date 7/14/2011

Job Name: Mount Sequoyah Dinning

Description Change light fixture lamps and ballasts per proposal

Material	\$176.03
Tax	\$16.28
Total	\$192.31
MU 30%	\$57.69

Grand Total Material	\$250.01
----------------------	----------

Labor	\$30.00	
Hours	85	\$2,550.00
Labor	\$25.00	
Hours		\$0.00

Grand Total Material and Labor	\$2,800.01
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**HECKATHORN
CONSTRUCTION CO., INC.**
1880 North Birch Avenue
Fayetteville, Arkansas 72703

ITEMIZED COST ESTIMATE No. 003
City-Purchasing Bid No. 11-25
Window & Door Replacement
Date: 060211

To: City of Fayetteville-
John Coleman, Director of Sustainability
C/O Mikel Lolley-Treadwell Institute
706 West Treadwell Street
Fayetteville, Arkansas 72701
Phone: (479) 841-7801;
E-Mail: mlolley@treadwell.com

Project: Window & Door
Replacement
Mt. Sequoyah Assembly
Cafeteria Building # 41
Fayetteville, Arkansas

Heckathorn Project No. 11____

=====

Please recognize this document as our Itemized Cost Estimate to include all labor, equipment and materials necessary to complete the following work under the cited Contract with the City of Fayetteville under Bid No. 11-25 for Window & Door Replacement at various locations. This work is priced as requested and directed by City Consultant, Mikel Lolley with the Treadwell Institute and can be briefly described as follows:

Remove and dispose of **5 each existing hollow metal un-insulated doors** on the east and west sides of the Cafeteria Building. Replace with new insulated hollow metal doors with new butt hinges, closers, bottom sweeps, and weather stripping. This work also includes 3 new thresholds, 2 new deadbolts mounted in the exit devices at ADA height, and a new lever handle lock set at the Vending area door. On inspection a Fire Marshall may not allow the deadbolts due to emergency egress requirements and require a good exterior anti-pick latch guard at the exit devices. This quote also includes repairing the deadbolt latch hole in the frames, repainting the existing frames, and painting the new doors.

1. General Contractor Project Manager Supervision:

6 MH Project Manager @ \$41.00/MH (including PT&I/OH&P) - \$ 246.00

General Contractor Installation Labor:

46 MH Carpenter Labor @ \$37.00/MH (including PT&I/OH&P) - \$ 1,702.00

Subtotal G.C. costs- \$ 1,948.00

Material Supplier Costs:

Wesche Company

Quotation dated 051811-

\$ 3,015.00

Estimated repair and painting costs-

\$ 40.00

Subtotal Materials cost-

3,055.00

10% allowable markup for OP&H

+ 306.00

Subtotal Supplier costs- \$ 3,361.00

Subtotal \$ 5,309.00

1.1% markup for Bond Premium

+ 58.00

TOTAL COST OF THIS ITEM

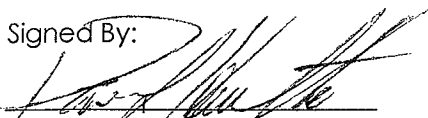
\$ 5,367.00

IF PROPERLY AUTHORIZED WE HEREBY AGREE

to complete the described work for the following amount of:

\$ 5,367.00

Signed By:


Don L. Heckathorn, President

Date:

6/2/11

**HECKATHORN
CONSTRUCTION CO., INC.**
1880 North Birch Avenue
Fayetteville, Arkansas 72703

ITEMIZED COST ESTIMATE No. 001
City-Purchasing Bid No. 99-12550
Window & Door Replacement
Date: 060211

To: City of Fayetteville-
John Coleman, Director of Sustainability
C/O Mikel Lolley-Treadwell Institute
706 West Treadwell Street
Fayetteville, Arkansas 72701
Phone: (479) 841-7801;
E-Mail: mlolley@treadwell.com

Project: Window & Door
Replacement
Mt. Sequoyah Assembly
~~Cafeteria Building # 41~~
Fayetteville, Arkansas

Heckathorn Project No. 11____

=====

Please recognize this document as our Itemized Cost Estimate to include all labor, equipment and materials necessary to complete the following work under the cited Contract with the City of Fayetteville under Bid No. 11-25 for Window & Door Replacement at various locations. This work is priced as requested and directed by City Consultant, Mikel Lolley with the Treadwell Institute and can be briefly described as follows:

Furnish and install an approximately 17' 0" wide by 7' 0" deep Airlock Vestibule constructed using Columbia 1-3/4" X 4" clear anodized storefront with a pair of narrow stile doors at both ends. The hardware is to include surface mount closures, offset pivots, MS 1850 locks, standard push/pull sets and weathering. Also included is the adjustment or replacement of existing closures, weathering, and thresholds at the exterior pair of doors:

1. General Contractor Project Manager Supervision:

9 MH Project Manager @ \$41.00/MH (including PT&I/OH&P) - \$ 369.00
Subtotal G.C. costs- \$ 369.00

Subcontracted Costs:

RGC Glass

Proposal dated 052311-

10% allowable markup for OP&H

\$ 8,556.00
+ 856.00

Subtotal Subcontract costs-

\$ 9,412.00

Subtotal

\$ 9,781.00

1.1% markup for Bond Premium

+ 108.00

TOTAL COST OF THIS ITEM

\$ 9,889.00

IF PROPERLY AUTHORIZED WE HEREBY AGREE

to complete the described work for the following amount of:

\$ 9,889.00

Signed By:


Don L. Heckathorn, President

6/2/11
Date:

**HECKATHORN
CONSTRUCTION CO., INC.**
1880 North Birch Avenue
Fayetteville, Arkansas 72703

ITEMIZED COST ESTIMATE No. 002
City-Purchasing Bid No. ~~11-25~~ ^{A.5} ⁵⁰
Window & Door Replacement
Date: 060211

To: City of Fayetteville-
John Coleman, Director of Sustainability
C/O Mikel Lolley-Treadwell Institute
706 West Treadwell Street
Fayetteville, Arkansas 72701
Phone: (479) 841-7801;
E-Mail: mlolley@treadwell.com

Project: Window & Door
Replacement
Mt. Sequoyah Assembly
~~Cafeteria Building # 41~~
Fayetteville, Arkansas

Heckathorn Project No. 11__

=====

Please recognize this document as our Itemized Cost Estimate to include all labor, equipment and materials necessary to complete the following work under the cited Contract with the City of Fayetteville under Bid No. 11-25 for Window & Door Replacement at various locations. This work is priced as requested and directed by City Consultant, Mikel Lolley with the Treadwell Institute and can be briefly described as follows:

Remove and dispose of ~~14 each pair~~ of existing Storefront Windows in the Dining and other areas and ~~8 each~~ aluminum single-glazed and single hung windows in the Kitchen and adjacent areas. Furnish and install ~~14 each pair~~ 72" wide by 9'0" high windows using Columbia 2" X 4" thermally broken clear anodized storefront frames with 28 each Columbia series C2000 projected vent windows. The 8 each kitchen area windows shall be Columbia series C4050 single hung thermally broken windows with screens. All aluminum framing material is clear anodized and the glass shall be 1-inch clear over Sungate 500 Low-e insulated units, except the restrooms shall be clear over pattern 62 obscure glass. All glass shall be tempered and/or annealed, as required by code.

1. General Contractor Project Manager Supervision:

21 MH Project Manager @ \$41.00/MH (including PT&I/OH&P) - \$ 861.00
Subtotal G.C. costs- \$ 861.00

Subcontracted Costs:

RGC Glass

Proposal dated 052311-

\$ 32,641.00

10% allowable markup for OP&H

+ 3,264.00

Subtotal Subcontract costs-

\$ 35,905.00

Subtotal

\$ 36,766.00

1.1% markup for Bond Premium

+ 404.00

TOTAL COST OF THIS ITEM

~~\$ 37,170.00~~

VOLUNTARY DEDUCTIVE ALTERNATE:

Delete furnishing and installing the 28 each Columbia series C2000 projected vent windows and replace these sections with fixed 1-inch insulated glass in the storefront frames.

2. Subcontracted Costs:

RGC Glass

Proposal dated 052311-

DEDUCT [\$ 6,144.00]

10% allowable markup for OP&H

DEDUCT [+ 614.00]

Subtotal Subcontract costs-

[\$ 6,758.00]

1.1% markup for Bond Premium

[+ 74.00]

TOTAL SAVINGS IF OPERABLE WINDOWS DELETED-

DEDUCT [\$ 6,832.00]

HECKATHORN CONSTRUCTION CO., INC.
ITEMIZED COST ESTIMATE No. 002
City-Purchasing Bid No. 11-25
Window & Door Replacement
Fayetteville, Arkansas 72703

Page two of two

VOLUNTARY ADDITIVE ALTERNATE:

Add back furnishing and installing the Columbia series C2000 projected vent operable windows
On a basis of cost per each;

2. Subcontracted Costs:

TOTAL SAVINGS IF OPERABLE WINDOWS DELETED- ~~[\$ 6,832.00]~~
28 each

~~ADD \$ 244.00/each~~

IF PROPERLY AUTHORIZED WE HEREBY AGREE

to complete all the described work including the
operable window sections for following amount of:

~~\$ 37,170.00~~

Signed By:


Don L. Heckathorn, President

6/2/11
Date:

City of Fayetteville
Bid 11-47, Spray Foam Insulation Services
Bid Pricing Form – REVISED PER ADDENDUM 1

BID 11-47, Spray Foam Insulation Services REVISED BID FORM - ADDENDUM 1		
ALL BIDDERS SHALL TO USE THE ATTACHED REVISED BID FORM. FAILURE TO USE THE REVISED BID FORM WILL RESULT IN YOUR BID BEING REJECTED.		
SECTION A - Mount Sequoyah Cafeteria Building Barley Building & Main Office		Total Lump Sum Price
Item	Description	Total Lump Sum Price
1	Lump sum, total turn-key price for Mount Sequoyah, <u>Cafeteria Building #41</u> , as described & presented.	\$ <u>14,970.00</u>
2	Lump sum, total turn-key price for Mount Sequoyah, <u>Bailey Building #52</u> , as described & presented.	\$ <u>9,780.00</u>
3	Lump sum, total turn-key price for Mount Sequoyah, <u>Main Office #20</u> , as described & presented.	\$ <u>10,450.00</u>
**Total Complete Cost for Items 1-3		\$ <u>35,200.00</u>
All prices bid shall include complete turn key cost including but not limited to labor, materials, bonds, insurance, overhead, profit, Davis-Bacon wage rate requirements, Buy-American requirements, etc.		
**Bid bond required on 5% of "Total Complete Cost for Items 1-3". A 100% Performance and Payment bond is required for same within ten days after notice of contract award.		
Name of Contractor: <u>CSG WWA, Inc.</u>		

EXECUTION OF BID -

Bidders are requested to indicate by check mark or "Yes/No" on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.



Mount Sequoyah, Main Office 20

Final Scope and Costs

Mikel Lolley

A large, 3D geometric graphic composed of several interconnected planes and surfaces, creating a complex, angular shape. The surfaces are shaded in various tones of gray, giving it a three-dimensional appearance. The date "29 July 2011" is printed on one of the lighter-colored surfaces.

29 July 2011



Building Upgrade Value Calculator

For Office Properties

Version 1.0

Use Sample
Data

Glossary

Print

The Building Upgrade Value Calculator allows practitioners to analyze the financial value of capital investments in energy efficiency measures in commercial real estate. Enter the inputs below and select the "Calculate" button to determine the investment's financial and energy benefits. This tool presents the results in two ways: a printable report that summarizes the financial and energy results, and a letter that you can modify and use to make a compelling business case to fund the investment.

Property Information

Property Name	MNTS, MO 20, Comp 02
Square Footage	2,800
Annual Utility Bill	\$4,800

Financial Information

Analysis Term (years)	10
Discount Rate	8%
Capitalization Rate	6%

If Financing,

Loan Period (in years)	10
Number of Loan Payments (per year)	12
Interest Rate	1%

Energy Project Information

Energy Efficiency Measure	Cost	Annual Savings
T8 Relamp. (Labor Only)	\$923	\$96
HVAC Reolacement	\$32,553	\$576
Attic Seal	\$10,450	\$336
Combustion Seal	\$4,500	\$0
Sub Total	\$48,426	\$1,008

Additional Annual Savings
for Labor and Supplies

\$0

ENERGY STAR Rating

24

Rebates (if any)

\$0

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>
For questions or comments about this calculator, please email: buildingscalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

According to the U.S. EPA, investing in energy performance can improve the financial performance of commercial real estate. For the energy efficiency measures you entered, EPA estimates that if all the benefits were to flow to the bottom line, your property would:

- Reduce annual operating expense by: \$ (4,083)
- Improve net operating income by: \$ (4,083)
- Enhance asset value by: \$ (68,046)

Financial Summary

Net Investment Cost	\$ 48,426
Net Investment Cost per SF	\$ 17.29
Simple Payback Period (SPP)	0
Return On Investment (ROI)	-8%
Net Present Value (NPV)	(\$75,821)
Internal Rate of Return (IRR)	0%
Potential Impact on Net Operating Income (NOI)	\$ (4,083)
Potential Impact on Asset Value	\$ (68,046)

Energy Project Summary

	Before Upgrade	After Upgrade	Estimated Savings
ENERGY STAR Rating	24	43	19 points
Annual Energy Cost	\$ 4,800	\$ 3,792	\$ 1,008
Annual Energy Cost per SF	\$ 1.74	\$ 1.35	\$ 0.36

Annual Energy Savings Summary

	T8 Relamp, (Labor Only)	HVAC Reolacement	Attic Seal	Combustion Seal	Labor and Supplies Savings	Net Operating Expense Reduction	Operating Expense Reduction per SF
Year 1	\$96	\$576	\$336	\$0	\$0	(\$4,083)	(\$1.46)
Year 2	\$96	\$576	\$336	\$0	\$0	(\$4,083)	(\$1.46)
Year 3	\$96	\$576	\$336	\$0	\$0	(\$4,083)	(\$1.46)
Year 4	\$96	\$576	\$336	\$0	\$0	(\$4,083)	(\$1.46)
Year 5	\$96	\$576	\$336	\$0	\$0	(\$4,083)	(\$1.46)
Year 6	\$96	\$576	\$336	\$0	\$0	(\$4,083)	(\$1.46)
Year 7	\$96	\$576	\$336	\$0	\$0	(\$4,083)	(\$1.46)
Year 8	\$96	\$576	\$336	\$0	\$0	(\$4,083)	(\$1.46)
Year 9	\$96	\$576	\$336	\$0	\$0	(\$4,083)	(\$1.46)
Year 10	\$96	\$576	\$336	\$0	\$0	(\$4,083)	(\$1.46)

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For questions or comments about this calculator, please email: buildingscalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

Financing Summary

Loan Amount	\$ 48,426
Loan Period	10
Scheduled Payment	\$ 424
Number of Payments	120
Interest Rate	1%
Monthly Utility Bill Savings	\$84

Payment Summary

Period	Total Payments	Total Principal	Total Interest
Year 1	\$ 5,091	\$ 4,628	\$ 463
Year 2	\$ 5,091	\$ 4,674	\$ 417
Year 3	\$ 5,091	\$ 4,721	\$ 370
Year 4	\$ 5,091	\$ 4,769	\$ 322
Year 5	\$ 5,091	\$ 4,816	\$ 274
Year 6	\$ 5,091	\$ 4,865	\$ 226
Year 7	\$ 5,091	\$ 4,914	\$ 177
Year 8	\$ 5,091	\$ 4,963	\$ 128
Year 9	\$ 5,091	\$ 5,013	\$ 78
Year 10	\$ 5,091	\$ 5,063	\$ 27
TOTAL	\$ 50,907	\$ 48,426	\$ 2,482

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For questions or comments about this calculator, please email: buildingscalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

Financing Details

Payment Number	Beginning Balance	Scheduled Payment	Principal	Interest	Ending Balance
1	\$ 48,426	\$ 424	\$ 384	\$ 40	\$ 48,042
2	\$ 48,042	\$ 424	\$ 384	\$ 40	\$ 47,658
3	\$ 47,658	\$ 424	\$ 385	\$ 40	\$ 47,273
4	\$ 47,273	\$ 424	\$ 385	\$ 39	\$ 46,888
5	\$ 46,888	\$ 424	\$ 385	\$ 39	\$ 46,503
6	\$ 46,503	\$ 424	\$ 385	\$ 39	\$ 46,118
7	\$ 46,118	\$ 424	\$ 386	\$ 38	\$ 45,732
8	\$ 45,732	\$ 424	\$ 386	\$ 38	\$ 45,346
9	\$ 45,346	\$ 424	\$ 386	\$ 38	\$ 44,959
10	\$ 44,959	\$ 424	\$ 387	\$ 37	\$ 44,572
11	\$ 44,572	\$ 424	\$ 387	\$ 37	\$ 44,185
12	\$ 44,185	\$ 424	\$ 387	\$ 37	\$ 43,798
13	\$ 43,798	\$ 424	\$ 388	\$ 36	\$ 43,410
14	\$ 43,410	\$ 424	\$ 388	\$ 36	\$ 43,022
15	\$ 43,022	\$ 424	\$ 388	\$ 36	\$ 42,634
16	\$ 42,634	\$ 424	\$ 389	\$ 36	\$ 42,245
17	\$ 42,245	\$ 424	\$ 389	\$ 35	\$ 41,856
18	\$ 41,856	\$ 424	\$ 389	\$ 35	\$ 41,467
19	\$ 41,467	\$ 424	\$ 390	\$ 35	\$ 41,077
20	\$ 41,077	\$ 424	\$ 390	\$ 34	\$ 40,687
21	\$ 40,687	\$ 424	\$ 390	\$ 34	\$ 40,297
22	\$ 40,297	\$ 424	\$ 391	\$ 34	\$ 39,906
23	\$ 39,906	\$ 424	\$ 391	\$ 33	\$ 39,515
24	\$ 39,515	\$ 424	\$ 391	\$ 33	\$ 39,124
25	\$ 39,124	\$ 424	\$ 392	\$ 33	\$ 38,732
26	\$ 38,732	\$ 424	\$ 392	\$ 32	\$ 38,340
27	\$ 38,340	\$ 424	\$ 392	\$ 32	\$ 37,948
28	\$ 37,948	\$ 424	\$ 393	\$ 32	\$ 37,555
29	\$ 37,555	\$ 424	\$ 393	\$ 31	\$ 37,162
30	\$ 37,162	\$ 424	\$ 393	\$ 31	\$ 36,769
31	\$ 36,769	\$ 424	\$ 394	\$ 31	\$ 36,376
32	\$ 36,376	\$ 424	\$ 394	\$ 30	\$ 35,982
33	\$ 35,982	\$ 424	\$ 394	\$ 30	\$ 35,587
34	\$ 35,587	\$ 424	\$ 395	\$ 30	\$ 35,193
35	\$ 35,193	\$ 424	\$ 395	\$ 29	\$ 34,798
36	\$ 34,798	\$ 424	\$ 395	\$ 29	\$ 34,403
37	\$ 34,403	\$ 424	\$ 396	\$ 29	\$ 34,007
38	\$ 34,007	\$ 424	\$ 396	\$ 28	\$ 33,611
39	\$ 33,611	\$ 424	\$ 396	\$ 28	\$ 33,215
40	\$ 33,215	\$ 424	\$ 397	\$ 28	\$ 32,819
41	\$ 32,819	\$ 424	\$ 397	\$ 27	\$ 32,422
42	\$ 32,422	\$ 424	\$ 397	\$ 27	\$ 32,024
43	\$ 32,024	\$ 424	\$ 398	\$ 27	\$ 31,627
44	\$ 31,627	\$ 424	\$ 398	\$ 26	\$ 31,229
45	\$ 31,229	\$ 424	\$ 398	\$ 26	\$ 30,831
46	\$ 30,831	\$ 424	\$ 399	\$ 26	\$ 30,432
47	\$ 30,432	\$ 424	\$ 399	\$ 25	\$ 30,033
48	\$ 30,033	\$ 424	\$ 399	\$ 25	\$ 29,634
49	\$ 29,634	\$ 424	\$ 400	\$ 25	\$ 29,235
50	\$ 29,235	\$ 424	\$ 400	\$ 24	\$ 28,835
51	\$ 28,835	\$ 424	\$ 400	\$ 24	\$ 28,435
52	\$ 28,435	\$ 424	\$ 401	\$ 24	\$ 28,034
53	\$ 28,034	\$ 424	\$ 401	\$ 23	\$ 27,633
54	\$ 27,633	\$ 424	\$ 401	\$ 23	\$ 27,232
55	\$ 27,232	\$ 424	\$ 402	\$ 23	\$ 26,830
56	\$ 26,830	\$ 424	\$ 402	\$ 22	\$ 26,429
57	\$ 26,429	\$ 424	\$ 402	\$ 22	\$ 26,026
58	\$ 26,026	\$ 424	\$ 403	\$ 22	\$ 25,624
59	\$ 25,624	\$ 424	\$ 403	\$ 21	\$ 25,221
60	\$ 25,221	\$ 424	\$ 403	\$ 21	\$ 24,818
61	\$ 24,818	\$ 424	\$ 404	\$ 21	\$ 24,414
62	\$ 24,414	\$ 424	\$ 404	\$ 20	\$ 24,010
63	\$ 24,010	\$ 424	\$ 404	\$ 20	\$ 23,606
64	\$ 23,606	\$ 424	\$ 405	\$ 20	\$ 23,202
65	\$ 23,202	\$ 424	\$ 405	\$ 19	\$ 22,797
66	\$ 22,797	\$ 424	\$ 405	\$ 19	\$ 22,391
67	\$ 22,391	\$ 424	\$ 406	\$ 19	\$ 21,986
68	\$ 21,986	\$ 424	\$ 406	\$ 18	\$ 21,580
69	\$ 21,580	\$ 424	\$ 406	\$ 18	\$ 21,174
70	\$ 21,174	\$ 424	\$ 407	\$ 18	\$ 20,767
71	\$ 20,767	\$ 424	\$ 407	\$ 17	\$ 20,360
72	\$ 20,360	\$ 424	\$ 407	\$ 17	\$ 19,953
73	\$ 19,953	\$ 424	\$ 408	\$ 17	\$ 19,545

74	\$	19,545	\$	424	\$	408	\$	16	\$	19,137
75	\$	19,137	\$	424	\$	408	\$	16	\$	18,729
76	\$	18,729	\$	424	\$	409	\$	16	\$	18,321
77	\$	18,321	\$	424	\$	409	\$	15	\$	17,912
78	\$	17,912	\$	424	\$	409	\$	15	\$	17,502
79	\$	17,502	\$	424	\$	410	\$	15	\$	17,093
80	\$	17,093	\$	424	\$	410	\$	14	\$	16,683
81	\$	16,683	\$	424	\$	410	\$	14	\$	16,272
82	\$	16,272	\$	424	\$	411	\$	14	\$	15,862
83	\$	15,862	\$	424	\$	411	\$	13	\$	15,451
84	\$	15,451	\$	424	\$	411	\$	13	\$	15,039
85	\$	15,039	\$	424	\$	412	\$	13	\$	14,628
86	\$	14,628	\$	424	\$	412	\$	12	\$	14,216
87	\$	14,216	\$	424	\$	412	\$	12	\$	13,803
88	\$	13,803	\$	424	\$	413	\$	12	\$	13,390
89	\$	13,390	\$	424	\$	413	\$	11	\$	12,977
90	\$	12,977	\$	424	\$	413	\$	11	\$	12,564
91	\$	12,564	\$	424	\$	414	\$	10	\$	12,150
92	\$	12,150	\$	424	\$	414	\$	10	\$	11,736
93	\$	11,736	\$	424	\$	414	\$	10	\$	11,322
94	\$	11,322	\$	424	\$	415	\$	9	\$	10,907
95	\$	10,907	\$	424	\$	415	\$	9	\$	10,492
96	\$	10,492	\$	424	\$	415	\$	9	\$	10,076
97	\$	10,076	\$	424	\$	416	\$	8	\$	9,660
98	\$	9,660	\$	424	\$	416	\$	8	\$	9,244
99	\$	9,244	\$	424	\$	417	\$	8	\$	8,828
100	\$	8,828	\$	424	\$	417	\$	7	\$	8,411
101	\$	8,411	\$	424	\$	417	\$	7	\$	7,994
102	\$	7,994	\$	424	\$	418	\$	7	\$	7,576
103	\$	7,576	\$	424	\$	418	\$	6	\$	7,158
104	\$	7,158	\$	424	\$	418	\$	6	\$	6,740
105	\$	6,740	\$	424	\$	419	\$	6	\$	6,321
106	\$	6,321	\$	424	\$	419	\$	5	\$	5,902
107	\$	5,902	\$	424	\$	419	\$	5	\$	5,483
108	\$	5,483	\$	424	\$	420	\$	5	\$	5,063
109	\$	5,063	\$	424	\$	420	\$	4	\$	4,643
110	\$	4,643	\$	424	\$	420	\$	4	\$	4,223
111	\$	4,223	\$	424	\$	421	\$	4	\$	3,802
112	\$	3,802	\$	424	\$	421	\$	3	\$	3,381
113	\$	3,381	\$	424	\$	421	\$	3	\$	2,960
114	\$	2,960	\$	424	\$	422	\$	2	\$	2,538
115	\$	2,538	\$	424	\$	422	\$	2	\$	2,116
116	\$	2,116	\$	424	\$	422	\$	2	\$	1,693
117	\$	1,693	\$	424	\$	423	\$	1	\$	1,271
118	\$	1,271	\$	424	\$	423	\$	1	\$	847
119	\$	847	\$	424	\$	424	\$	1	\$	424
120	\$	424	\$	424	\$	424	\$	0	\$	0

TOTAL	\$	50,907	\$	48,426	\$	2,482
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KING ELECTRICAL CONTRACTORS
2145 W MOORE LANE
FAYETTEVILLE AR 72701

479-443-0006 FAX 479-443-1719

Email Chris@ckingelectric.net

PROPOSAL

TO: City of Fayetteville	PHONE	DATE 6-28-11
	JOB NAME Mount Sequoyah Office Lamp and ballast replacement	
JOB DESCRIPTION Furnish and install 48 new lamps and 16 owner furnished ballasts in existing 4 lamp fixtures. Three new lamps will be installed in each fixture to match the requirements of electronic ballasts. An additional lamp could be installed at a later date in the 4 lamp fixtures if needed, without adding another ballast. There are currently 16 ballasts and 64 lamps in Dining building \$922.60 Furnish and install 4 new ballasts and 8 lamps in existing 2 lamp fixtures. The used ballasts must have at least 3 or 4 lamps to work, so these fixtures would not be able to work with used ballasts-\$282.26 All material and labor would be billed per King Electric's contract with the City of Fayetteville Contractors License #0063870412		
PROPOSAL GOOD FOR 30 DAYS	DOLLARS: Base Bid \$	
TERMS: PAYMENT DUE UPON RECEIPT OF INVOICE A FINANCE CHARGE WILL BE CHARGED ON ALL PAST DUE ACCOUNTS OF .0833% PER MONTH. ALL ATTORNEY FEES WILL BE COLLECTED ON PAST DUE ACCOUNTS.	AUTHORIZED SIGNATURE	
THE ABOVE PRICES SPECIFICATIONS AND CONDITIONS ARE SATISFACTORY AND ARE HEREBY ACCEPTED. YOU ARE AUTHORIZED TO DO WORK AS SPECIFIED. PAYMENT WILL BE MADE AS OUTLINED ABOVE.	ACCEPTANCE SIGNATURE	

Sheet1

Proposal
King Electrical Contractors
2145 W Moore Lane
Fayetteville AR 72704
479-443-0006 Fax 479-443-1719
email Chris@ckingelectric.net

City of Fayetteville

Attn:

Date 7/14/2011

Job Name: Mount Sequoyah Office

Description Change light fixture lamps and ballasts per proposal

Material	\$193.52
Tax	\$17.90
Total	\$211.42
MU 30%	\$63.43

Grand Total Material	\$274.85
----------------------	----------

Labor	\$30.00	
Hours	31	\$930.00
Labor	\$25.00	
Hours		\$0.00

Grand Total Material and Labor	\$1,204.85
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City of Fayetteville
Bid 11-47, Spray Foam Insulation Services
Bid Pricing Form – REVISED PER ADDENDUM 1

BID 11-47, Spray Foam Insulation Services REVISED BID FORM - ADDENDUM 1		
ALL BIDDERS SHALL TO USE THE ATTACHED REVISED BID FORM. FAILURE TO USE THE REVISED BID FORM WILL RESULT IN YOUR BID BEING REJECTED.		
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Item	Description	Total Lump Sum Price
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3	Lump sum, total turn-key price for Mount Sequoyah, <u>Main Office #20</u> , as described & presented.	\$ 10,450. ⁰⁰
**Total Complete Cost for Items 1-3		\$ 35,200. ⁰⁰
All prices bid shall include complete turn key cost including but not limited to labor, materials, bonds, insurance, overhead, profit, Davis-Bacon wage rate requirements, Buy-American requirements, etc.		
**Bid bond required on 5% of "Total Complete Cost for Items 1-3". A 100% Performance and Payment bond is required for same within ten days after notice of contract award.		
Name of Contractor: <u>CSG NWA, Inc.</u>		

EXECUTION OF BID -

Bidders are requested to indicate by check mark or "Yes/No" on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.

CPS of NWA, Inc.

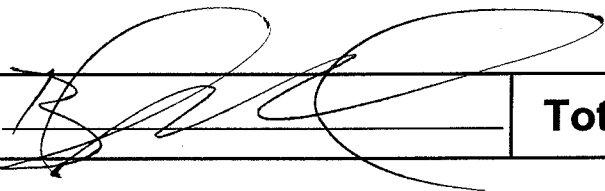
P.O. Box 458 Tontitown, AR 72770-0458
Phone (479) 361-1148 ~ Fax (479) 361-5788

A. 5
Mount Sequoyah Center, Inc.
Page 32 of 50

Arkansas Contractor Licence #0164550911

Proposal

Date	Estimate #
7/29/2011	1863

Attention		Project Description	
CITY OF FAYETTEVILLE ATTN: MICHAEL OLLIE			
Scope of Work			Total
Spray Foam Kote 50/50 Intumescent Paint over foam in main office attic			4,500.00
Chuck's Paint Svc. Authorized Signature 			Total \$4,500.00



P.O. Box 1760
2300 N Lowell Rd
Springdale, AR 72765
(479) 751-7411
Fax: (479) 751-0316
www.multi-craft.net

A. 5
Mount Sequoyah Center, Inc.
Page 33 of 50
Arkansas Contractors: 0025810311
Arkansas Electrical: M2320
Arkansas HVAC: 135450
Arkansas Plumbing: MP3613

June 1, 2011

Quote: 1QS06011319

Mikel Lolley
Mount Sequoyah Main Office # 20

PH: 479-841-7801
mikel.lolley@gmail.com

RE: Replace HVAC equipment

AirWorks, Inc. a division of Multi-Craft Contractors, Inc. is pleased to present the following proposal.

Scope of work:

- Recover and dispose of refrigerant and existing HVAC equipment per E.P.A. guidelines.
- Install new 90+ gas furnaces and evaporator coils in attic above occupied space.
- Provide all labor and materials required to run new supply and return ductwork in attic above occupied space.
- Install new 16 SEER, 2 stage condensers on existing equipment pads.
- Provide all labor and materials required to run new refrigerant and drain lines.
- Provide all labor and materials required to run natural gas from existing systems to attic space.
- Provide all labor and materials required to install and wire new digital, programmable thermostats for each unit.
- Pull both systems into a vacuum and charge to manufacturer's specifications.
- Start both systems and verify proper operation.
- **WARRANTY:** The new equipment will carry standard manufacturer's warranties; AirWorks will provide a 1 year labor warranty.
- **Exclusions:** Any and all high voltage wiring, wire, conduit, devices, breakers or controls. Any and all building management controls, wire, wiring or components. Any fire detection, suppression, or alarm system, components or wiring. Any and all carpentry, painting, sheetrock, roofing, concrete or other structural or construction requirements.

Sub Total: \$ 29,729.25

Tax: \$ 2,824.30

Total Price: \$ 32,553.55

This price is based upon all work being performed during normal daytime business hours. Above stated price is valid for thirty (30) days.

We appreciate this opportunity to be of service to you. If you have any questions, please contact us.

Sincerely,

Bob Miller

Bob Miller
Commercial Sales
ram@multi-craft.net
PH: 479-236-8529 cell

Accepted By: _____ Date: _____

If accepted please sign and Fax: 479-751-0316.

TERMS AND CONDITIONS

- A. Customer will provide and permit reasonable access to all necessary areas. Air Works, Inc. will be allowed to start and stop equipment as necessary to perform its services and be permitted access to existing facilities and building services covered under this Agreement.
- B. In the unlikely event of failure to perform its obligations, Air Works, Inc.'s liability is limited to repair or replacement at its option. Under no circumstances will Air Works, Inc. be responsible for loss of use, loss of profits, or increased operating claims of the customer, or any special, indirect or consequential damages.
- C. The agreement does not include responsibility for system design deficiencies, such as, but not limited to poor air distribution, water flow imbalances, etc. It does not include responsibility for system, equipment and component obsolescence, electrical failures, unserviceable equipment, and operating the system(s).
- D. Air Works, Inc. will not be liable for delays or failure to obligate due to fire, flood, freezing, unavailability of material, riots, acts of God, or any cause beyond reasonable control.
- E. This agreement does not include any services occasioned by improper operation, negligence except the negligence of Air Works, vandalism, or alterations, modifications, abuse, or misuse, or repairs to equipment not performed by Air Works, Inc. Also excluded is the furnishing of materials and supplies for painting or refurbishing equipment.
- F. Air Works, Inc. shall not be required to furnish any items of equipment, labor, or make special tests recommended or required by insurance companies, Federal, State, Municipal or other authorities except as otherwise included in this Agreement.
- G. In the event either party must commence a legal action in order to enforce any rights under this contract, the successful party shall be entitled to all court costs and reasonable attorney's fees as determined by the court for prosecuting and defending the claim, as the case may be.
- H. Air Works, Inc. shall not be liable for the operation of the equipment nor for injuries to persons or damage to property, except those directly due to the negligent acts or omissions of its employees and in no event shall it be liable for consequential or speculative damages. It shall not be liable for expense incurred in removing, replacing or refinishing any part of the building structure necessary to the execution of this Agreement. It shall not be held liable for any loss by reason of delays in transportation, delays caused by priority or preference rating, or orders or regulations established by any government, authority, or agency.
- I. In the event of additional freight, labor, or material costs resulting from the customer's request to avoid delays with respect to equipment warranties, or accelerated delivery of parts and supplies, the customer agrees to pay these additional costs.
- J. Air Works, Inc.'s service shall not include the identification, detection, abatement, encapsulation or removal of asbestos or products or materials containing asbestos or similar hazardous substances. In the event Air Works, Inc. encounters such material in performing its work, Air Works, Inc. will have the right to discontinue work and remove its employees until the hazard is corrected or its determined no hazard exists.
- K. This Agreement contains the entire Contract and the parties hereby agree that this Agreement has been agreed to and the entire Agreement is then accepted and approved by an authorized person for both parties, and no statement, remark, agreement or, understanding, oral or written, not contained herein, will be recognized or enforced.
- L. This agreement does not include the disposal of hazardous waste. Any charges incurred for their proper disposal will be borne by the customer as an extra to the contract price.

Mount Sequoyah Main Office # 20

A. 5
Mount Sequoyah Center, Inc.
Page 36 of 50

SECTION A: Materials Subject to Buy American Requirements					A	B	C (A x B)	D (B + C)
Item	Description	Mark Up %	Contractors Material Cost Estimate	\$S Amount of Mark Up	\$S Amount Mark Up PLUS Material Cost			
1	General Material (Cost plus %) \$0-\$100	30 %	r	-	\$			
2	General Material (Cost plus %) \$101-\$500	25 %	500 ⁰⁰	125 ⁰⁰	\$ 625 ⁰⁰			
3	General Material (Cost plus %) \$501-\$1000	15 %	600	90 ⁰⁰	\$ 690 ⁰⁰			
4	General Material (Cost plus %) \$1001-and up	15 %	5680	852 ⁰⁰	\$ 6352 ⁰⁰			
5	Purchases of New Units	15 %	8612	1,291 ⁸⁰	\$ 9903 ⁸⁰			
6	Rental Equipment (Cost plus %)	10 %			\$			
Estimated Cost for Section A (Sum of Items 1-6):					\$17,570 ⁸⁰			
SECTION B: Labor Subject to Davis-Bacon Wage Rates					A	B	C (A x B)	
Item	Description: Most basic trade is listed as "Rate 1". Skill set increases with increased rate number.	Estimated hours subject to change	Hourly Rate	Estimated Labor Cost				
7	HVAC - Rate 1 (Fabricator/Installer)	157	50.00	\$ 7,850 ⁰⁰				
8	HVAC - Rate 2 (Installer/Mechanic)	64	50.00	\$ 3,200 ⁰⁰				
9	HVAC - Rate 3 (Installer/Technician)	8	65.00	\$ 520 ⁰⁰				
10	HVAC - Rate 4 (Commissioning Agent)	8	69.00	\$ 552 ⁰⁰				
Estimated Cost for Section B (Sum of Items 7-10):					\$12,122 ⁰⁰			
**Total Estimated Cost for Items 1-10 (Sum of Section A + Section B)					\$29,692 ⁸⁰			
**Bid bond required on 5% of "Total Estimated Cost for Items 1-10". A 100% Performance and Payment bond is required for same within ten days after notice of contract award.								
Name of Contractor: <u>Multi-Craft Contractors/AirWorks</u>								

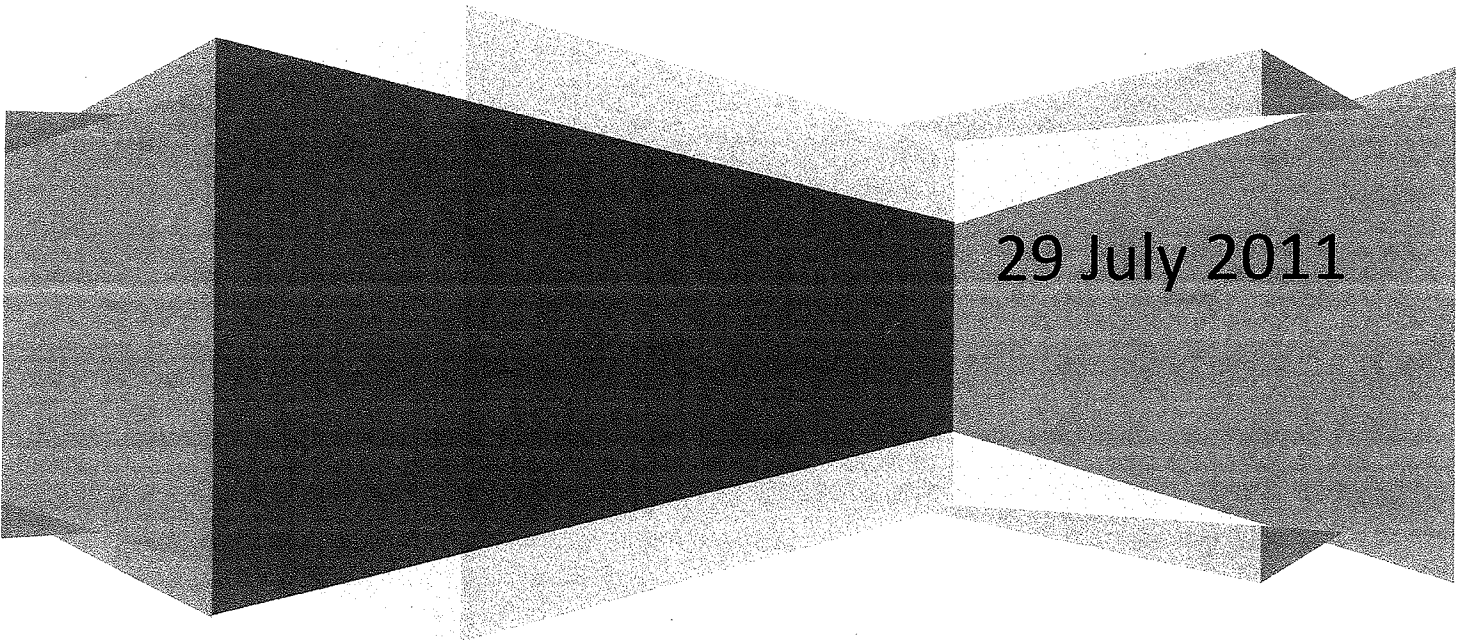
Note: This DOES NOT INCLUDE TAXES, BID BOND or performance Bond charges if applicable.



Mount Sequoyah, Bailey Building 52

Final Scope and Costs

Mikel Lolley

A large, complex 3D geometric graphic composed of several interconnected planes and surfaces, creating a sense of depth and perspective. The surfaces are shaded in various tones of gray, with some areas being solid black. The overall shape is elongated and angular, resembling a stylized architectural element or a modern sculpture.

29 July 2011



Building Upgrade Value Calculator

For Office Properties

Version 1.0

Use Sample
Data

Glossary

Print

The Building Upgrade Value Calculator allows practitioners to analyze the financial value of capital investments in energy efficiency measures in commercial real estate. Enter the inputs below and select the "Calculate" button to determine the investment's financial and energy benefits. This tool presents the results in two ways: a printable report that summarizes the financial and energy results, and a letter that you can modify and use to make a compelling business case to fund the investment.

Property Information

Property Name	MNTS, BB 52, Comp02
Square Footage	4,000
Annual Utility Bill	\$5,000

Financial Information

Analysis Term (years)	10
Discount Rate	8%
Capitalization Rate	6%

If Financing,

Loan Period (in years)	10
Number of Loan Payments (per year)	12
Interest Rate	1%

Energy Project Information

Energy Efficiency Measure	Cost	Annual Savings
HVAC Replacement	\$27,975	\$650
T8 Relamp, Labor Only	\$1,794	\$614
Attic Seal Insulation	\$9,780	\$500
Sub Total	\$39,549	\$1,764

Additional Annual Savings
for Labor and Supplies

\$0

ENERGY STAR Rating

69

Rebates (if any)

\$0

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>
For questions or comments about this calculator, please email: buildingscalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

According to the U.S. EPA, investing in energy performance can improve the financial performance of commercial real estate. For the energy efficiency measures you entered, EPA estimates that if all the benefits were to flow to the bottom line, your property would:

- Reduce annual operating expense by: \$ (2,393)
- Improve net operating income by: \$ (2,393)
- Enhance asset value by: \$ (39,886)

Financial Summary

Net Investment Cost	\$ 39,549
Net Investment Cost per SF	\$ 9.89
Simple Payback Period (SPP)	0
Return On Investment (ROI)	-6%
Net Present Value (NPV)	(\$55,607)
Internal Rate of Return (IRR)	0%
Potential Impact on Net Operating Income (NOI)	\$ (2,393)
Potential Impact on Asset Value	\$ (39,886)

Energy Project Summary

	Before Upgrade	After Upgrade	Estimated Savings
ENERGY STAR Rating	69	91	22 points
Annual Energy Cost	\$ 5,000	\$ 3,236	\$ 1,764
Annual Energy Cost per SF	\$ 1.25	\$ 0.81	\$ 0.44

Annual Energy Savings Summary

	HVAC Replacement	T8 Relamp, Labor Only	Attic Seal Insulation	Labor and Supplies Savings	Net Operating Expense Reduction	Operating Expense Reduction per SF
Year 1	\$650	\$614	\$500	\$0	(\$2,393)	(\$0.60)
Year 2	\$650	\$614	\$500	\$0	(\$2,393)	(\$0.60)
Year 3	\$650	\$614	\$500	\$0	(\$2,393)	(\$0.60)
Year 4	\$650	\$614	\$500	\$0	(\$2,393)	(\$0.60)
Year 5	\$650	\$614	\$500	\$0	(\$2,393)	(\$0.60)
Year 6	\$650	\$614	\$500	\$0	(\$2,393)	(\$0.60)
Year 7	\$650	\$614	\$500	\$0	(\$2,393)	(\$0.60)
Year 8	\$650	\$614	\$500	\$0	(\$2,393)	(\$0.60)
Year 9	\$650	\$614	\$500	\$0	(\$2,393)	(\$0.60)
Year 10	\$650	\$614	\$500	\$0	(\$2,393)	(\$0.60)

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>
For questions or comments about this calculator, please email: buildingscalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

Financing Summary

Loan Amount	\$ 39,549
Loan Period	10
Scheduled Payment	\$ 346
Number of Payments	120
Interest Rate	1%
Monthly Utility Bill Savings	\$147

Payment Summary

Period	Total Payments	Total Principal	Total Interest
Year 1	\$ 4,158	\$ 3,779	\$ 378
Year 2	\$ 4,158	\$ 3,817	\$ 340
Year 3	\$ 4,158	\$ 3,856	\$ 302
Year 4	\$ 4,158	\$ 3,894	\$ 263
Year 5	\$ 4,158	\$ 3,934	\$ 224
Year 6	\$ 4,158	\$ 3,973	\$ 185
Year 7	\$ 4,158	\$ 4,013	\$ 145
Year 8	\$ 4,158	\$ 4,053	\$ 104
Year 9	\$ 4,158	\$ 4,094	\$ 64
Year 10	\$ 4,158	\$ 4,135	\$ 22
TOTAL	\$ 41,575	\$ 39,549	\$ 2,027

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>

For questions or comments about this calculator, please email: buildingscalculators@energystar.gov

74	\$	15,962	\$	346	\$	333	\$	13	\$	15,629
75	\$	15,629	\$	346	\$	333	\$	13	\$	15,296
76	\$	15,296	\$	346	\$	334	\$	13	\$	14,962
77	\$	14,962	\$	346	\$	334	\$	12	\$	14,628
78	\$	14,628	\$	346	\$	334	\$	12	\$	14,294
79	\$	14,294	\$	346	\$	335	\$	12	\$	13,959
80	\$	13,959	\$	346	\$	335	\$	12	\$	13,624
81	\$	13,624	\$	346	\$	335	\$	11	\$	13,289
82	\$	13,289	\$	346	\$	335	\$	11	\$	12,954
83	\$	12,954	\$	346	\$	336	\$	11	\$	12,618
84	\$	12,618	\$	346	\$	336	\$	11	\$	12,282
85	\$	12,282	\$	346	\$	336	\$	10	\$	11,946
86	\$	11,946	\$	346	\$	337	\$	10	\$	11,610
87	\$	11,610	\$	346	\$	337	\$	10	\$	11,273
88	\$	11,273	\$	346	\$	337	\$	9	\$	10,936
89	\$	10,936	\$	346	\$	337	\$	9	\$	10,598
90	\$	10,598	\$	346	\$	338	\$	9	\$	10,261
91	\$	10,261	\$	346	\$	338	\$	9	\$	9,923
92	\$	9,923	\$	346	\$	338	\$	8	\$	9,585
93	\$	9,585	\$	346	\$	338	\$	8	\$	9,246
94	\$	9,246	\$	346	\$	339	\$	8	\$	8,907
95	\$	8,907	\$	346	\$	339	\$	7	\$	8,568
96	\$	8,568	\$	346	\$	339	\$	7	\$	8,229
97	\$	8,229	\$	346	\$	340	\$	7	\$	7,889
98	\$	7,889	\$	346	\$	340	\$	7	\$	7,550
99	\$	7,550	\$	346	\$	340	\$	6	\$	7,209
100	\$	7,209	\$	346	\$	340	\$	6	\$	6,869
101	\$	6,869	\$	346	\$	341	\$	6	\$	6,528
102	\$	6,528	\$	346	\$	341	\$	5	\$	6,187
103	\$	6,187	\$	346	\$	341	\$	5	\$	5,846
104	\$	5,846	\$	346	\$	342	\$	5	\$	5,504
105	\$	5,504	\$	346	\$	342	\$	5	\$	5,162
106	\$	5,162	\$	346	\$	342	\$	4	\$	4,820
107	\$	4,820	\$	346	\$	342	\$	4	\$	4,478
108	\$	4,478	\$	346	\$	343	\$	4	\$	4,135
109	\$	4,135	\$	346	\$	343	\$	3	\$	3,792
110	\$	3,792	\$	346	\$	343	\$	3	\$	3,449
111	\$	3,449	\$	346	\$	344	\$	3	\$	3,105
112	\$	3,105	\$	346	\$	344	\$	3	\$	2,761
113	\$	2,761	\$	346	\$	344	\$	2	\$	2,417
114	\$	2,417	\$	346	\$	344	\$	2	\$	2,073
115	\$	2,073	\$	346	\$	345	\$	2	\$	1,728
116	\$	1,728	\$	346	\$	345	\$	1	\$	1,383
117	\$	1,383	\$	346	\$	345	\$	1	\$	1,038
118	\$	1,038	\$	346	\$	346	\$	1	\$	692
119	\$	692	\$	346	\$	346	\$	1	\$	346
120	\$	346	\$	346	\$	346	\$	0	\$	(0)
TOTAL		\$	41,575	\$	39,549	\$	2,027			

For more information on the financial value of improving the energy performance of commercial real estate or to learn about other ENERGY STAR tools and resources, please visit ENERGY STAR at: <http://www.energystar.gov/>
For questions or comments about this calculator, please email: buildingscalculators@energystar.gov



Building Upgrade Value Calculator

Financial Results

Financing Details

Payment Number	Beginning Balance	Scheduled Payment	Principal	Interest	Ending Balance
1	\$ 39,549	\$ 346	\$ 314	\$ 33	\$ 39,235
2	\$ 39,235	\$ 346	\$ 314	\$ 33	\$ 38,921
3	\$ 38,921	\$ 346	\$ 314	\$ 32	\$ 38,607
4	\$ 38,607	\$ 346	\$ 314	\$ 32	\$ 38,293
5	\$ 38,293	\$ 346	\$ 315	\$ 32	\$ 37,978
6	\$ 37,978	\$ 346	\$ 315	\$ 32	\$ 37,664
7	\$ 37,664	\$ 346	\$ 315	\$ 31	\$ 37,349
8	\$ 37,349	\$ 346	\$ 315	\$ 31	\$ 37,033
9	\$ 37,033	\$ 346	\$ 316	\$ 31	\$ 36,718
10	\$ 36,718	\$ 346	\$ 316	\$ 31	\$ 36,402
11	\$ 36,402	\$ 346	\$ 316	\$ 30	\$ 36,086
12	\$ 36,086	\$ 346	\$ 316	\$ 30	\$ 35,769
13	\$ 35,769	\$ 346	\$ 317	\$ 30	\$ 35,453
14	\$ 35,453	\$ 346	\$ 317	\$ 30	\$ 35,136
15	\$ 35,136	\$ 346	\$ 317	\$ 29	\$ 34,818
16	\$ 34,818	\$ 346	\$ 317	\$ 29	\$ 34,501
17	\$ 34,501	\$ 346	\$ 318	\$ 29	\$ 34,183
18	\$ 34,183	\$ 346	\$ 318	\$ 28	\$ 33,865
19	\$ 33,865	\$ 346	\$ 318	\$ 28	\$ 33,547
20	\$ 33,547	\$ 346	\$ 319	\$ 28	\$ 33,229
21	\$ 33,229	\$ 346	\$ 319	\$ 28	\$ 32,910
22	\$ 32,910	\$ 346	\$ 319	\$ 27	\$ 32,591
23	\$ 32,591	\$ 346	\$ 319	\$ 27	\$ 32,271
24	\$ 32,271	\$ 346	\$ 320	\$ 27	\$ 31,952
25	\$ 31,952	\$ 346	\$ 320	\$ 27	\$ 31,632
26	\$ 31,632	\$ 346	\$ 320	\$ 26	\$ 31,312
27	\$ 31,312	\$ 346	\$ 320	\$ 26	\$ 30,992
28	\$ 30,992	\$ 346	\$ 321	\$ 26	\$ 30,671
29	\$ 30,671	\$ 346	\$ 321	\$ 26	\$ 30,350
30	\$ 30,350	\$ 346	\$ 321	\$ 25	\$ 30,029
31	\$ 30,029	\$ 346	\$ 321	\$ 25	\$ 29,707
32	\$ 29,707	\$ 346	\$ 322	\$ 25	\$ 29,386
33	\$ 29,386	\$ 346	\$ 322	\$ 24	\$ 29,064
34	\$ 29,064	\$ 346	\$ 322	\$ 24	\$ 28,741
35	\$ 28,741	\$ 346	\$ 323	\$ 24	\$ 28,419
36	\$ 28,419	\$ 346	\$ 323	\$ 24	\$ 28,096
37	\$ 28,096	\$ 346	\$ 323	\$ 23	\$ 27,773
38	\$ 27,773	\$ 346	\$ 323	\$ 23	\$ 27,450
39	\$ 27,450	\$ 346	\$ 324	\$ 23	\$ 27,126
40	\$ 27,126	\$ 346	\$ 324	\$ 23	\$ 26,802
41	\$ 26,802	\$ 346	\$ 324	\$ 22	\$ 26,478
42	\$ 26,478	\$ 346	\$ 324	\$ 22	\$ 26,154
43	\$ 26,154	\$ 346	\$ 325	\$ 22	\$ 25,829
44	\$ 25,829	\$ 346	\$ 325	\$ 22	\$ 25,504
45	\$ 25,504	\$ 346	\$ 325	\$ 21	\$ 25,179
46	\$ 25,179	\$ 346	\$ 325	\$ 21	\$ 24,854
47	\$ 24,854	\$ 346	\$ 326	\$ 21	\$ 24,528
48	\$ 24,528	\$ 346	\$ 326	\$ 20	\$ 24,202
49	\$ 24,202	\$ 346	\$ 326	\$ 20	\$ 23,875
50	\$ 23,875	\$ 346	\$ 327	\$ 20	\$ 23,549
51	\$ 23,549	\$ 346	\$ 327	\$ 20	\$ 23,222
52	\$ 23,222	\$ 346	\$ 327	\$ 19	\$ 22,895
53	\$ 22,895	\$ 346	\$ 327	\$ 19	\$ 22,568
54	\$ 22,568	\$ 346	\$ 328	\$ 19	\$ 22,240
55	\$ 22,240	\$ 346	\$ 328	\$ 19	\$ 21,912
56	\$ 21,912	\$ 346	\$ 328	\$ 18	\$ 21,584
57	\$ 21,584	\$ 346	\$ 328	\$ 18	\$ 21,255
58	\$ 21,255	\$ 346	\$ 329	\$ 18	\$ 20,927
59	\$ 20,927	\$ 346	\$ 329	\$ 17	\$ 20,598
60	\$ 20,598	\$ 346	\$ 329	\$ 17	\$ 20,268
61	\$ 20,268	\$ 346	\$ 330	\$ 17	\$ 19,939
62	\$ 19,939	\$ 346	\$ 330	\$ 17	\$ 19,609
63	\$ 19,609	\$ 346	\$ 330	\$ 16	\$ 19,279
64	\$ 19,279	\$ 346	\$ 330	\$ 16	\$ 18,948
65	\$ 18,948	\$ 346	\$ 331	\$ 16	\$ 18,618
66	\$ 18,618	\$ 346	\$ 331	\$ 16	\$ 18,287
67	\$ 18,287	\$ 346	\$ 331	\$ 15	\$ 17,955
68	\$ 17,955	\$ 346	\$ 332	\$ 15	\$ 17,624
69	\$ 17,624	\$ 346	\$ 332	\$ 15	\$ 17,292
70	\$ 17,292	\$ 346	\$ 332	\$ 14	\$ 16,960
71	\$ 16,960	\$ 346	\$ 332	\$ 14	\$ 16,628
72	\$ 16,628	\$ 346	\$ 333	\$ 14	\$ 16,295
73	\$ 16,295	\$ 346	\$ 333	\$ 14	\$ 15,962

KING ELECTRICAL CONTRACTORS
2145 W MOORE LANE
FAYETTEVILLE AR 72701

479-443-0006 FAX 479-443-1719

Email Chris@ckingelectric.net

PROPOSAL

TO: City of Fayetteville	PHONE	DATE 6-28-11
	JOB NAME Mount Sequoyah Bailey Building Lamp and ballast replacement	
JOB DESCRIPTION Furnish and install 90 new lamps and 30 owner furnished ballasts in existing 4 lamp fixtures. Three new lamps will be installed in each fixture to match the requirements of electronic ballasts. An additional lamp could be installed at a later date in the 4 lamp fixtures if needed, without adding another ballast. There are currently 30 ballasts and 120 lamps in Bailey building. \$1793.53 All material and labor would be billed per King Electric's contract with the City of Fayetteville Contractors License #0063870412		
PROPOSAL GOOD FOR 30 DAYS	DOLLARS: Base Bid \$	
TERMS: PAYMENT DUE UPON RECEIPT OF INVOICE A FINANCE CHARGE WILL BE CHARGED ON ALL PAST DUE ACCOUNTS OF .0833% PER MONTH. ALL ATTORNEY FEES WILL BE COLLECTED ON PAST DUE ACCOUNTS.	AUTHORIZED SIGNATURE	
THE ABOVE PRICES SPECIFICATIONS AND CONDITIONS ARE SATISFACTORY AND ARE HEREBY ACCEPTED. YOU ARE AUTHORIZED TO DO WORK AS SPECIFIED. PAYMENT WILL BE MADE AS OUTLINED ABOVE.	ACCEPTANCE SIGNATURE	

Proposal
King Electrical Contractors
2145 W Moore Lane
Fayetteville AR 72704
479-443-0006 Fax 479-443-1719
email Chris@ckingelectric.net

City of Fayetteville

Attn:

Date 7/14/2011
Job Name: Mount Sequoyah Bailey
Description Change light fixture lamps and ballasts per proposal

Material	\$227.80
Tax	\$21.07
Total	\$248.87
MU 30%	\$74.66

Grand Total Material	\$323.53
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Labor	\$30.00	
Hours	49	\$1,470.00
Labor	\$25.00	
Hours		\$0.00

Grand Total Material and Labor	\$1,793.53
--------------------------------	------------



P.O. Box 1760
2300 N Lowell Rd
Springdale, AR 72765
(479) 751-7411
Fax: (479) 751-0316
www.multi-craft.net

A. 5
Mount Sequoyah Center, Inc.
Page 45 of 50
Arkansas Contractors: 8025810311
Arkansas Electrical: M2320
Arkansas HVAC: 135450
Arkansas Plumbing: MP3613

May 17, 2011

Quote: 1QS05171423

Mount Sequoyah Bailey Building # 52
Fayetteville, AR 72701
ATTN: Mikel Lolley
RE: Replace HVAC

mikel.lolley@gmail.com

AirWorks, Inc. a division of Multi-Craft Contractors, Inc. is pleased to present the following proposal.

Scope of work:

- Recover and dispose of refrigerant and existing HVAC equipment per E.P.A. guidelines.
- Provide new equipment stands for indoor air handlers.
- Install Trane variable speed, R-410A indoor air handlers on new platforms.
- Provide all labor and materials required to demo existing duct work and air devices.
- Provide all labor and materials required to run new supply duct work in attic.
- Provide all labor and materials required to run new return duct work in attic.
- Provide and install new supply and return air registers in ceiling.
- Provide and install Trane 2 stage, R-410A heat pump outdoor units on existing pads at back of building.
- Provide all labor and materials required to run new refrigerant and drain lines from air handlers to outdoor units.
- Provide and install and wire 2 Honeywell digital, programmable thermostats.
- Pull systems into a vacuum and charge with refrigerant to manufacturer's specifications.
- Start systems and verify proper operation.
- Program thermostats to customer specifications, provide 1 hour of in-house training on programming and use.
- NOTE: All duct work in the attic is to be removed and installed thru the exterior of the roof. (access by others while they are redoing the roof)
- WARRANTY: The new equipment will carry standard manufacturer's warranties; AirWorks will provide a 1 year labor warranty.

- **EXCLUSIONS:** Any and all high voltage wire, conduit, breakers, devices or wiring on the service side of the unit disconnect switches. Any impact fees, fire stopping, fire detection or suppression, fire alarm systems or building control systems or components. Any painting, sheetrock, roofing or carpentry. Any and all exhaust or ventilation systems or components.

Total Price: \$ 46,125.00 (includes all applicable taxes)
Deduct \$ 18,150.00 if we don't replace the supply ductwork or grills
Total price without supply ductwork and grills \$ 27,975.00 (includes all applicable taxes)

This price is based upon all work being performed during normal daytime business hours. Above stated price is valid for thirty (30) days.

We appreciate this opportunity to be of service to you. If you have any questions, please contact us.

Sincerely,

Bob Miller

Bob Miller
Commercial Sales
ram@multi-craft.net
PH: 479-236-8529 cell

Accepted By: _____

Date: _____

If accepted please sign and Fax: 479-751-0316.

TERMS AND CONDITIONS

- A. Customer will provide and permit reasonable access to all necessary areas. Air Works, Inc. will be allowed to start and stop equipment as necessary to perform its services and be permitted access to existing facilities and building services covered under this Agreement.
- B. In the unlikely event of failure to perform its obligations, Air Works, Inc.'s liability is limited to repair or replacement at its option. Under no circumstances will Air Works, Inc. be responsible for loss of use, loss of profits, or increased operating claims of the customer, or any special, indirect or consequential damages.
- C. The agreement does not include responsibility for system design deficiencies, such as, but not limited to poor air distribution, water flow imbalances, etc. It does not include responsibility for system, equipment and component obsolescence, electrical failures, unserviceable equipment, and operating the system(s).
- D. Air Works, Inc. will not be liable for delays or failure to obligate due to fire, flood, freezing, unavailability of material, riots, acts of God, or any cause beyond reasonable control.
- E. This agreement does not include any services occasioned by improper operation, negligence except the negligence of Air Works, vandalism, or alterations, modifications, abuse, or misuse, or repairs to equipment not performed by Air Works, Inc. Also excluded is the furnishing of materials and supplies for painting or refurbishing equipment.
- F. Air Works, Inc. shall not be required to furnish any items of equipment, labor, or make special tests recommended or required by insurance companies, Federal, State, Municipal or other authorities except as otherwise included in this Agreement.
- G. In the event either party must commence a legal action in order to enforce any rights under this contract, the successful party shall be entitled to all court costs and reasonable attorney's fees as determined by the court for prosecuting and defending the claim, as the case may be.
- H. Air Works, Inc. shall not be liable for the operation of the equipment nor for injuries to persons or damage to property, except those directly due to the negligent acts or omissions of its employees and in no event shall it be liable for consequential or speculative damages. It shall not be liable for expense incurred in removing, replacing or refinishing any part of the building structure necessary to the execution of this Agreement. It shall not be held liable for any loss by reason of delays in transportation, delays caused by priority or preference rating, or orders or regulations established by any government, authority, or agency.
- I. In the event of additional freight, labor, or material costs resulting from the customer's request to avoid delays with respect to equipment warranties, or accelerated delivery of parts and supplies, the customer agrees to pay these additional costs.
- J. Air Works, Inc.'s service shall not include the identification, detection, abatement, encapsulation or removal of asbestos or products or materials containing asbestos or similar hazardous substances. In the event Air Works, Inc. encounters such material in performing its work, Air Works, Inc. will have the right to discontinue work and remove its employees until the hazard is corrected or its determined no hazard exists.
- K. This Agreement contains the entire Contract and the parties hereby agree that this Agreement has been agreed to and the entire Agreement is then accepted and approved by an authorized person for both parties, and no statement, remark, agreement or, understanding, oral or written, not contained herein, will be recognized or enforced.
- L. This agreement does not include the disposal of hazardous waste. Any charges incurred for their proper disposal will be borne by the customer as an extra to the contract price.

Mount Sequoyah Bailey Building #52
Option #1 (with new supply ducts & grills)

SECTION A: Materials Subject to Buy American Requirements				A	B	C (A x B)	D (B + C)
Item	Description	Mark Up %	Contractors Material Cost Estimate		\$S Amount of Mark Up	\$S Amount Mark Up PLUS Material Cost	
1	General Material (Cost plus %) \$0-\$100	30 %		x	-	\$	
2	General Material (Cost plus %) \$101-\$500	25 %		x	-	\$	
3	General Material (Cost plus %) \$501-\$1000	15 %		x	-	\$	
4	General Material (Cost plus %) \$1001-and up	15 %	13,023. ⁰⁵	x	1,953. ⁴⁶	14,976. ⁵¹	
5	Purchases of New Units	15 %	12,215	x	1,832.25	14,047.25	
6	Rental Equipment (Cost plus %)	10 %		x	-	\$	
Estimated Cost for Section A (Sum of Items 1-6):						\$ 29,023. ⁷⁶	
SECTION B: Labor Subject to Davis-Bacon Wage Rates				A	B	C (A x B)	
Item	Description: Most basic trade is listed as "Rate 1". Skill set increases with increased rate number.	Estimated hours subject to change			Hourly Rate	Estimated Labor Cost	
7	HVAC - Rate 1 (Fabricator/Installer)	200	x	\$	50. ⁰⁰	10,000. ⁰⁰	
8	HVAC - Rate 2 (Installer/Mechanic)	40	x	\$	50. ⁰⁰	2,000. ⁰⁰	
9	HVAC - Rate 3 (Installer/Technician)	8	x	\$	65. ⁰⁰	520. ⁰⁰	
10	HVAC - Rate 4 (Commissioning Agent)	8	x	\$	69. ⁰⁰	552. ⁰⁰	
Estimated Cost for Section B (Sum of Items 7-10):						13,072. ⁰⁰	
**Total Estimated Cost for Items 1-10 (Sum of Section A + Section B):						\$ 42,095. ⁷⁶	
**Bid bond required on 5% of "Total Estimated Cost for Items 1-10". A 100% Performance and Payment bond is required for same within ten days after notice of contract award.							
Name of Contractor: Multi-Craft Contractors/AirWorks							

Note: This does NOT include TAXES, Bid Bond or performance Bond charges if Applicable

Mount Sequoyah Bailey Building #52

Option # 2 (without replacing ductwork or galls)

A. 5
Mount Sequoyah Center, Inc.
Page 2 of 2

SECTION A: Materials Subject to Buy American Requirements				A	B	C (A x B)	D (B + C)
Item	Description	Mark Up %	Contractors Material Cost Estimate		\$S Amount of Mark Up	\$S Amount Mark Up PLUS Material Cost	
1	General Material (Cost plus %) \$0-\$100	30 %		x		\$	
2	General Material (Cost plus %) \$101-\$500	2.5 %		x		\$	
3	General Material (Cost plus %) \$501-\$1000	15 %		x		\$	
4	General Material (Cost plus %) \$1001-and up	15 %	3311.80	x	496.77	3808.57	
5	Purchases of New Units	15 %	12,215	x	1,832.25	14,047.25	
6	Rental Equipment (Cost plus %)	10 %		x		\$	
Estimated Cost for Section A (Sum of Items 1-6):						\$ 17,855.82	
SECTION B: Labor Subject to Davis-Bacon Wage Rates				A	B	C (A x B)	
Item	Description: Most basic trade is listed as "Rate 1". Skill set increases with increased rate number.	Estimated hours subject to change			Hourly Rate	Estimated Labor Cost	
7	HVAC - Rate 1 (Fabricator/Installer)	91	x	\$	50.00	4,550.00	
8	HVAC - Rate 2 (Installer/Mechanic)	40	x	\$	50.00	2,000.00	
9	HVAC - Rate 3 (Installer/Technician)	8	x	\$	65.00	520.00	
10	HVAC - Rate 4 (Commissioning Agent)	8	x	\$	69.00	552.00	
Estimated Cost for Section B (Sum of Items 7-10):						7622.00	
**Total Estimated Cost for Items 1-10 (Sum of Section A + Section B):						\$ 25,477.82	
**Bid bond required on 5% of "Total Estimated Cost for Items 1-10". A 100% Performance and Payment bond is required for same within ten days after notice of contract award.							
Name of Contractor: Multi-Craft Contractors/AirWorks							

Telecommunications Device for the Deaf TDD (479) 521-1316

113 West Mountain - Fayetteville, AR 72701

NOTE: This DOES NOT INCLUDE TAXES, BID BOND OR PERFORMANCE
Bond charges if applicable.

City of Fayetteville
Bid 11-47, Spray Foam Insulation Services
Bid Pricing Form – REVISED PER ADDENDUM 1

BID 11-47, Spray Foam Insulation Services REVISED BID FORM - ADDENDUM 1		
ALL BIDDERS SHALL TO USE THE ATTACHED REVISED BID FORM. FAILURE TO USE THE REVISED BID FORM WILL RESULT IN YOUR BID BEING REJECTED.		
SECTION A - Mount Sequoyah Cafeteria Building, Bailey Building & Main Office		Total Lump Sum Price
Item	Description	Total Lump Sum Price
1	Lump sum, total turn-key price for Mount Sequoyah, <u>Cafeteria Building #41</u> , as described & presented.	\$ 14,970. ⁰⁰
2	Lump sum, total turn-key price for Mount Sequoyah, <u>Bailey Building #52</u> , as described & presented.	\$ 9,780. ⁰⁰
3	Lump sum, total turn-key price for Mount Sequoyah, <u>Main Office #20</u> , as described & presented.	\$ 10,450. ⁰⁰
**Total Complete Cost for Items 1-3		\$ 35,200.⁰⁰
All prices bid shall include complete turn key cost including but not limited to labor, materials, bonds, insurance, overhead, profit, Davis-Bacon wage rate requirements, Buy-American requirements, etc.		
**Bid bond required on 5% of "Total Complete Cost for Items 1-3". A 100% Performance and Payment bond is required for same within ten days after notice of contract award.		
Name of Contractor: <u>CPS of NWA, Inc</u>		

EXECUTION OF BID -

Bidders are requested to indicate by check mark or "Yes/No" on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or AgreementsA. 6
CPS of NWA, Inc. (Bid #11-47)
Page 1 of 6

8/16/2011

City Council Meeting Date
Agenda Items Only

John Coleman

Submitted By

Sustainability & Strategic Planning

Division

Chief of Staff

Department

Action Required:

A resolution to approve the contract for spray foam and insulation to CPS of NWA (bid 11-47). There are funds available in The Energy Efficiency and Conservation Block grant. The amount of the contract is \$35,200.00, with a 10% contingency.

\$ 35,200.00

Cost of this request

\$ 220,000.00

Category / Project Budget

Energy Block Grant

Program Category / Project Name

2240.9240.5342.99

Account Number

\$ 35,200.00

Funds Used to Date

Energy Block Grant

Program / Project Category Name

09011.0020

Project Number

\$ 184,800.00

Remaining Balance

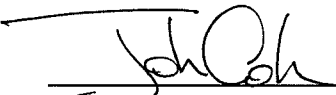
Energy Block Grant

Fund Name

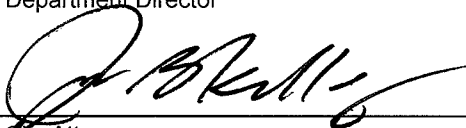
Budgeted Item

☒

Budget Adjustment Attached

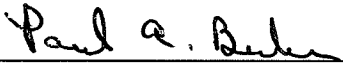
☐

Department Director
7/29/11
Date

Previous Ordinance or Resolution #


City Attorney
7/29/11
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director
7-31-2011
DateReceived in City 07-29-11 A11:03 RCV
Clerk's Office

Chief of Staff
8-1-11
DateReceived in
Mayor's Office

Mayor
8/1/11
Date


Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8272

CORRESPONDENCE

TO: Lioneld Jordan, Mayor
FROM: John Coleman, Director of Sustainability & Strategic Planning
Thru: Don Marr, Chief of Staff
DATE: July 28, 2011
SUBJECT: Bid 11-47, Spray Foam Insulation

Description

Using funds from the Energy Efficiency and Conservation Block Grant as part of the American Recovery and Reinvestment Act (ARRA), the City has allocated \$220,000 to create the Community Revolving Loan Fund. This Fund provides low interest loans to non-profits to perform energy efficiency and renewable energy improvements for which they payback using the energy savings.

The purpose of this resolution is to approve Bid 11-47 for spray foam insulation in the amount of \$35,200. The bid was awarded to the low bidder, CPS of Northwest Arkansas.

Budget Impact

The contract will be paid for by Energy Efficiency and Conservation Block Grant funding as obtained by the City of Fayetteville in September 2009.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #11-47 AND APPROVING A CONTRACT WITH CPS OF NWA, INC. IN THE AMOUNT OF \$35,200.00 FOR THE PURCHASE OF SPRAY FOAM AND INSULATION AS PART OF THE COMMUNITY REVOLVING LOAN FUND FOR ENERGY EFFICIENCY

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #11-47 and approves a contract with CPS of NWA, Inc. in the amount of \$35,200.00 for the purchase of spray foam and insulation as part of the community revolving loan fund for energy efficiency.

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

CONTRACT

Reference Bid: 11-47, Spray Foam Insulation Services

Contractor: CPS of NWA, Inc.

Term: Specific Project Only – No Revolving Terms

This contract executed this _____ day of _____, 2011, between the **City of Fayetteville, Arkansas**, and **CPS of NWA, Inc.** In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **CPS of NWA, Inc.** at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per Bid 11-47 as stated in **CPS of NWA, Inc.'s** bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid 11-47.
2. The City of Fayetteville shall pay **CPS of NWA, Inc.** based on its bid form in pricing as shown in bid and attached to this contract. Payments will be made after approval and acceptance of work, submission of detailed invoice, and submission of certified payroll. Payments will be made within a maximum 30 days after acceptance of invoice. **CPS of NWA, Inc.** agrees to make detailed invoicing related documentation available to the City or the Department of Energy (DOE) upon request (for example, during a post-award audit), including but not limited to actual cost of material, etc.
3. It is explicitly understood and agreed to by **CPS of NWA, Inc.** and the City of Fayetteville that the total amount of funding that the City of Fayetteville may use for this and four other similar contracts it is approving today is capped at \$220,000.00. **Therefore, the City of Fayetteville will probably not order the full amount of items and services shown on any of the five bids approved by the Fayetteville City Council.** The City will order any work to be done by **CPS of NWA, Inc.** by issuing a Purchase Order for such work or project which shall be the City's assurance that sufficient funds remain to pay for such work or project. **CPS of NWA, Inc. shall not start work on any project unless and until it receives the City's Purchase Order for such work or project.**
4. The Contract documents which comprise this contract between the City of Fayetteville and **CPS of NWA, Inc.** consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 11-47 with the specifications and conditions typed thereon.
 - B. **CPS of NWA, Inc.** bid proposal, including mark up on materials and hourly rates.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
5. These Contract documents constitute the entire agreement between the City of Fayetteville and **CPS of NWA, Inc.** and may be modified only by a duly executed written instrument signed by the City of Fayetteville and **CPS of NWA, Inc.**
6. **CPS of NWA, Inc.** shall not assign its duties under the terms of this agreement.
7. **CPS of NWA, Inc.** agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.

8. **CPS of NWA, Inc.** agrees to abide by the following American Recovery and Reinvestment Act (ARRA) Provisions at all times and fully provide efforts to assist the City with compliance:
- a. **Buy American** – Section 1605 of the Recovery Act requires that all iron, steel, and manufactured goods used in the project must be produced within the United States except as provided in the following:
 - i. The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
 - ii. The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
 - iii. The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.
 - iv. If all received quotes do not meet the Section 1605 of the Recovery Act the City of Fayetteville is required to receive independent verification from the Federal Government to move forward.
 - b. **Waste Stream** – **CPS of NWA, Inc.** assures to create or obtain a waste management plan addressing waste generated by a proposed project prior to the project generating waste. This waste management plan will describe the plan to dispose of any sanitary or hazardous waste (e.g., construction and demolition debris, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, and asbestos) generated as a result of the proposed project. **CPS of NWA, Inc.** shall ensure that the project is in compliance with all Federal, state and local regulations for waste disposal. **CPS of NWA, Inc.** shall make the waste management plan and related documentation available to the City to or DOE (Department of Energy) upon request (for example, during a post-award audit).
 - c. **Davis-Bacon Wage Rates** - **CPS of NWA, Inc.** agrees to pay wage rates as presented in the latest published wage rates for Davis-Bacon for federally funded projects. **CPS of NWA, Inc.** shall submit certified payrolls to the City of Fayetteville upon delivery of detailed invoicing.

9. **CPS of NWA, Inc.** shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, **CPS of NWA, Inc.** shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workmen's Compensation	Statutory Amount
Comprehensive General & Automobile Insurance	
Bodily Injury Liability	\$500,000 for each person injured. \$1,000,000 for each accident.
Property Damage Liability	\$1,000,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by **CPS of NWA, Inc.**.

10. **CPS of NWA, Inc.** to furnish proof of licensure as required by all local and state agencies.
11. This contract may be terminated without penalty by the City of Fayetteville or **CPS of NWA, Inc.** with 10 days' written notice.
12. **Freedom of Information Act:** City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.
13. **Changes in Scope or Price:** Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees.

CPS of NWA, Inc.

CITY OF FAYETTEVILLE, ARKANSAS

By: 

LIONELD JORDAN, Mayor

Brandon Maurice-Franich
Printed Contractor Name & Title

ATTEST:

ATTEST:


Company Secretary

Sondra Smith, City Clerk

366 Henri DeTonti
Business Address

Date Signed: _____

Springdale AR 72762
City, State & Zip Code

Date Signed: 7-29-11

City of Fayetteville Staff Review Form

A. 7
Community Services Donation Revenue
Page 1 of 4

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

8/16/2011

City Council Meeting Date
Agenda Items Only

<u>Yolanda Fields</u>	<u>Community Services</u>	<u>Development Services</u>
Submitted By	Division	Department

Action Required:

Approval of Budget Adjustment recognizing the second quarter 2011 Donation revenue received from citizens for the Ranger's Pantry Pet Food Bank in the amount of \$228 and revenue from the University of Arkansas Student Affairs office for the Fest of All event in the amount of \$250.

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

Budgeted Item ☐ Budget Adjustment Attached ☒

[Signature] 07-26-2011
Department Director Date

Previous Ordinance or Resolution # _____

[Signature] 7-26-11
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Bach 8-1-2011
Finance and Internal Services Director Date

Received in City 07-26-11 P04:32 RCVD
Clerk's Office Kim G.

[Signature] 8-1-11
Chief of Staff Date

Received in Mayor's Office 

[Signature] 8/1/11
Mayor 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: July 27, 2011

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

PROPOSAL:

Community Services would like to recognize second quarter donation revenue that was received from citizens for the Ranger's Pantry Pet Food Bank and a donation from the University of Arkansas Student Affairs office for Fest of All.

RECOMMENDATION:

Staff recommends approval of a budget adjustment to budget the Community Services Donation Revenue for Ranger's Pantry Pet Food Bank and Fest of All event.

BUDGET IMPACT:

Increase the Community Outreach Projects account by \$478 for Ranger's Pantry Pet Food Bank and Fest of All event.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE TOTAL AMOUNT OF \$478.00 REPRESENTING \$228.00 IN CITIZEN DONATION REVENUE TO THE RANGER'S PANTRY PET FOOD BANK FOR THE SECOND QUARTER OF 2011 AND A \$250.00 DONATION FROM THE UNIVERSITY OF ARKANSAS STUDENT AFFAIRS OFFICE FOR THE FEST OF ALL 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 total amount of \$478.00 representing \$228.00 in citizen donation revenue to the Ranger's Pantry Pet Food Bank for the second quarter of 2011 and a \$250.00 donation from the University of Arkansas Student Affairs Office for the Fest of All event.

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

V11.0425

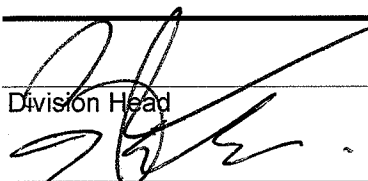
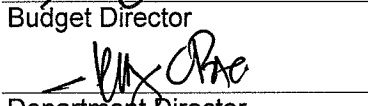
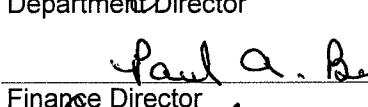
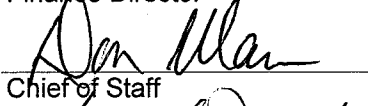
A. 7

Community Services Donation Revenue

Budget Year 2011	Division: Community Services Department: Development Services	Request Date 7/27/2011	Adjustment Number A. 7
----------------------------	--	----------------------------------	----------------------------------

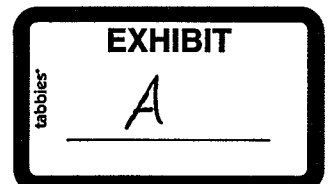
BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Increase Community Outreach Projects account by \$478 to recognize second quarter donation revenue from citizens for Rangers Pantry and from the University of Arkansas for the Fest of All event.

 Division Head	7/26/11 Date	Prepared By: Rachel rafiels
 Budget Director	8-1-11 Date	Reference:
 Department Director	07-26-2011 Date	Budget & Research Use Only
 Finance Director	8-1-2011 Date	Type: A B C <u>D</u> E P
 Chief of Staff	8-1-11 Date	General Ledger Date
 Mayor	8/1/11 Date	Posted to General Ledger Initial Date
		Checked / Verified Initial Date

TOTAL BUDGET ADJUSTMENT

Account Name	Account Number	TOTAL BUDGET ADJUSTMENT		Project.Sub Number
		Expense	Revenue	
Community Outreach Projs	2180.4945.5390.01	478		.
Donations	2180.0918.4809.00	478	478	.
				.
				.



City of Fayetteville Staff Review Form

A. 8
Grant Offer Acceptance
Page 1 of 18

City Council Agenda Items
and
Contracts, Leases or Agreements

8/16/2011

City Council Meeting Date
Agenda Items Only

Ray M. Boudreaux

Submitted By

Aviation

Division

Transportation

Department

Action Required:

Action Required:

a) Approve authority to accept a Grant Offer from DOT/FAA (95% of project cost) & an Arkansas Department of Aeronautics grant (5% match).

REVENUE BUDGET

\$ 309,765.00

GRANT REVENUE

\$ -

Category / Project Budget

Airport Pavement Rehab & Re-mark

Program Category / Project Name

5550.3960.7820.40

Account Number

\$ -

Funds Used to Date

Airport Capital Exp

Program / Project Category Name

11023 1

Project Number

\$ -

Remaining Balance

Airport

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Ray M. Boudreaux
Department Director

8-2-11
Date

Previous Ordinance or Resolution # 126-11

Ray M. Boudreaux
City Attorney

8-2-11
Date

Original Contract Date: 19-Jul

Original Contract Number:

Paul A. Becher
Finance and Internal Services Director

8-2-2011
Date

Received in City
Clerk's Office



*Original
Staff review
Ser was changed*

Ann Mar
Chief of Staff

8-2-11
Date

Received in
Mayor's Office



Freddie Jordan
Mayor

8/2/11
Date

Comments: Project to be 100% funded with grants from the DOT/FAA and Arkansas Department of Aeronautics.



AVIATION DIVISION
FAYETTEVILLE EXECUTIVE AIRPORT • DRAKE FIELD

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor Jordan

THRU: Chief of Staff

THRU: Staff/Contract Review Committee

THRU: Terry Gulley, Transportation Director

FROM: Ray M. Boudreaux, Aviation Director

DATE: July 27, 2011

SUBJECT: Approve authority to accept a Grant Offer from DOT/FAA (95% of project cost) and apply for and accept and Arkansas Department of Aeronautics grant (5% match) for the Runway Rejuvenation Project at Drake Field.

RECOMMENDATION: Approve authority to accept the Grant Offer from the FAA (95%) and authority to apply for and accept a grant from the Arkansas Department of Aeronautics (5% match) for the Runway Rejuvenation Project at Drake Field.

BACKGROUND: The FAA grant application for runway rejuvenation and re-striping was signed by the Mayor on July 27, 2011. The application was submitted to the FAA for approval on July 29, 2011 per request of Paul Burns, FAA Project Manager, Southwest Region Airport Development Office. Per his request, the project was designed and bid with City Council approval of Task Order No. 6 with McClelland Consulting Engineers with the low bid offered by Time Striping. Mr. Burns has indicated that the Grant offer will be sent to the City of Fayetteville for acceptance around September 2, 2011 thus the request for authority for accept the offer and for the Mayor to affix his signature prior to receipt of the offer. The FAA typically requires a very short turnaround.

BUDGET IMPACT: Project total cost including engineering and project oversight is \$309,765.00. FAA grant request is for \$294,277.00. This project is totally grant eligible from FAA/AIP funding (95%) and State Aeronautics Commission funding (5%). We will not proceed with the construction until FAA grant funds have been awarded.

Attachments: FAA Grant Application

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING APPLICATION AND ACCEPTANCE OF A
FEDERAL AVIATION ADMINISTRATION 95% PROJECT COST GRANT
AND AN ARKANSAS DEPARTMENT OF AERONAUTICS 5% MATCHING
GRANT, FOR THE DRAKE FIELD RUNWAY REJUVENATION PROJECT**

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes application and acceptance of a Federal Aviation Administration 95% project cost grant and an Arkansas Department of Aeronautics 5% matching grant for the Drake Field Runway Rejuvenation Project.

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

ATTEST:

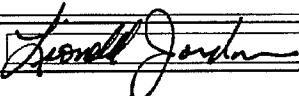
By: _____
LIONELD JORDAN, Mayor

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

OMB Number: 4040-0004
Expiration Date: 03/31/2012

Application for Federal Assistance SF-424		
* 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. Applicant Identifier: _____
5a. Federal Entity Identifier: AR/OK ADO, ASW-630		* 5b. Federal Award Identifier: 3-05-0020-40-2011
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): 716018462		* c. Organizational DUNS: 134398903
d. Address:		
* Street1: 4500 S School Ave , Ste F		
Street2: _____		
* City: Fayetteville		
County: Washington		
* State: Arkansas		
Province: _____		
* Country: _____ USA: UNITED STATES		
* Zip / Postal Code: 72701		
e. Organizational Unit:		
Department Name: Transportation		Division Name: Aviation
f. Name and contact information of person to be contacted on matters involving this application:		
Prefix: Col. (USAF ret.)		* First Name: Ray
Middle Name: M		
* Last Name: Boudreaux		
Suffix: _____		
Title: Aviation Director		
Organizational Affiliation: Airport Manager, Drake Field, KFYV		
* Telephone Number: 479-718-7642		Fax Number: 479-718-7646
* Email: rboudreaux@ci.fayetteville.ar.us		

Application for Federal Assistance SF-424	
9. Type of Applicant 1: Select Applicant Type: (C) City Government	
Type of Applicant 2: Select Applicant Type: 	
Type of Applicant 3: Select Applicant Type: 	
* Other (specify): 	
* 10. Name of Federal Agency: Federal Aviation Administration	
11. Catalog of Federal Domestic Assistance Number: 20.106 CFDA Title: Airport Improvement Program (AIP)	
* 12. Funding Opportunity Number: * Title: 	
13. Competition Identification Number: Title: 	
14. Areas Affected by Project (Cities, Counties, States, etc.): City of Fayetteville, Washington County, Arkansas	
* 15. Descriptive Title of Applicant's Project: Pavement Rehabilitation & Re-marking	
Attach supporting documents as specified in agency instructions.	

Application for Federal Assistance SF-424	
16. Congressional Districts Of:	
* a. Applicant AR District 3	* b. Program/Project AR District 3
Attach an additional list of Program/Project Congressional Districts if needed. 	
17. Proposed Project:	
* a. Start Date: October 2011	* b. End Date: November 2011
18. Estimated Funding (\$):	
* a. Federal 294,277	
* b. Applicant	
* c. State 15,488	
* d. Local	
* e. Other	
* f. Program Income	
* g. TOTAL 309,765	
* 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.) Applicant Federal Debt Delinquency 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: The Honorable	* First Name: Lioneld
Middle Name:	
* Last Name: Jordan	
Suffix:	
* Title: Mayor, City of Fayetteville	
* Telephone Number: 479-575-8330	Fax Number: 479-575-8257
* Email: ljordan@ci.fayetteville.ar.us	
* Signature of Authorized Representative: 	* Date Signed: 7/27/11

Application for Federal Assistance SF-424

*** 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.

N/A

PART II

PROJECT APPROVAL INFORMATION
SECTION A

<u>Item 1.</u> Does this assistance request require State, local, regional, or other priority rating?	Name of Governing Body: Priority:
☐ Yes ☒ No	
<u>Item 2.</u> Does this assistance request require State, or local advisory, educational or health clearances?	Name of Agency or Board: (Attach Documentation)
☐ Yes ☒ No	
<u>Item 3.</u> Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?	(Attach Comments)
☐ Yes ☒ No	
<u>Item 4.</u> Does this assistance request require State, local, regional or other planning approval?	Name of Approving Agency: Date: / /
☐ Yes ☒ No	
<u>Item 5.</u> Is the proposal project covered by an approved comprehensive plan?	Check one: State ☐ Local ☐ Regional ☐ Location of Plan:
☐ Yes ☒ No	
<u>Item 6.</u> Will the assistance requested serve a Federal installation?	Name of Federal Installation: Federal Population benefiting from Project:
☐ Yes ☒ No	
<u>Item 7.</u> Will the assistance requested be on Federal land or installation?	Name of Federal Installation: Location of Federal Land: Percent of Project:
☐ Yes ☒ No	
<u>Item 8.</u> Will the assistance requested have an impact or effect on the environment?	See instruction for additional information to be provided
☐ Yes ☒ No	
<u>Item 9.</u> Will the assistance requested cause the displacement of individuals, families, businesses, or farms?	Number of: Individuals: Families: Businesses: Farms:
☐ Yes ☒ No	
<u>Item 10.</u> Is there other related Federal assistance on this project previous, pending, or anticipated?	See instructions for additional information to be provided.
☐ Yes ☒ No	

PART II - SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use. - The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

The Sponsor has adopted Drake Field Ordinance 2607, which regulates and restricts all land use activities in the vicinity of Fayetteville Executive Airport, Drake Field. Adopted January 20, 1980 and as amended.

2. Defaults. - The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

None

3. Possible Disabilities. - There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

None

4. Consistency with Local Plans. - The project is reasonably consistent with plans existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

Yes

5. Consideration of Local Interest - It has given fair consideration to the interest of communities in or near where the project may be located.

Not applicable

6. Consultation with Users. In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport which project is proposed.

Not applicable

7. Public Hearings. - In projects involving the location of an airport, an airport runway or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

Not applicable

8. Air and Water Quality Standards. - In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable and air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

Not applicable

PART II - SECTION C (Continued)

9. Exclusive Rights – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

None

10. Land. – (a) The sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

Not applicable

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

Not applicable

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A"

**State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.*

PART III - BUDGET INFORMATION - CONSTRUCTION

SECTION A - GENERAL

1. Federal Domestic Assistance Catalog No..... 20-106
2. Functional or Other Breakout Airport Improvement Program

SECTION B -CALCULATION OF FEDERAL GRANT

Cost Classification	Use only for revisions		Total Amount Required
	Latest Approved Amount	Adjustment + or (-)	
1. Administration expense	\$	\$	\$ 1,000
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			\$ 9,830
5. Other Architectural engineering fees			\$ 2,500
6. Project inspection fees			\$ 10,500
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal - Obstruction removal			
11. Construction and project improvement			\$ 285,935
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)			\$ 309,765
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			\$ 309,765
17. Less: Ineligible Exclusions			
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)			\$ 309,765
20. Federal Share requested of Line 19			\$ 294,277
21. Add Rehabilitation Grants Requested (100 Percent)			
22. Total Federal grant requested (lines 20 & 21)			\$ 294,277
23. Grantee share			-0-
24. Other shares AR State Dept Aeronautics 5% Match			\$ 15,488
25. Total Project (Lines 22, 23 & 24)	\$	\$	\$ 309,765

U.S. DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569

SECTION C - EXCLUSIONS		
Classification	Ineligible for Participation (1)	Excluded From Contingency Provision (2)
a.	\$	\$
b.		
c.		
d.		
e.		
f.		
g. Totals	\$	\$

SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE	
27. Grantee Share	\$
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	
d. Bonds	
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. TOTAL - Grantee share	
28. Other Shares	
a. State Arkansas Department of Aeronautics	\$ 15,488
b. Other	
c. Total Other Shares	
29. TOTAL	\$ 15,488

SECTION E - REMARKS

PART IV PROGRAM NARRATIVE (Attach - See Instructions)
--

PART IV
PROGRAM NARRATIVE
(Suggested Format)

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569

PROJECT : Pavement Rehabilitation & Re-marking
AIRPORT : Drake Field, FYV
1. Objective: Rehabilitate the existing Runway and Taxiways. Project comprises rubber removal, crack seal, asphalt rejuvenation sealer, and re-marking. Re-marking to add the recently required enhanced runway holding position markings.
2. Benefits Anticipated: Will extend the usable life of the pavement. Will ensure airfield markings are up to date.
3. Approach : (See approved Scope of Work in Final Application) d. Consulting Airport Engineer to produce plans & specifications for bidding. Suitable specialized pavement rehab and painting contractors hired to perform the work.
4. Geographic Location: Runway and taxiways. See attached vicinity map, Exhibit "A"
5. If Applicable, Provide Additional Information:
6. Sponsor's Representative: (include address & telephone number) Ray M. Boudreaux, Director Aviation Division 4500 S School Ave, Ste F Fayetteville, AR, 72701 Phone: 479-718-7642, Fax: 479718-7646, e-mail: rboudreaux@ci.fayetteville.ar.us

State Airport Aid Application – Page 1

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

Date of Request: August 16, 2011 - Application submitted at project completion

Name of Airport: Fayetteville Executive Airport, Drake Field FYV

Name and address of City/County Commission sponsoring request:

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Phone Number: 479-575-8330
Fax Number: 479-575-8257

Person to Contact about project:

Ray M. Boudreaux
4500 S School Ave., Suite F
Fayetteville, AR 72701

Phone Number: 479-718-7642
Cell Number: 479-601-3520
Fax Number: 479-718-7646

Name and address of Engineering Firm (if applicable):

McClelland Consulting Engineers Inc
PO Box 1229
Fayetteville, AR 72702

Contact Person: R. Wayne Jones, P.E.

479-443-2377 ph
Phone/Fax Number: 479-443-9241 fax

Describe the work to be accomplished:

Pavement rehabilitation to include: Rubber removal and cleaning, joint & crack seal, application of rejuvenation sealer, re-marking to include newly required Enhanced RW Hold Line marking.

State and Local Project Costs:
Please indicate:

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

Federal AIP Projects:
AIP Number: 3-05-0020-0040-11
☒ 95-5% Match

Total Cost of Project _____
Local Share/Funds _____
Local Share/In-Kind _____
State Share _____

Total Cost of Project: 309,765.00
Federal Share: 294,277.00
State Share: 15,488.00
Local Share: _____

State Airport Aid Application – Page 2

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

Funding:

Source of Funds: Federal: DOT/FAA State: AR Dept Aeronautics

Source of In-Kind Services: None

Estimated starting date of project: July 2011

Estimated completion date of project: Dec 2011

Project will be for: New Airport Existing Airport XX

Is land to be leased or purchased? No

Description of land and cost per acre: _____

Provide the Federal AIP Grant Number (if applicable): 3-05-0020-0040-11

State Legislators for your area:

State Senator: Sue Madison

State Representative: Uvalde Lindsey

State Airport Aid Application – Page 3

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

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

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

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

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

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

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

It is understood and agreed that the sponsor shall start this project immediately upon award of grant. It is also agreed that this project shall be completed within one year from the date of acceptance of this grant by the Arkansas Department of Aeronautics. Applications for extension will be entertained if circumstances beyond the sponsor's control occur.

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

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this _____ day of _____, 2011.

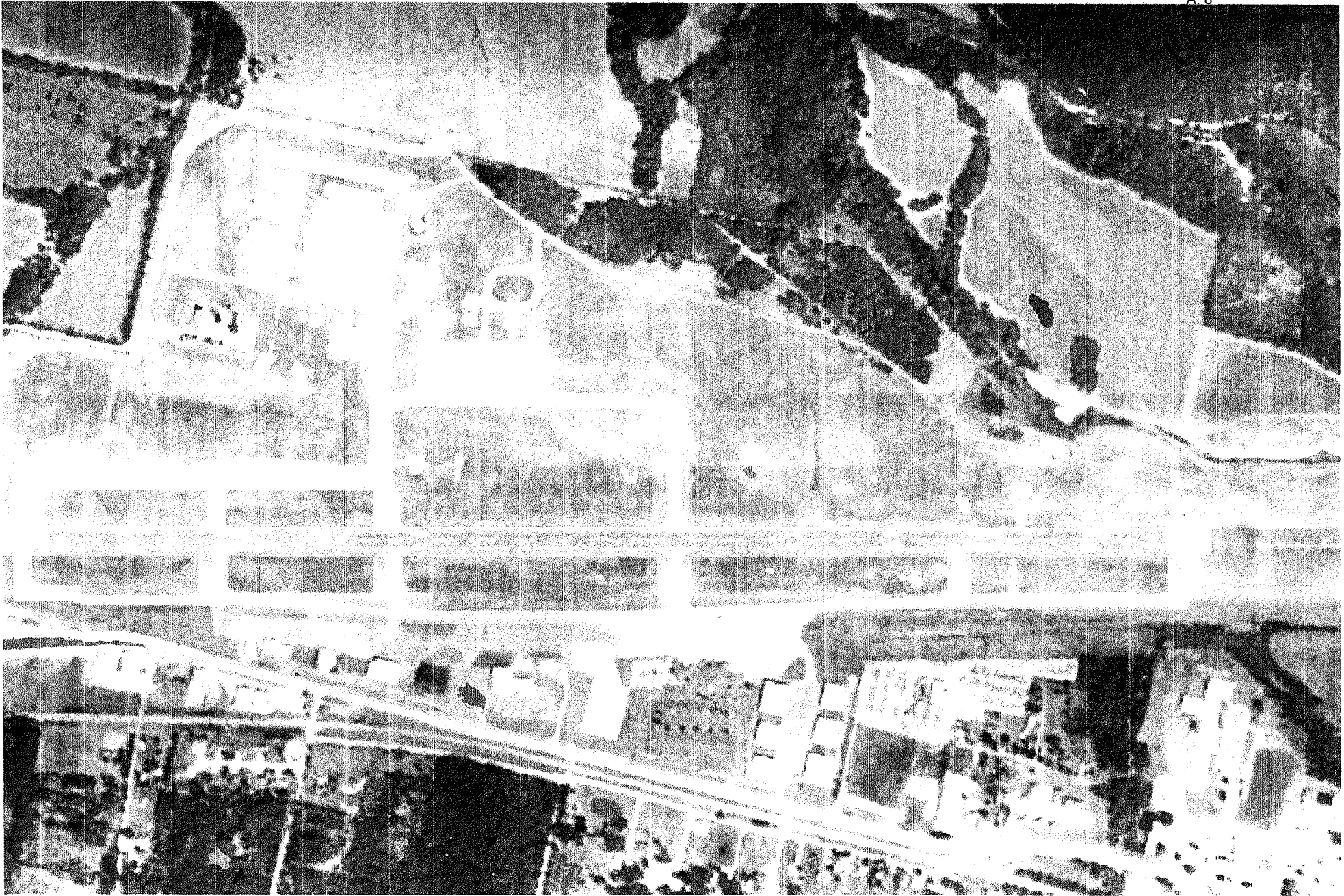
Lioneld Jordan

Name of Sponsor

Authorized Signature

Mayor

Title



Pavement areas to be rehabilitated / re-marked

City of Fayetteville Staff Review Form

B. 1
RZN 11-3870
(2012 West Martin Luther
King Blvd./USA Drug)
Page 1 of 20

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

8/2/2011

City Council Meeting Date
Agenda Items Only

Jesse Fulcher
Submitted By

Planning
Division

Development Services
Department

Action Required:

RZN 11-3870: Rezone (2012 W. MARTIN LUTHER KING BLVD./USA DRUG, 520): Submitted by H2 ENGINEERING INC. for property located at 2012 WEST MARTIN LUTHER KING BOULEVARD. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS/ACRE and contains approximately 0.97 acres. The request is to rezone 0.50 acres of the property to C-1, NEIGHBORHOOD COMMERCIAL.

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

Project Number

\$

-

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

[Signature]
Department Director

07-15-2011
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

7-15-2011
Date

Original Contract Date:

Original Contract Number:

[Signature]
Finance and Internal Services Director

7-18-2011
Date

Received in City Clerk's Office 07-15-11 P12:06 RCVD

[Signature]
Chief of Staff

7-17-11
Date

Received in
Mayor's Office

[Signature]
Mayor

7/18/11
Date



Comments:

Revised January 15, 2009

left on the first reading at the 8/2/11 cc mtg.



www.accessfayetteville.org

B. 1
RZN 11-3870
(2012 West Martin Luther
King Blvd./USA Drug)

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

Page 2 of 20

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Jesse Fulcher, Current Planner

Date: July 15, 2011

Subject: RZN 11-3870 (USA Drug)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to rezone the subject property from RMF-24, Residential Multi-family, 24 units per acre to C-1, Neighborhood Commercial.

BACKGROUND

The subject property is located at 2012 W. Martin Luther King Boulevard and contains approximately 0.97 acres. The south half of the property is zoned C-2, Thoroughfare Commercial, and the north half is zoned RMF-24, Residential multi-family. The existing gas station was constructed in 1982 and was permitted in the RMF-24 zoning district through an administrative extension of the zoning regulations. The zoning configuration has been in place since at least 1966.

The applicant has submitted an application to rezone the north portion of the property, containing approximately 21,973 sq. ft., from RMF-24, Residential Multi-family 24 units per acre to C-1, Neighborhood Commercial. The intent is to have the entire parcel in a commercial zoning district.

DISCUSSION

On July 11, 2011, the Planning Commission forwarded this item to the City Council with a recommendation of approval for the C-1, Neighborhood Commercial zoning district with a vote of 7-1-0 (Commissioner Earnest voted "no").

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 11-3870, FOR APPROXIMATELY 0.50 ACRES, LOCATED AT 2012 WEST MARTIN LUTHER KING BOULEVARD FROM RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE TO C-1, NEIGHBORHOOD COMMERCIAL.

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 changes the zone classification of the following described property from RMF-24, Residential Multi-Family to C-1, Neighborhood Commercial, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and **APPROVED** this day of , 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

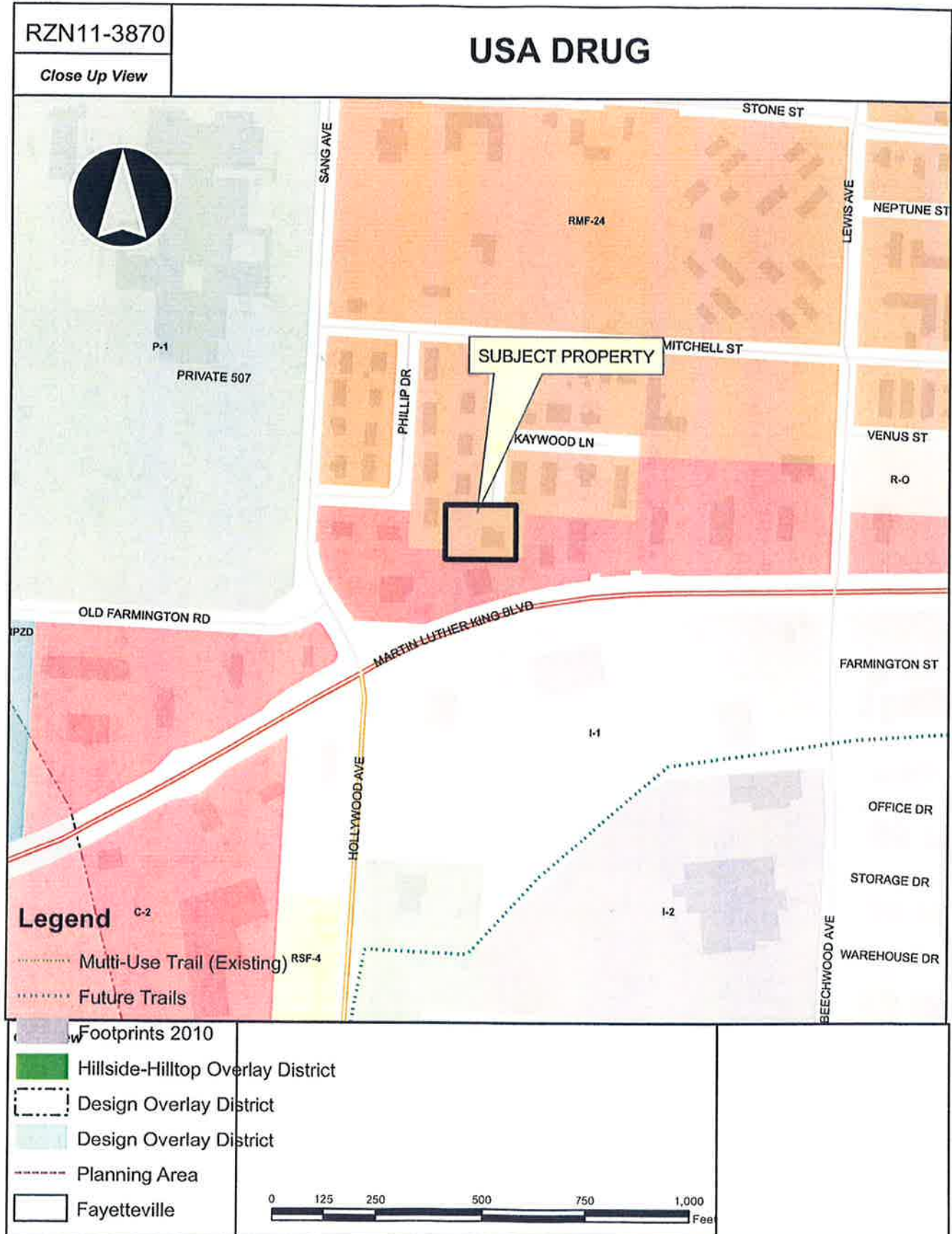


EXHIBIT "B"
RZN 11-3870

PART OF LOTS 6 & 7 OF LEWIS SUBDIVISION RECORDED IN PLAT BOOK 4 AT PAGE 146 BEING A PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET 5/8" REBAR W/CAP (PS 1496) AT THE SOUTHWEST CORNER OF LOT 4 OF BLOCK 2 OF VALLEY VISTA SUBDIVISION RECORDED IN PLAT BOOK 1 AT PAGE 153; THENCE S86°57'22"E, ALONG THE SOUTH LINE OF THE ABOVE SAID VALLEY VISTA SUBDIVISION, A DISTANCE OF 176.56 FEET TO A SET 5/8" REBAR W/CAP (PS 1496); THENCE S02°51'05"W, ALONG THE WEST LINE OF THE PROPERTIES RECORDED IN DEED BOOK 1321 AT PAGE 794 AND DEED BOOK 2003 AT PAGE 58030, A DISTANCE OF 124.15 FEET; THENCE N87°08'55"W A DISTANCE OF 176.56 FEET TO THE WEST LINE OF THE ABOVE SAID LOT 6 OF LEWIS SUBDIVISION; THENCE N02°51'05"E, ALONG THE ABOVE SAID WEST LINE OF LOT 6, A DISTANCE OF 124.74 FEET TO THE POINT OF BEGINNING AND CONTAINING 21,972.64 SQUARE FEET OR 0.504 ACRES, MORE OR LESS.



PC Meeting of July 11, 2011

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~July 6, 2011~~ Updated July 15, 2011

RZN 11-3870: Rezone (2012 W. MARTIN LUTHER KING BLVD./USA DRUG, 520):
Submitted by H2 ENGINEERING, INC. for property located at 2012 WEST MARTIN LUTHER KING BOULEVARD. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS/ACRE and C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.97 acres. The request is to rezone 0.50 acres of the property to C-1, NEIGHBORHOOD COMMERCIAL.
Planner: Jesse Fulcher

BACKGROUND:

The subject property is located at 2012 W. Martin Luther King Boulevard and contains approximately 0.97 acres. The south half of the property is zoned C-2, Thoroughfare Commercial, and the north half is zoned RMF-24, Residential multi-family. The existing gas station was constructed in 1982 and was permitted in the RMF-24 zoning district through an administrative extension of the zoning regulations. The zoning configuration has been in place since at least 1966. Surrounding land uses and zoning are shown in *Table 1*.

Table 1: Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Two-family/Three-family	RMF-24, Residential Multi-family
South	Commercial	I-1, Heavy Commercial-Light Industrial
East	Commercial	C-2, Thoroughfare Commercial
West	Commercial	C-2, Thoroughfare Commercial

Proposal: The applicant has submitted an application to rezone the north portion of the property, containing approximately 21,973 sq. ft., from RMF-24, Residential Multi-family 24 units per acre to C-1, Neighborhood Commercial. The intent is to have the entire parcel in a commercial zoning district.

Public Comment: Staff received a call from an adjacent property owner who wanted information about how drainage would be addressed when the property was redeveloped.

RECOMMENDATION:

Staff recommends approval of the request to rezone the northern portion of the property to C-1, Neighborhood Commercial.

PLANNING COMMISSION ACTION: Required <u>YES</u>		
Date: <u>7-11-11</u>	☐ Tabled	☒ Forwarded ☐ Denied
Motion: <u>Winston</u>	Second: <u>Honchell</u>	Vote: 7-1-0 (Earnest voting 'no')
CITY COUNCIL ACTION: Required <u>YES</u>		
Date: <u>8-2-11</u>	☐ Approved	☐ Denied

INFRASTRUCTURE:

Streets: The site has access to Martin Luther King Boulevard and Gabbard Drive. Martin Luther King Boulevard is an improved five-lane state highway in this location. Sidewalk and greenspace requirements are not currently installed at this location and may be required at time of development.

Gabbard Drive is an unimproved paved two lane city street that dead ends into the north property line with no current access utilized. Connectivity to this street will be evaluated at the time of development.

Water: Public water is available to the property. There is an 8" water main along Martin Luther King Boulevard. Public water main improvements may be necessary to provide adequate fire flow for a future development.

Sewer: Sanitary sewer is available to the site. There is a 6" public main located along Martin Luther King Boulevard and along Gabbard Drive to the northwest of this site. The existing gas station was served from a service from the manhole in the southwest corner. A capacity analysis of the existing sewer mains may be necessary at the time of development, if additional load is added.

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

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**, contain taller buildings and have the most intense and dense development patterns within the City. **Urban Center Areas** recognize conventional strip development, but encourages the redevelopment of these existing properties for more efficient use of the land.*

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: Mixed used development and traditional town form are high priorities of the cities adopted land use and zoning plans. Rezoning the subject property to C-1 will not likely accomplish either of these objectives. However, addressing the zoning line discrepancy will finally allow full utilization of a lot that has been used for commercial purposes for over 50 years. Additionally, not every property should be developed in a traditional form, or provide a mixture of uses. This particular property is approximately 1,700 feet from Interstate 540 and is bounded by C-2 and I-1 property developed for fast food restaurants, auto repair and hotels. These uses are being provided in this location to cater to a regional population and an auto-dominated transportation system.

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

Finding: The proposed zoning is justified, so that the property can be fully utilized for the historic use of the property, which is commercial. The existing residential zoning on the north half of the property limits redevelopment opportunities, because commercial parking facilities and buildings are prohibited in this area.

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

Finding: The property has supported commercial businesses for well over 40 years, so it is unlikely that rezoning the property will increase traffic danger or congestion.

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

Finding: It is unlikely that the proposed zoning would increase the population density over the existing density allowance of 24 units per acre. Public service providers have

reviewed this request and do not anticipate that this rezoning would undesirably increase the load on public services.

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

Finding: The split-zoning of the subject property restricts future redevelopment opportunities and places a unique hardship on the property owner. Staff has some flexibility to extend zoning rights over an arbitrary zoning line; however, a quarter of the property still could not be developed for commercial purposes. This lot and the surrounding properties are zoned C-2 and have for decades been used for highway commercial uses. Rezoning the north portion of this lot to C-1 and removing the development restrictions is the appropriate action at this time.

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

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
----------------	------------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land area per dwelling unit.*

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

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.	8 ft.	25 ft.
HHOD Front	HHOD Side	HHOD Rear
15 ft.	8 ft.	15 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60ft.
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Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of the lot width.

161.18 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 25	Offices, studios, and related services

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 16	Shopping goods
Unit 34	Liquor stores
Unit 35	Outdoor music establishments*
Unit 36	Wireless communications facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

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

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.



FAYETTEVILLE

B. 1
RZN 11-3870
(2012 West Martin Luther
King Blvd./USA Drug)
Page 13 of 20

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

June 24, 2011

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

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed RZN 11-3870: (2012 W. Martin Luther King Blvd./USA Drug, 520):Submitted by H2 Engineering, Inc for property located 2012 W. Martin Luther King Boulevard would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 0.97 acres.

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

Sincerely,

A handwritten signature in black ink, appearing to read "R. Turberville".

Lt. Rob Turberville
Fayetteville Police Department



July 14, 2011

City of Fayetteville
Planning & Engineering Staff
113 West Mountain St.
Fayetteville, AR 72701

RE: USA DRUG – REZONING APPLICATION

To Whom It May Concern:

Please accept this letter as our official request for Rezoning a part of Parcel #765-07553-000 (2012 W MLK Blvd), which was most recently used as an EZ Mart Convenience Store. The subject parcel was recently purchased by Stephen L LaFrance Pharmacy, Inc. (dba USA Drug).

Prior to sale of the property, the use was non-compliant with current zoning regulations. The reason for non-compliance, and the most challenging obstacle with regard to redevelopment efforts, is the fact there is a commercial and residential zoning district reflected on the parcel. The frontage along MLK Blvd is Zoned C-2. An arbitrary distance into the parcel, the zoning changes to RMF-24. There is not sufficient depth of the C-2 zoning to fully develop a comprehensive commercial development without encroaching into the RMF-24 zoning with either a building or parking. Because of the adverse nature of a commercial and residential zoning district, there are significant barriers to the development potential of the overall site.

The applicant is requesting to rezone the RMF-24 area, which encompasses approximately 21,973 sf, to a C-1 zoning district. This will provide a transitional zone from the existing C-2 zoning district to the residential zone north of the property. The proposed zoning will allow this property to develop in a responsible manner as other new development along MLK Blvd.

The proposed zoning district is consistent with the Future Land Use Plan, which reflects this area (and all surrounding properties) as Urban Center Area. This property is an integral part of one of the few designated intense commercial nodes in Fayetteville.

The proposed zoning will not create traffic danger or congestion. The zoning change will not have any undesirable increase on public services. This zoning request is needed for the redevelopment efforts of a current non-compliant dilapidated property.

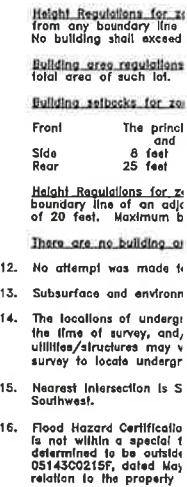
This rezoning action will simply allow a responsible developer the opportunity to invest in Fayetteville without the undue hardship of waivers, conditional use permits, or special request for zoning extension uses.

Thank you for your consideration in this regard.

Respectfully,

A handwritten signature in black ink, appearing to read "Kipp Hearne". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kipp Hearne, P.E.



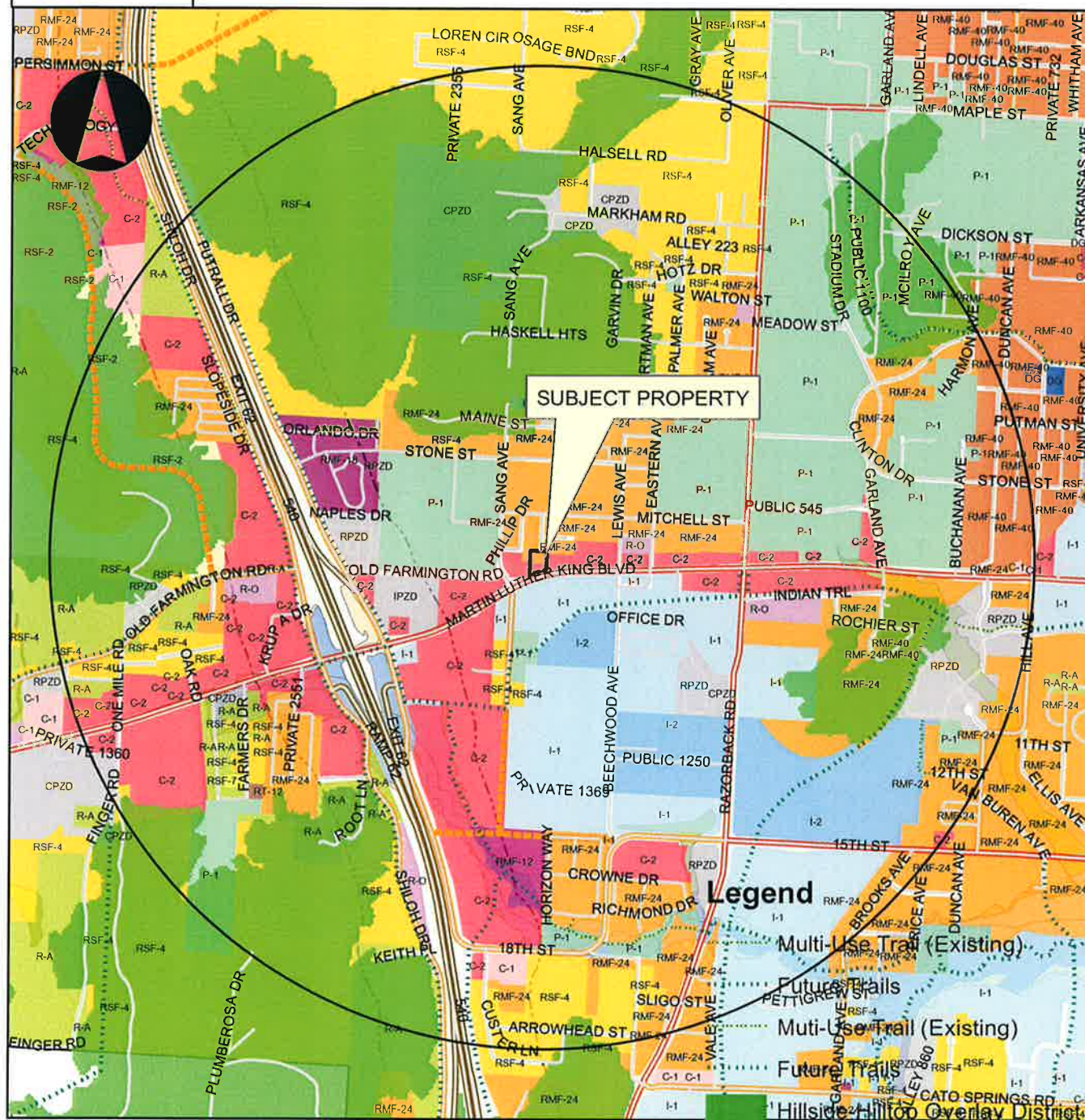
Exceptions from Schedule 'A', 2011, Prepared by Standard	
Item #	
1	Deface, flens, or first appearing 1 date hereof, but record, the estate
2	Rights or claims
3	Easements or cli
4	Any encroachment affecting the title of the land.
5	Any lien or right furnished, impos
6	General Taxes for subsequent years District(s): None.
7	Right-of-way granted April 23, 1906, rec'd 806, rec'd
8	Survey filed for of Washington C
9	There is express not insure title t on and under fl does not insure property through right or privilege

Beginning at a set 5/8" rebar w/cap (PS 1496) at the Southwest corner of Lot 4 of Block 2 of Valley Vista Subdivision recorded in Plat Book 1 at Page 153; thence S86°57'22"E, along the South line of the above said Valley Vista Subdivision, a distance of 176.56 feet to a set 5/8" rebar w/cap (PS 1496); thence S02°51'05"W, along the West line of the properties recorded in Deed Book 1321 at Page 794 and Deed Book 2003 at Page 58030, a distance of 209.07 feet to a set Mag Nail on the North right-of-way line of U.S. Highway 62; thence in a Southwesterly direction along the arc of a curve to the left having a radius of 1472.39 feet, an arc length of 188.58 feet, a delta angle of 7°20'18", and a chord bearing and distance of S72°23'35"W 188.45 feet to a set 5/8" rebar w/cap (PS 1496) at the intersection of the above said North right-of-way line and the West line of the above said Lot 6 of Lewis Subdivision; thence N02°51'05"E, along the above said West line of Lot 6, a distance of 275.53 feet to the Point of Beginning and containing 42,402 square feet or 0.97 acres, more or less.

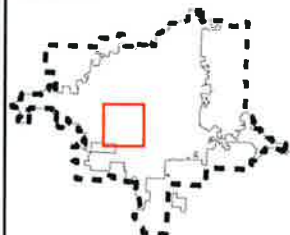
RZN11-3870

One Mile View

USA DRUG



Overview



Legend

Subject Property

RZN11-3870

Boundary

0 0.25 0.5

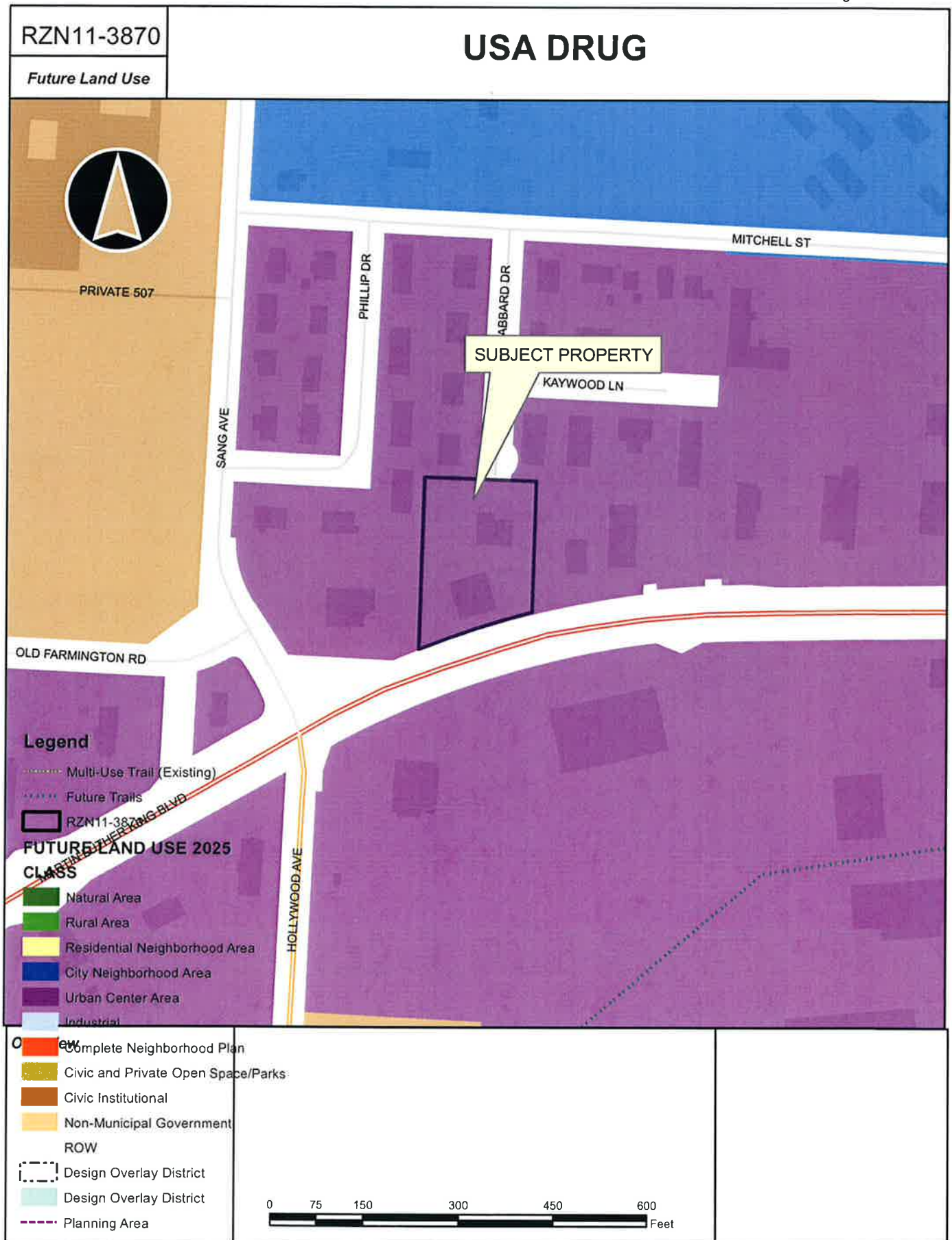
RZN11-3870

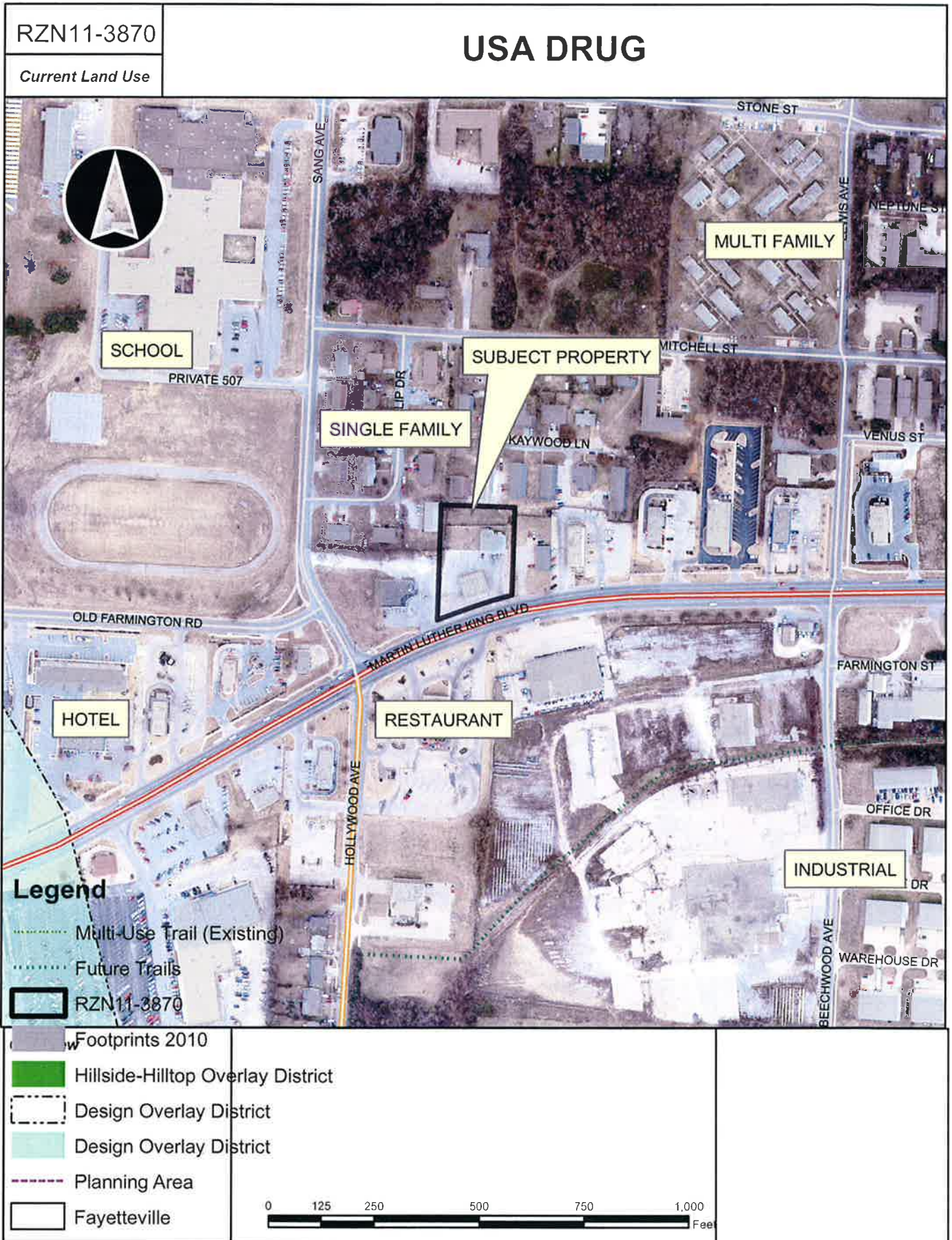
Design Overlay District

Planning Area

Fayetteville

1 Miles





City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

6/21/2011

City Council Meeting Date
Agenda Items Only

Jesse Fulcher
Submitted By

Development Services
Division

Development Services
Department

Action Required:

Approval of a resolution adopting the Master Street Plan and revised street cross-sections.

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 ☐		

James C. Price 06-03-2011
Department Director Date

Previous Ordinance or Resolution # _____

Karl 6-6-2011
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Becher 6-6-2011
Finance and Internal Services Director Date

Received in City Clerk's Office 06-03-11 P04:23 RCVD

Don Man 6-7-11
Chief of Staff Date

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

Tronell Jordan 6/7/11
Mayor Date

Comments:

Tabled at the 6/21/11 CC mtg. to the 7/5/11 CC mtg.



www.accessfayetteville.org

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: Jesse Fulcher, Current Planner

Date: June 2, 2011

Subject: ADM 11-3776 Master Street Plan – City Plan 2030

RECOMMENDATION

Staff and Planning Commission recommend approval of a resolution to adopt the Master Street Plan, as part of the City Plan 2030 comprehensive land use plan update.

BACKGROUND

The current Master Street Plan Map was adopted by Resolution No. 161-07 on September 4, 2007. An original goal of 2010-2011 update was to identify new streets on the Master Street Plan map based on the policies of the Access Management Ordinance, which sets recommended distances between local, collector and arterial streets. However, the level of detail provided by the Access Management Ordinance couldn't realistically be applied on the scale of the Master Street Plan Map. For that reason staff evaluated locations to add new collector streets, using a quarter mile grid as a guide. This allowed staff to strategically locate numerous new collector streets in areas with the highest development potential, even if that development is not intended to occur in the near future. Fewer streets were added in areas with limited development potential due to restrictive topography.

Another goal in the update was to create context sensitive streets. Context-sensitive street design looks at local conditions to determine the most appropriate street design that optimizes mobility and safety for all modes of travel. A one-size-fits-all design approach cannot be applied to every existing street. Accordingly, staff has included street corridor plans as an on-going action step in the City Plan document. Context-sensitive design principles, however, are applied to future collector and principal arterials streets.

Two new collector street cross-sections have been added to the document. Each utilizes the current 59' foot right-of-way, but street striping can be used to delineate either on-street parking or dedicated bicycle lanes, whichever is most appropriate for that location. This allows the street function to change over time depending on the surrounding context and ensures a narrower travel lane and reduced vehicle speeds in areas that attract significant pedestrian traffic, all of which contributes to increased safety.

The second change was a further reduction in the right-of-way requirements for the minor and principal arterial streets and the addition of a principal arterial cross-section that allows on-street parking in more urban environments. The additional area between the sidewalk and travel lane created by a bike lane or on-street parking provides a significant buffer between vehicles and pedestrians and allows the greenspace width to be decreased. The overall right-of-way for principal arterials has been reduced from 97 feet to 87 feet and from 85 feet to 77 feet for minor arterials, which results in less disruption to

adjacent property owners and a decreased cost to land developers and/or the City, whoever is using the right-of-way to construct a street.

Another important discussion centered on alleys, and how not only the design, but also parking and addressing can inhibit use by solid waste and emergency vehicles. Staff from Strategic Planning, Current Planning, Fire, Solid Waste and Engineering worked together to determine what issues were encountered in the field and how each of these could be addressed. A bullet-point list of requirements is now listed in the alley cross-sections that if provided, will allow solid waste collection in alleys. Language from the International Fire Code has also been included to clarify the use of alleys for one- and two-family developments as well.

12.2.1 Alleys

Alleys are used in conjunction with streets to provide rear access to properties, garages and off-street parking. Driveways connected to alleys should have sufficient depth to allow vehicles to park and not encroach into the alley right-of-way.

Solid Waste

Solid waste pick-up is allowed, subject to the following standards:

- "No parking" signs are installed at the entrance(s) and mid-block locations.
- Designated locations for carts and recycle bins are kept free of obstructions.
- Bulk hauling and brush collection is placed at the public street.
- A 20' driveway is provided between the garage/house and alley right-of-way.
- On-street parking is provided.
- Address numbers are installed on the front and rear of every structure.
- Minimum radius requirements are provided.
- Dead-end alleys are prohibited.

Fire Department

Alleys used in conjunction with single- and two-family units are not intended to serve as fire access roads when structures also adjoin a private or public street that provides the required fire access. Fire access roads shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

When an alley serves as the sole access, or when more than one access is required due to building height, condition of terrain, climatic conditions, the potential for impairment of a single road by vehicle congestion, or other factors that could limit access, alleys may need to be designed in accordance with the Arkansas Fire Code to support apparatus access, with approval from the fire code official.

Other updates to the cross-sections include:

- Modifying the Low Impact street section to allow flexibility in swale design.
- Addition of a front-end parking street section (Two-way Square) for urban environments.

DISCUSSION

On May 2, 2011 the Planning Commission forwarded this request to the City Council with a recommendation for approval with a vote of 8-1-0, with Commissioner Chessser voting 'no'. This included an amendment to downgrade a section of Ruppel Road/Howard Nickell Road from a principal arterial to a collector street (see map attached). The amendment passed 5-4-0 with Commissioners Cabe, Bunch, Cook and Chessser voting 'No'.

Staff recommended that Ruppel Road/Howard Nickell Road remain an arterial classification, since it will serve as a primary north-south route for the entire west side of Fayetteville. Although current development and traffic conditions don't warrant a four-lane street section in this area, it is anticipated that future growth will necessitate an arterial corridor

in this area of the city. Reducing the classification to a collector street will prevent the city from obtaining the right-of-way required for a four-lane street, unnecessarily increasing the cost of a future street project.

On May 31, 2011, the Street Committee forwarded this request to the City Council with no recommendation.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION APPROVING AND ADOPTING A REVISED MASTER STREET PLAN AND STREET CROSS-SECTIONS

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 and adopts a revised Master Street Plan and street cross-sections, as depicted in Exhibit "A" and "B" attached.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby declares that all previous Resolutions adopting previous Master Street Plans and street cross-sections are superseded by the new Master Street Plan and street cross-sections.

PASSED and APPROVED this 21st day of June, 2011.

APPROVED:

ATTEST:

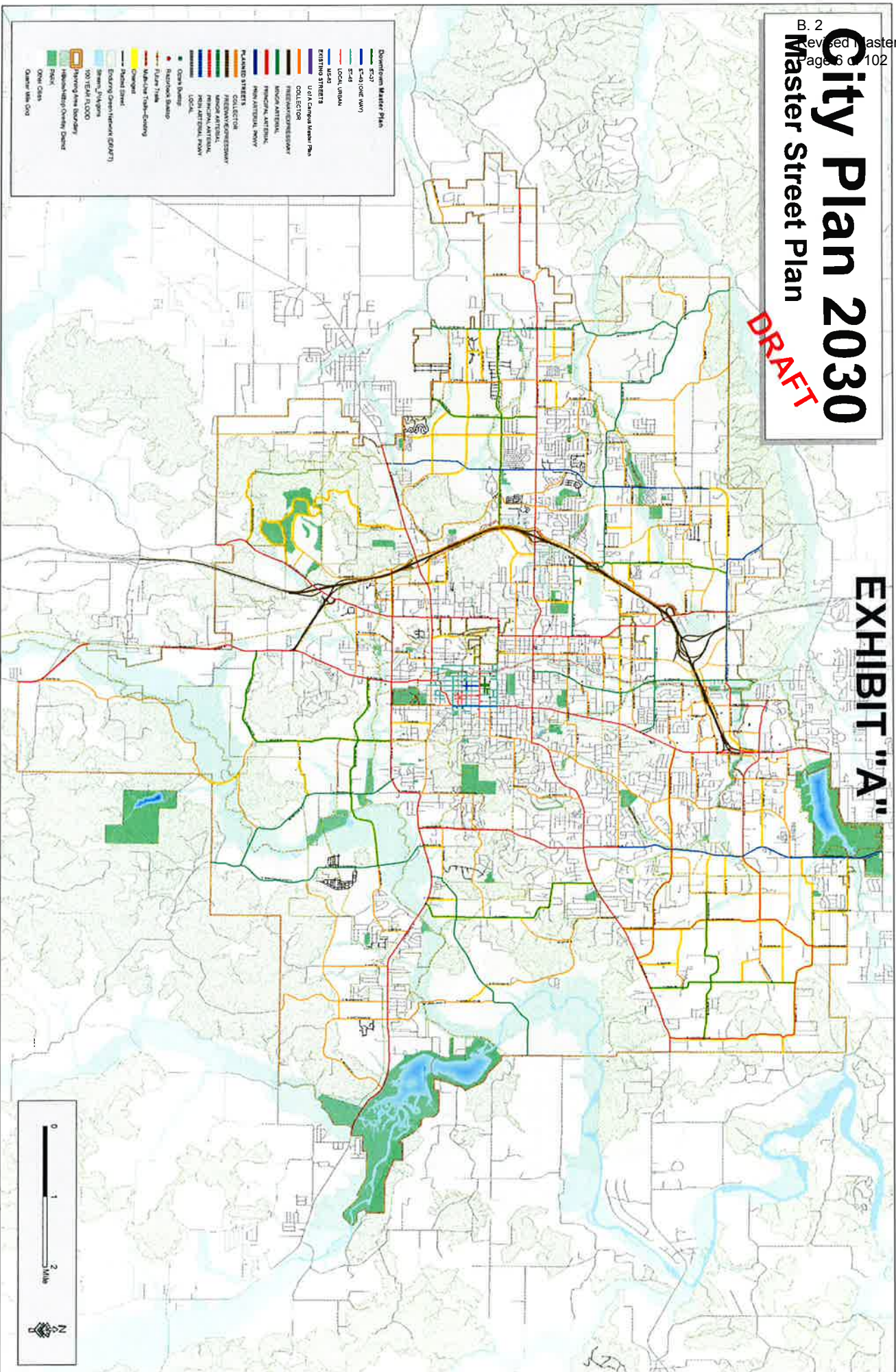
By: _____
LIONELD JORDAN, Mayor

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

City Plan 2030

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EXHIBIT "A"





12.2 MASTER TRANSPORTATION PLAN

*Amended September 17, 1996, Street Classifications, Res. No. 97-96
Amended September 6, 2005, Downtown Master Plan Street Classifications, Res. No. 183-05
Amended September 4, 2007, Res. No. 161-07*

The Master Transportation Plan is the guiding policy that the community, City Staff, the Planning Commission and the City Council utilize to proactively guide decisions regarding street classification, design, location, form and function. The Master Transportation Plan prescribes and plans for the development of a multi-modal transportation system in the form of streets, sidewalks, bike lanes, trails and transit. A multimodal transportation system is vital to growing a livable transportation network. Consistent planning ensures that streets will efficiently circulate traffic within the community and connect Fayetteville to the rest of the region. Special emphasis should be placed on multi-modal transportation infrastructure design, access management and traffic speed and volume considerations when planning streets. The Master Transportation Plan is updated on a five year basis in conjunction with City Plan 2030 in order to be adaptable to change over time.

The Master Transportation Plan contains the Master Trails Plan and the Master Street Plan.

Master Trails Plan

The Fayetteville Alternative Transportation and Trails Master Plan (FATT Plan), guides the development of trails in the City's expanding trail network. The Master Trail Plan Map illustrates future trail alignments and trail corridors for the purpose of acquiring easements and right-of-way. As development occurs adjacent to future trail alignments, careful attention will be paid to acquiring easements and providing site design input during the development review process. The trail cross-sections that follow the Master Street Plan cross sections will be utilized for the construction of City trails. Trail surface materials may vary according to site considerations such as proximity to floodplains or floodways.

Master Street Plan

The Master Street Plan is comprised of a map illustrating the street classification and location, and a document of street cross sections showing the dimensional requirements of the street. In conjunction, these two documents are used to guide long range traffic planning through street function, design and location.

The City supports context sensitive street design that acknowledges the function and use of the street in relation to current and future land use. The design and dimensions of streets that fall under the same functional classification may vary greatly due to the surrounding existing or future land uses and the function of the street. For instance, a low volume

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speed collector in a neighborhood may have on-street parking while a higher traffic speed collector would have bike lanes. The City's access management and street connectivity policies provide the tools to guide the access and dispersal of traffic.

Low Impact Development: The City encourages the use of Low Impact Development (LID) stormwater management strategies in street design and construction. Each of the street cross sections can be modified to incorporate LID best practices for stormwater management. Streets that include landscape strips or bump-outs are ideal for implementing LID strategies such as swales or infiltration basins. Developers and engineers should work closely with the City's Development Services Department to plan and design appropriate stormwater management strategies and structures.

Public Transportation: The construction of bus benches, shelters and pull-offs is a critical part of a successful transportation system. However, the need for such facilities is ultimately determined by the transportation providers. Therefore, the City should consult with transportation providers prior to the design of any new street, or major street improvement project to determine if the need for new facilities exists.

Streets in University of Arkansas Campus: The City of Fayetteville and the University of Arkansas will partner together in the planning, design and construction or reconstruction of streets located within the University of Arkansas campus area. These streets are identified on the map and within this document. Streets identified on the Master Street Plan Map and within the University of Arkansas boundary are intended to be reviewed concurrently with City and University staff prior to design. These streets should be consistent with the policies of the Master Street Plan, but may require alternative cross-sections due to physical constraints unique to the University.

International Fire Code: The International Fire Code (IFC), which the State of Arkansas has adopted, requires a 20-foot minimum of unobstructed width on all roads, which is reflected in the proposed street cross-sections. If structures on either side of the road exceed 30 feet or three stories, then the IFC requires a 26-foot minimum of unobstructed width. This document recognizes that street cross-sections may be modified to meet the IFC requirements.

The following street cross-sections are functionally classified in accordance with the U.S. Department of Transportation's National Highway Functional Classification Study Manual. In addition, the street cross-sections provide sensitivity to context by providing options for both suburban and urban developments and accommodating cyclists and low-impact development neighborhoods. Additional utility easements will be required outside of the specified right-of-way on a project specific basis, as determined by the utility companies.



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12.2.1 ALLEYS

Alleys are used in conjunction with streets to provide rear access to properties, garages and off-street parking. Driveways connected to alleys should have sufficient depth to allow vehicles to park and not encroach into the alley right-of-way.

Solid Waste

Solid waste pick-up is allowed, subject to the following standards:

- "No parking" signs are installed at the entrance(s) and mid-block locations.
- Designated locations for carts and recycle bins are kept free of obstructions.
- Bulk hauling and brush collection is placed at the public street.
- A 20' driveway is provided between the garage/house and alley right-of-way.
- On-street parking is provided.
- Address numbers are installed on the front and rear of every structure.
- Minimum radius requirements are provided.
- Dead-end alleys are prohibited.

Fire Department

Alleys used in conjunction with single- and two-family units are not intended to serve as fire access roads when structures also adjoin a private or public street that provides the required fire access. Fire access roads shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

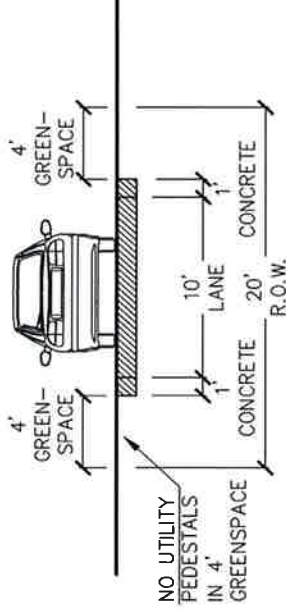
When an alley serves as the sole access, or when more than one access is required due to building height, condition of terrain, climatic conditions, the potential for impairment of a single road by vehicle congestion, or other factors that could limit access, alleys may need to be designed in accordance with the Arkansas Fire Code to support apparatus access, with approval from the fire code official.



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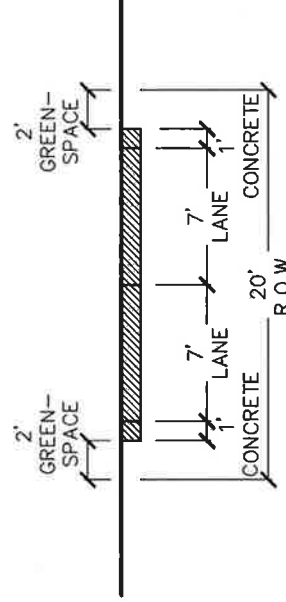
1a RESIDENTIAL REAR ALLEY: ONE-WAY

Design Service Volume: < 200 vpd
Travel Lanes: One 10' lane
Parking: Not allowed within alley R.O.W.
Paved Width: 12' from outer edge of concrete strip
Right of Way: 20'
Sidewalks: None
Greenspace: Both sides of alley, min. 4' wide, unencumbered
Curb cuts: Continuous access possible
No curb required



1b RESIDENTIAL REAR ALLEY: TWO-WAY

Design Service Volume: < 200 vpd
Travel Lanes: Two 7' lanes
Parking: Not allowed within alley R.O.W.
Paved Width: 16' from outer edge of concrete strip
Right of Way: 20'
Sidewalks: None
Greenspace: Both sides of alley, min. 2' wide, unencumbered
Curb cuts: Continuous access possible
No curb required

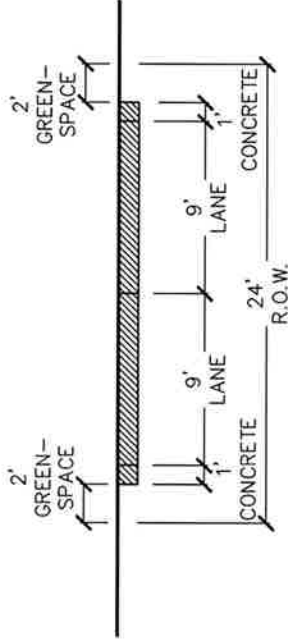




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1c COMMERCIAL REAR ALLEY: ONE- OR TWO-WAY

Design Service Volume: < 200 vpd
Travel Lanes: Two 9' lanes
Parking: Not allowed within alley R.O.W.
Paved Width: 20' from outer edge of concrete strip
Right of Way: 24'
Sidewalks: None
Greenspace: Both sides of alley, min. 2' wide, unencumbered
Curb cuts: Continuous access possible
No curb required



12.2.2 RESIDENTIAL STREETS

RESIDENTIAL STREETS provide for the lowest level of traffic and service. They provide access to residential property and are intended to be used only by local traffic. A high degree of street connectivity is required for easy dispersal of traffic. Residential Street block lengths shall not exceed 600 feet. Residential streets have a low level of access management, with curb cuts permitted every 50 feet.

2a RESIDENTIAL:

Design Service Volume: < 300 vpd

Desired Operating Speed: 15-20 mph

Travel Lanes: Two 9' lanes

Parking: Not Allowed

Paved Width: 20' from face of curb

Right of Way: 43'

Sidewalks: Both sides of street, min.

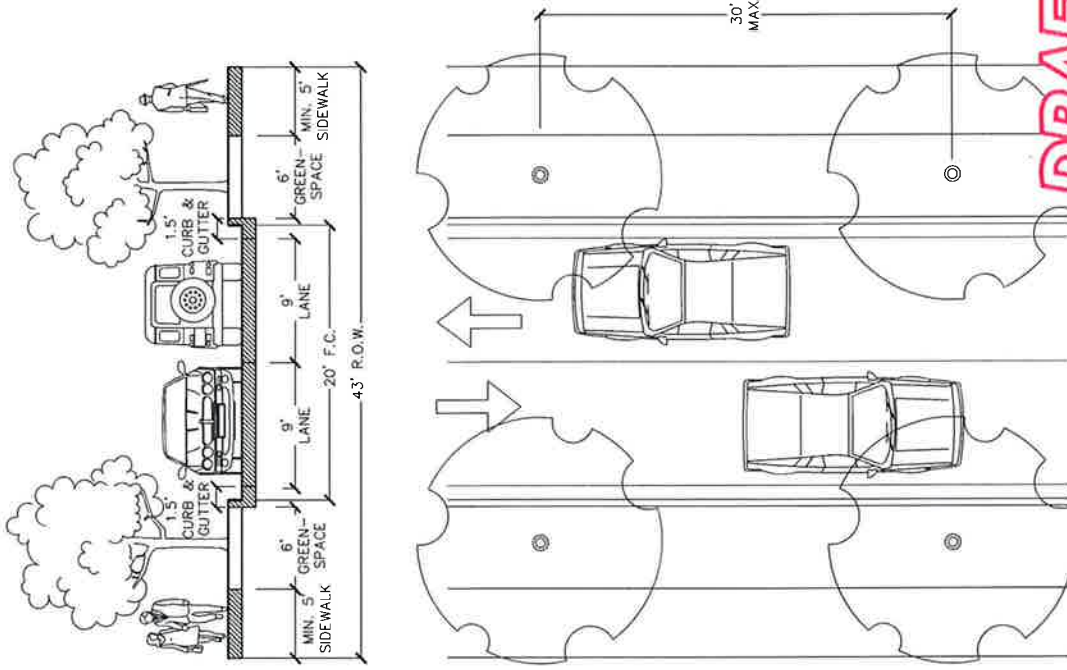
5' wide, located in R.O.W.

at R.O.W. line

Greenspace: Both sides of street, min.

6' wide

* ST 37 may substitute for the Residential Street cross-section urban condition.

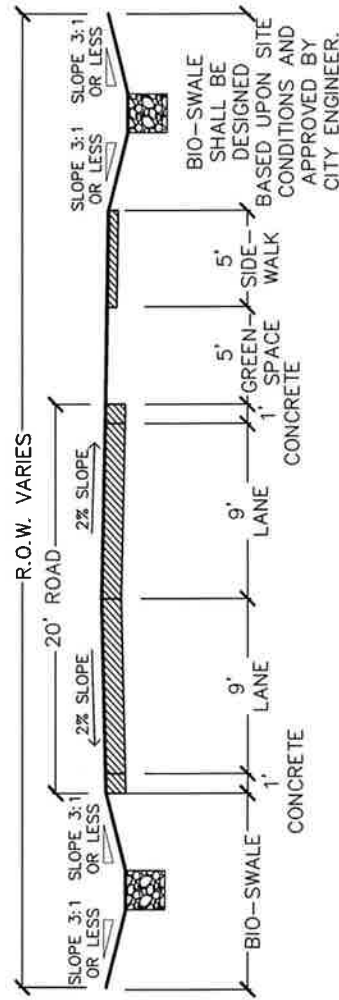




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2b RESIDENTIAL LOW-IMPACT DEVELOPMENT:

- Design Service Volume: < 300 vpd
- Desired Operating Speed: 15-20 mph
- Travel Lanes: Two 9' lanes
- Parking: Not Allowed
- Paved Width: 20'
- Right of Way: Varies
- Sidewalks: One, at least 5' wide, adjoining 5' greenspace
- Greenspace: One side of street, min. 5' wide
- Bio-Swale: Both sides of street, width dependent upon site conditions and approved by City Engineer.
Tree plantings may be permitted by the Urban Forester



12.2.3 LOCAL STREETS

LOCAL STREETS provide for a moderate level of traffic flow and service. They provide access to abutting land uses and provide connections to higher order street classifications. Local Urban streets are encouraged in City Neighborhood and Urban Center areas as depicted on the Future Land Use Map. Local Urban Streets are also appropriate for areas that may function as a main street for a neighborhood, offering mixed uses and a pedestrian-friendly environment. LOCAL STREETS have a low to medium level of access management, with curb cuts permitted every 50 feet.

3a LOCAL:

Design Service Volume:

Desired Operating Speed:

Travel Lanes:

Parking:

Paved Width:

Right of Way:

Sidewalks:

Greenspace:

< 4,000 vpd

20-25 mph

One 10' lane,

One 9' lane

One 7' lane

27' from face of curb

50'

Both sides of

street, min. 5' wide,

located in R.O.W. at

R.O.W. line

Both sides of street,

min. 6' wide.

May be widened to

facilitate Low-Impact

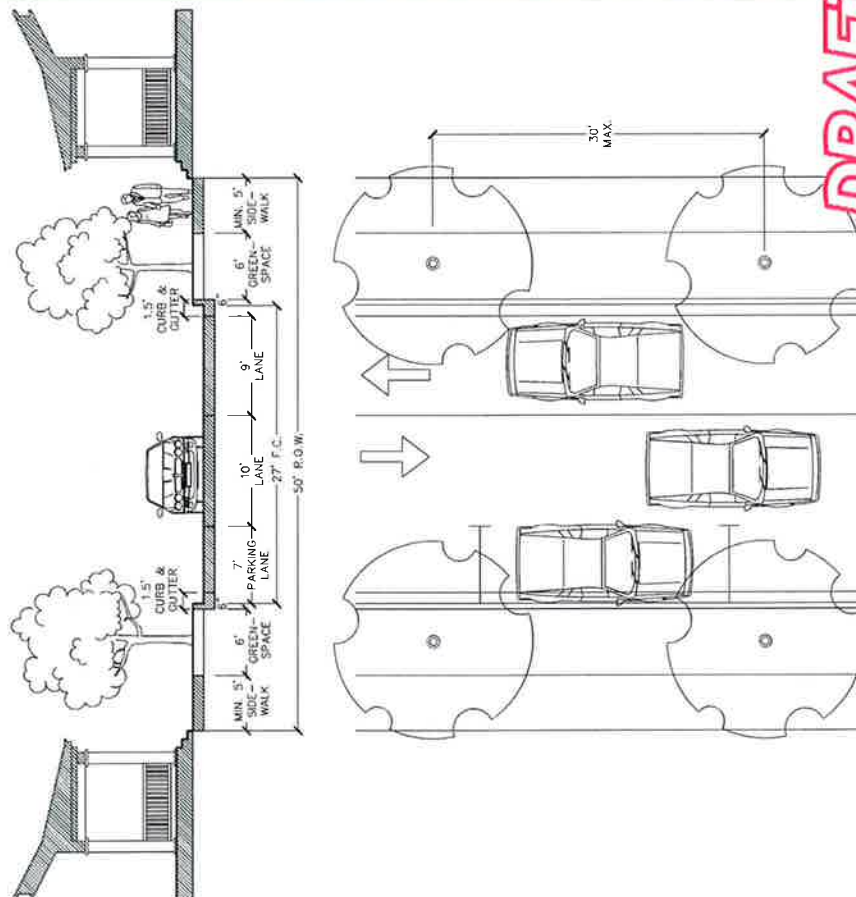
Development

techniques,

subject to approval

by City Engineer.

* ST 45 may substitute for local street cross-section in an urban condition.



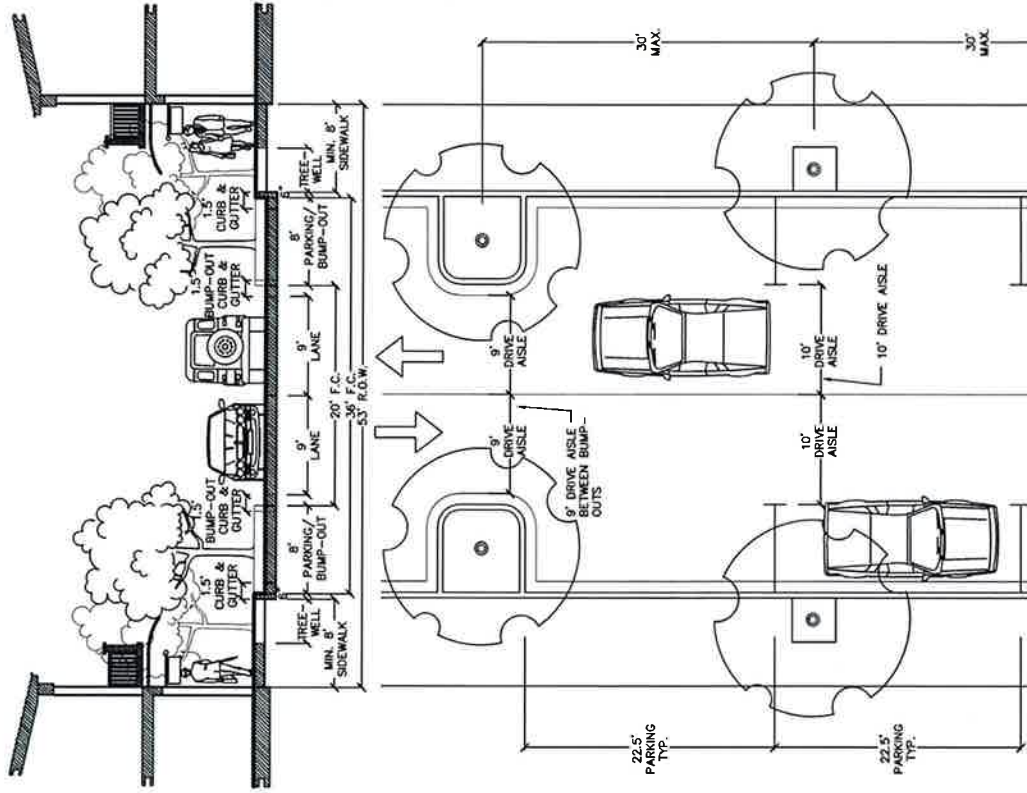
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3b LOCAL URBAN:

Design Service Volume:
Desired Operating Speed:
Travel Lanes:
Parking:
Paved Width:
Right of Way:
Sidewalks:
Greenspace:

< 4,000 vpd
20-25 mph
Two 9' lanes
Two 8' lanes with bump-outs
20' from face of bump-out curb
36' entire width to face of curb
53'
Both sides of street, min.
8' wide with grated tree wells
against curb
Both sides of street, tree wells





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12.2.4 COLLECTOR STREETS

COLLECTOR STREETS provide traffic circulation within residential, commercial, and industrial areas. They collect traffic from local or residential streets in neighborhoods and facilitate traffic movement into the arterial system. Connections between arterials should be direct in order to disperse traffic throughout the city. Collector streets vary in width and function as they respond to the context of the adjacent land uses. A minimum right-of-way of 59 feet shall be provided where a collector is depicted on the Master Street Plan with a 70-foot right-of-way provided at intersections with other collectors, minor arterials and principal arterials. The intersection right-of-way must extend a minimum of 200 feet from the intersection. A 70-foot right-of-way may be required if the volume or turning movements of traffic generated or predicted warrants a continuous turning lane. All collectors have a moderate level of access management with curb cuts permitted every 100 feet.

The City recognizes that the design of collector streets may vary depending upon the context of the existing and future land use in a particular area. The following three collector cross sections provide flexibility in context while utilizing a standard right-of-way and pavement width. This permits multiple configurations of on-street parking and bicycle facilities through different pavement markings and striping. The standard pavement width will enable the street to easily transform as land use intensity or density changes over time.

4a COLLECTOR (INTERSECTION):

Design Service Volume:

< 4,000 vpd,
< 6000 vpd
with left
turn bays

Desired Operating Speed:

25-30 mph

Travel Lanes:

Two 14' shared
motorist and
cyclist lanes
11' turn bays
where warranted

Turn Lane:

Bicycle Lanes:

Shared with
motorist lane

Parking:

None
41' from face
of curb
70'

Paved Width:

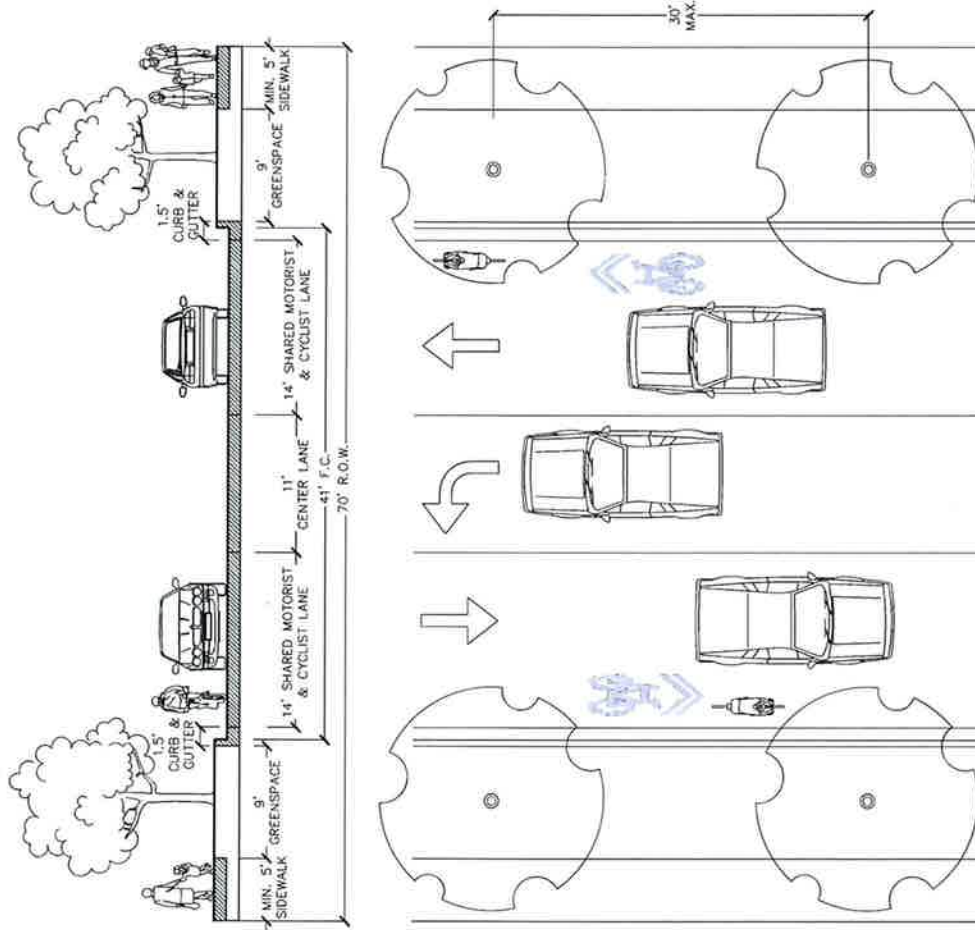
Right of Way:

Both sides of
street, min.
5' wide,
located in R.O.W.
at R.O.W. line.

Sidewalks:

Greenspace:

Both sides of
street, min.
9' wide



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4b COLLECTOR (SHARROW):

Design Service Volume:

- < 4,000 vpd,
- < 6000 vpd with left turn bays

Desired Operating Speed:

- 25-30 mph

Travel Lanes:

- Two 14' shared motorist and cyclist lanes

Turn Lane:

- 11' turn bays where warranted (See 4a)

Bicycle Lanes:

- Shared with drive lane

Parking:

- None

Paved Width:

- 30' from face of curb

Right of Way:

- 59'

Sidewalks:

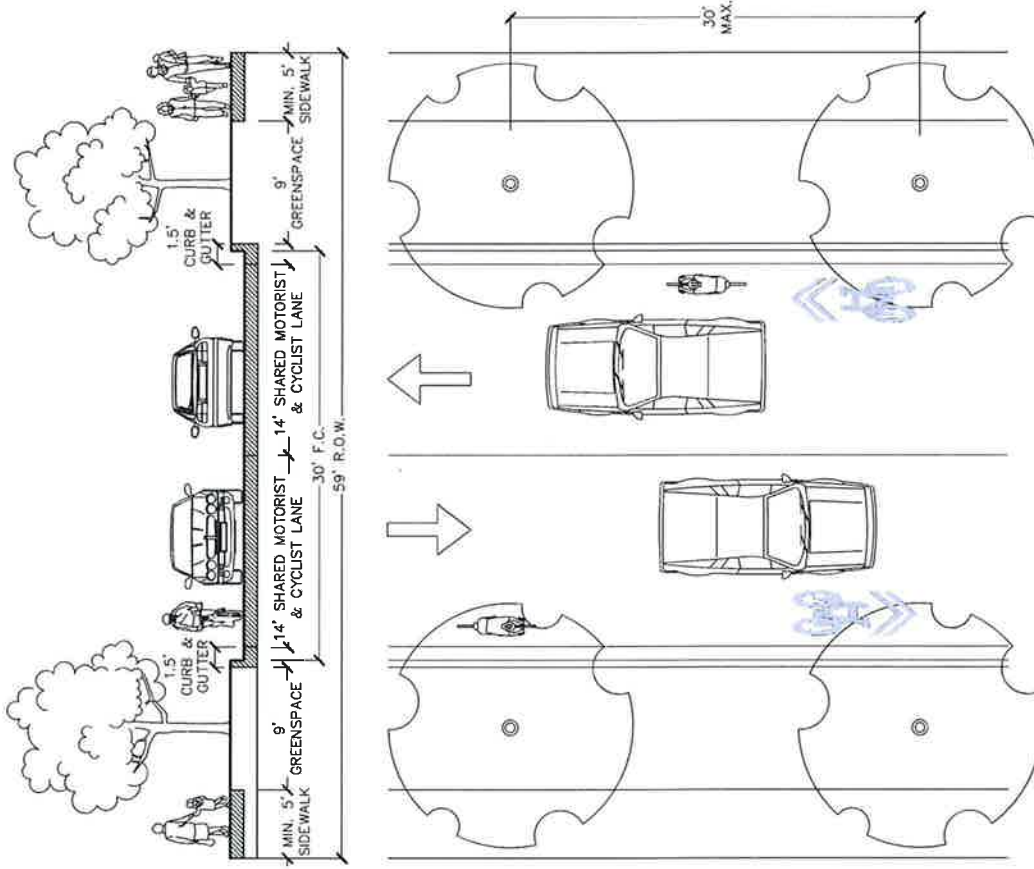
- Both sides of street, min. 5' wide,

- located in R.O.W. at R.O.W. line

- Both sides of street, min. 9' wide

Greenspace:

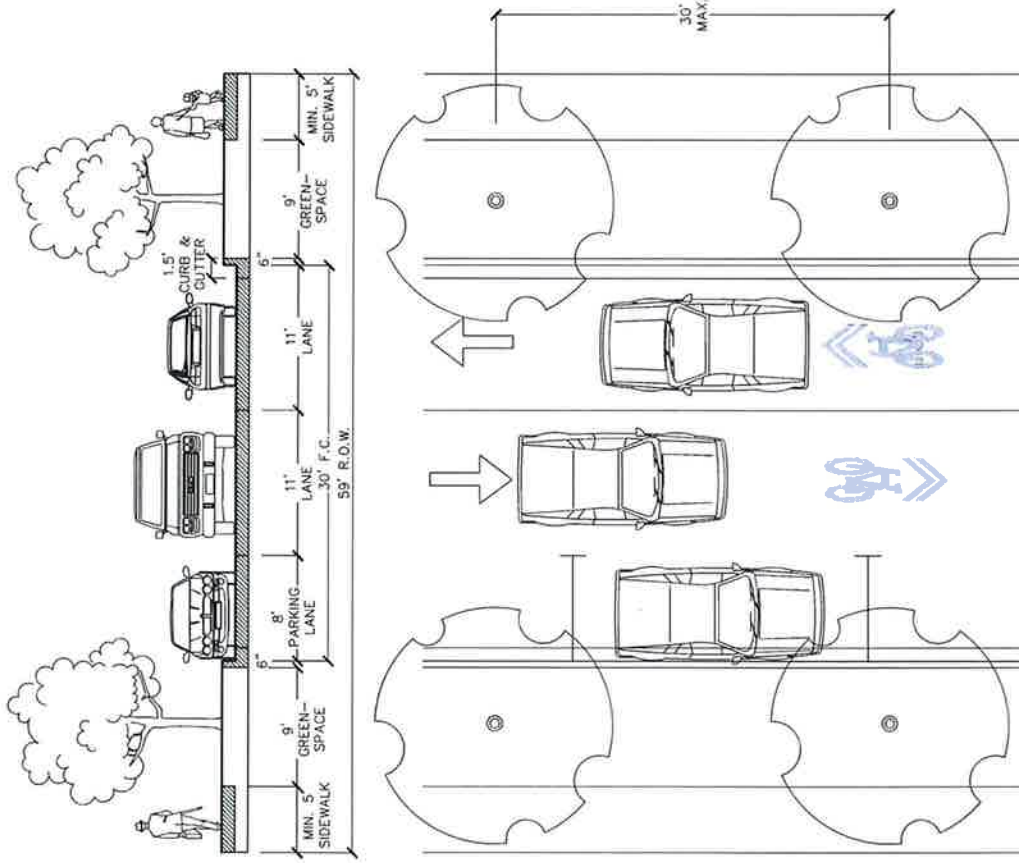
- Both sides of street, min. 9' wide





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- 4c COLLECTOR (WITH PARKING):**
- Design Service Volume: < 4,000 vpd, < 6000 vpd
 - Desired Operating Speed: 25-30 mph
 - Travel Lanes: Two 11'
 - Turn Lane: motorist lanes
 - Bicycle Lanes: None
 - Parking: Shared with motorist lanes
 - Paved Width: One 8' lane 30' from face of curb
 - Right of Way: 59'
 - Sidewalks: Both sides of street, min. 5' wide, located in R.O.W. at R.O.W. line.
 - Greenspace: Both sides of street, min. 9' wide

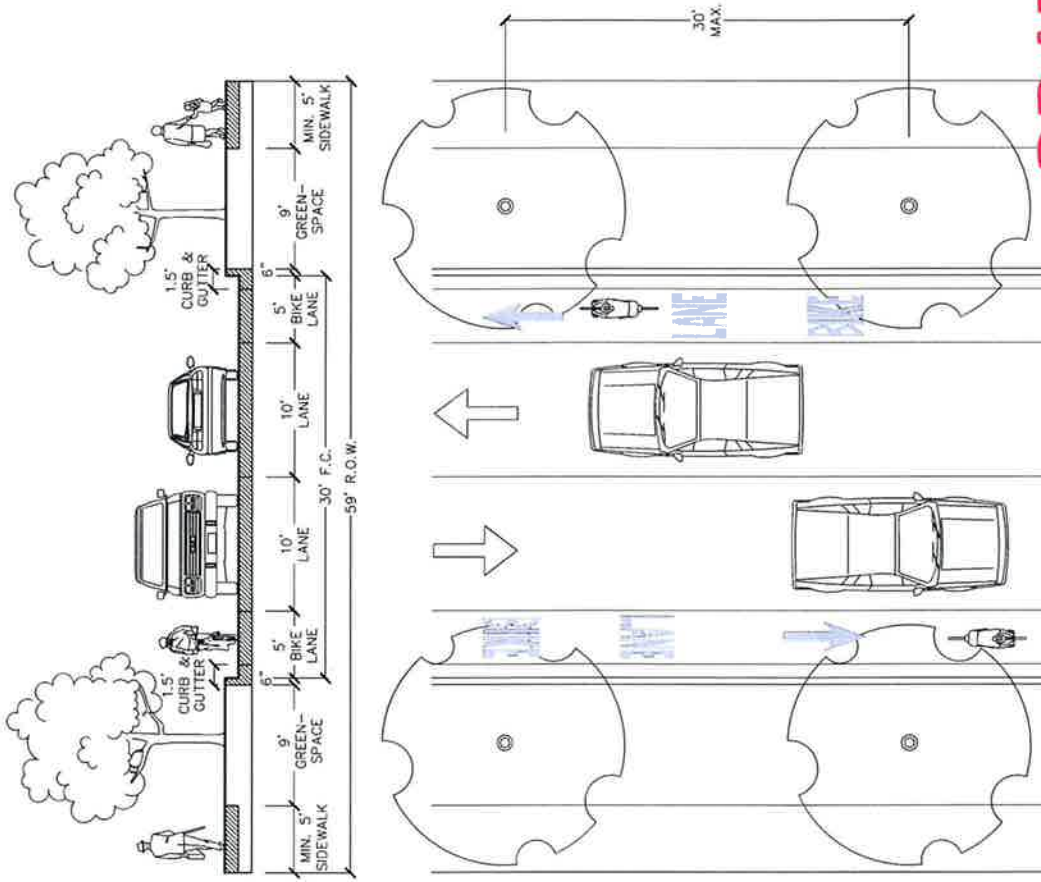




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4d COLLECTOR (WITH BICYCLE LANES):

- Design Service Volume:**
 < 4,000 vpd,
 < 6000 vpd
- Desired Operating Speed:**
 25-30 mph
- Travel Lanes:**
 Two 10'
- Turn Lane:**
 motorist lanes
- Bicycle Lanes:**
 None
 5' wide, both
 sides of street
 against curb
- Parking:**
 None
- Paved Width:**
 30' from face
 of curb
 59'
- Right of Way:**
 Both sides of
 street, min.
 5' wide,
 located in R.O.W.
 at R.O.W. line.
- Sidewalks:**
 Both sides of
 street, min.
 9' wide
- Greenspace:**





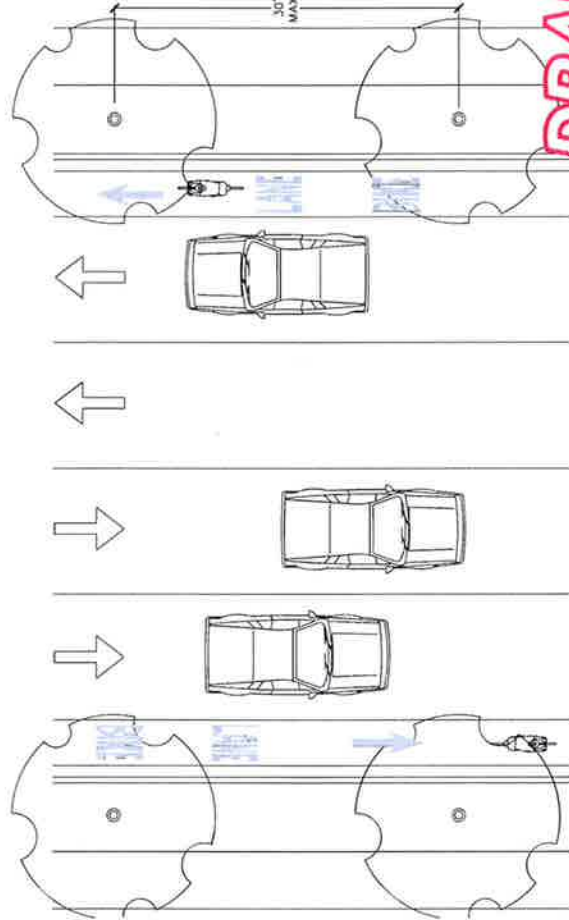
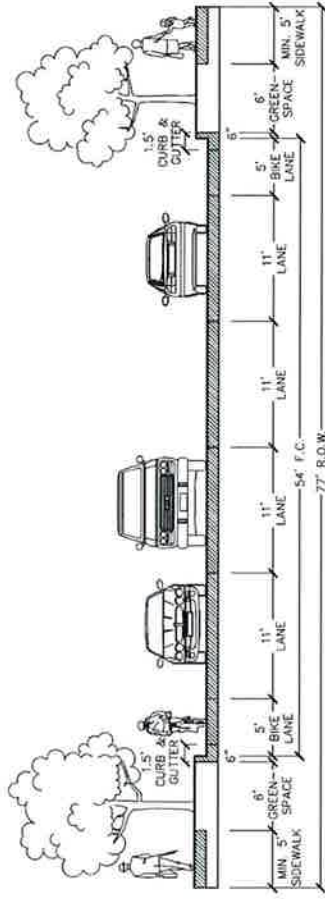
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12.2.5 MINOR ARTERIAL STREETS

MINOR ARTERIAL STREETS provide mobility throughout the city, encouraging multiple modes of transportation within the arterial network. Access should be limited to controlled intersections where possible. They have a moderate level of access management.

5 MINOR ARTERIAL:

- Design Service Volume: < 12,200 vpd
- Desired Operating Speed: 30-40 mph
- Travel Lanes: Four 11' lanes
- Bicycle Lanes: 5' wide, both sides of street
- Parking: next to curb
- Paved Width: None
- Right of Way: 54' from face of curb
- Sidewalks: 77'
- Greenspace: Both sides of street, min. 5' wide, located in R.O.W. at R.O.W. line
- Both sides of street, min. 6' wide





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PRINCIPAL ARTERIALS WITH ON-STREET PARKING are intended to be used in compact urban environments that are highly walkable and where building entries front the street. This street section is not intended to be used where traffic speeds exceed 30 MPH.

7 PRINCIPAL ARTERIAL BOULEVARD

(WITH PARKING):

Design Service Volume: < 17,600 vpd

Desired Operating Speed: 25-30 mph

Travel Lanes: Four 11' lanes

Bicycle Lanes: Shared with outer

auto travel lanes

Median/Turn Lane: 20' median, or

8' median with

12' turn lane

Parking: 8' lane, both

sides of street

Paved Width: 28' from face

of curb with

median

40' from face

of curb with

turn lane

70' entire width

including median

87'

Right of Way: Both sides of

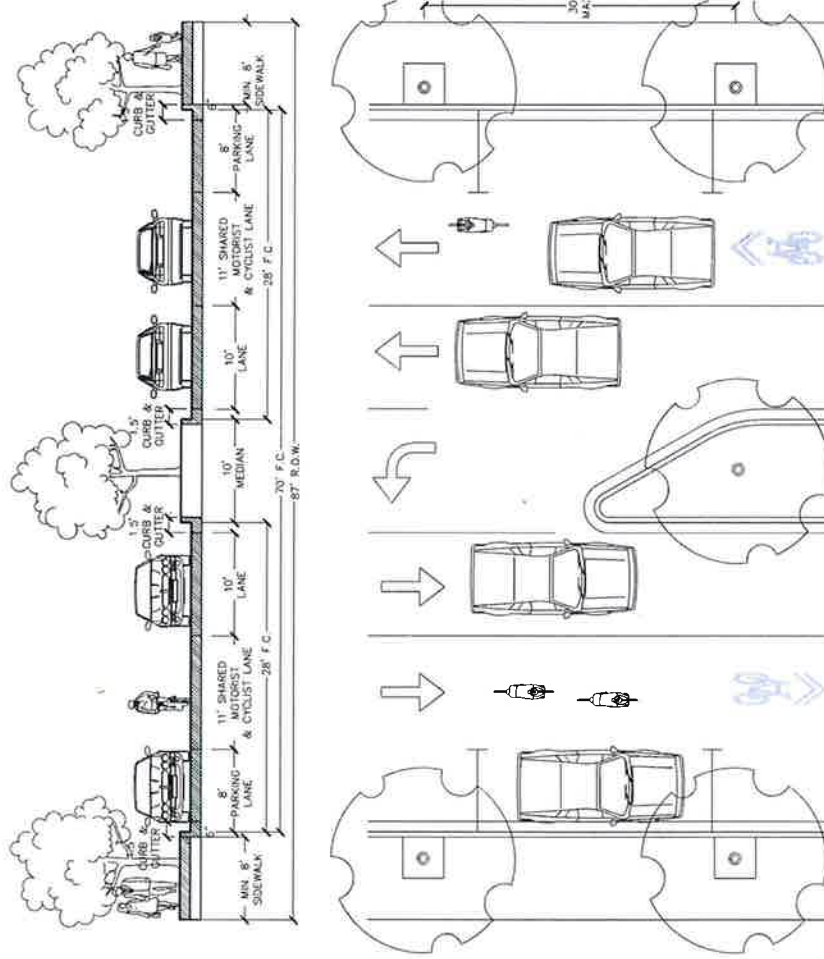
Sidewalks: street, min.

8' wide with

grated tree wells

against curb

Greenspace: None



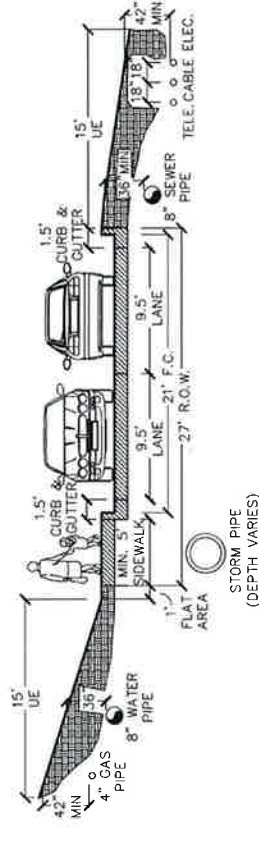
12.2.7

HILLTOP-HILLSIDE OVERLAY DISTRICT STREETS

H.H.O.D. (HILLTOP-HILLSIDE OVERLAY DISTRICT) STREETS are designed with a narrow right-of-way in order to minimize grading disturbance and tree removal, while still accommodating utility locations, vehicular and pedestrian movements. Hillside Residential streets carry limited traffic through neighborhoods, while Hillside Local streets collect traffic from the neighborhoods and disperse it to minor arterials. They have a low level of access management.

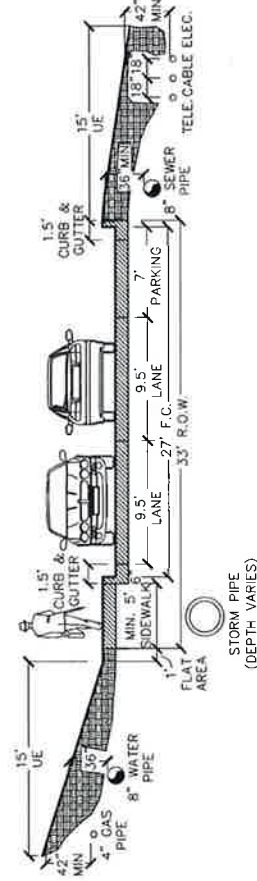
8a HILLSIDE RESIDENTIAL:

Design Service Volume: < 500 vpd
Desired Operating Speed: 15-20 mph
Travel Lanes: Two 9.5' lanes
Parking: Not Allowed
Paved Width: 21' from face of curb
Right of Way: 27'
Sidewalks: One, at least 5' wide, abutting curb
Greenspace: None
Utility Easements: Two, 15' at R.O.W.



8b HILLSIDE LOCAL:

Design Service Volume: < 4000 vpd
Desired Operating Speed: 20-25 mph
Travel Lanes: Two 9.5' lanes
Parking: One 7' lane
Paved Width: 27' from face of curb
Right of Way: 33'
Sidewalks: One, at least 5' wide, abutting curb
Greenspace: None
Utility Easements: Two, 15' at R.O.W.



12.2.8 DOWNTOWN MASTER PLAN STREETS

DOWNTOWN MASTER PLAN STREETS are specific to the Downtown Master Plan area.

9a ST 37 9/9

Design Service Volume:

Traffic Lanes:

Parking:

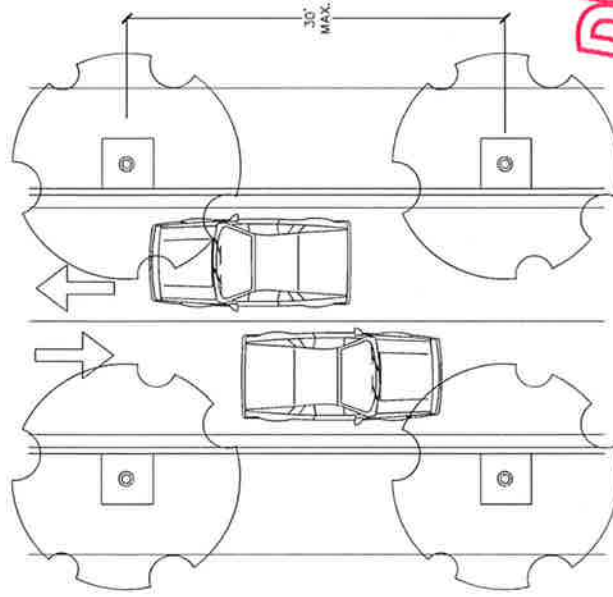
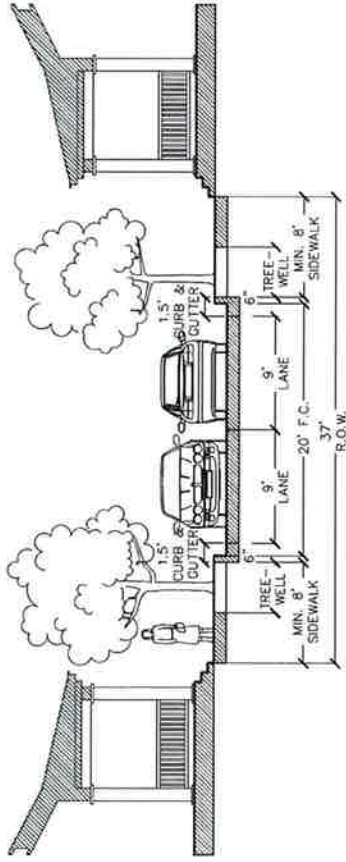
Paved Width:

Right of Way:

Sidewalks:

< 300 vpd
Two 9' lanes
Not Allowed
20' from face of
curb
37'
Both sides of
street, min.
8' wide with
grated tree
wells against curb
Both sides of street,
tree wells

Greenspace:



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9b ST 45 8/10/9

Design Service Volume:

Traffic Lanes:

Parking:

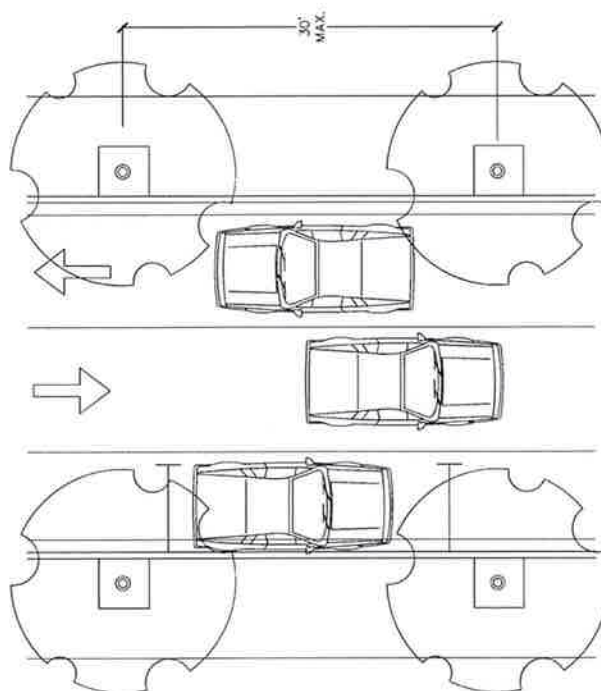
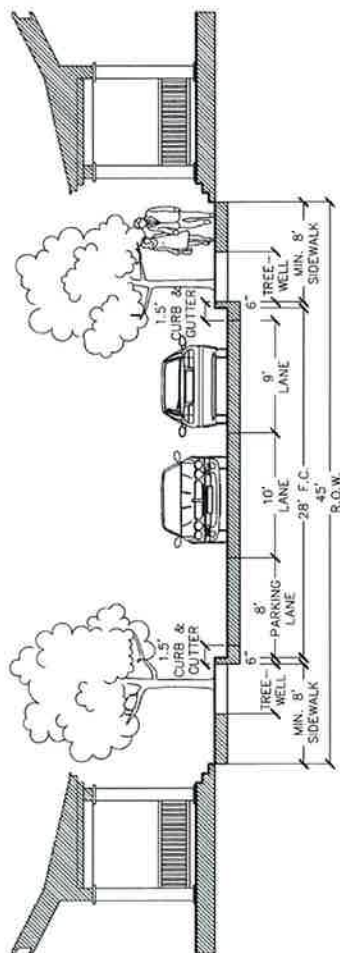
Paved Width:

Right of Way:

Sidewalks:

Greenspace:

< 300 vpd
One 10' lane,
one 9' lane
One 8' lane
28' from face of
curb
45'
Both sides of
street, min. 8'
wide with grated
tree wells against
curb
Both sides of
street, tree wells





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9c ST 43 8/10/8 *

Design Service Volume:

Traffic Lanes:

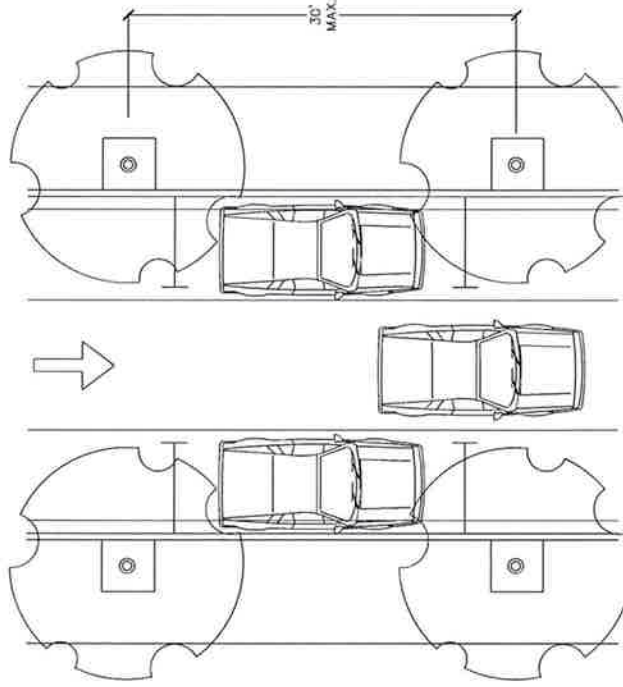
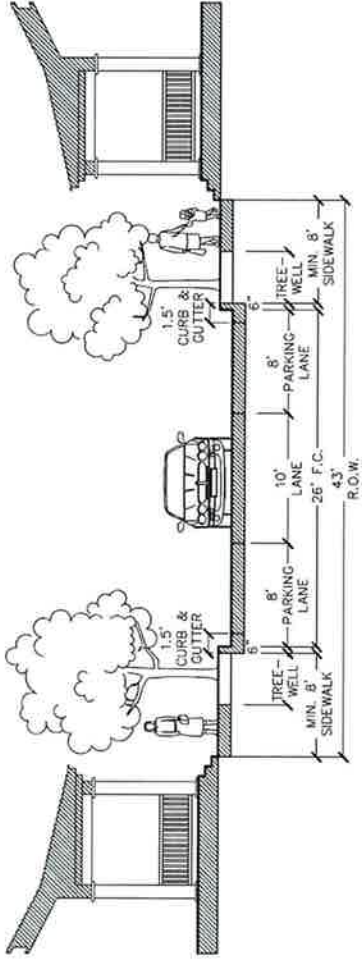
Parking:

Paved Width:

Right of Way:

Sidewalks:

< 4,000 vpd
One 10' lane
Two 8' lanes
26' from face of
curb
43'
Both sides of
street, min. 8'
wide with grated
tree wells against
curb
Both sides of
street, tree wells



* This street cross section is permitted only for portions of Locust Avenue and Meadow street in the Downtown Master Plan Area.

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9d ST 63 11/11/11/11

Design Service Volume:

Traffic Lanes:

Bicycle Lanes:

Parking:

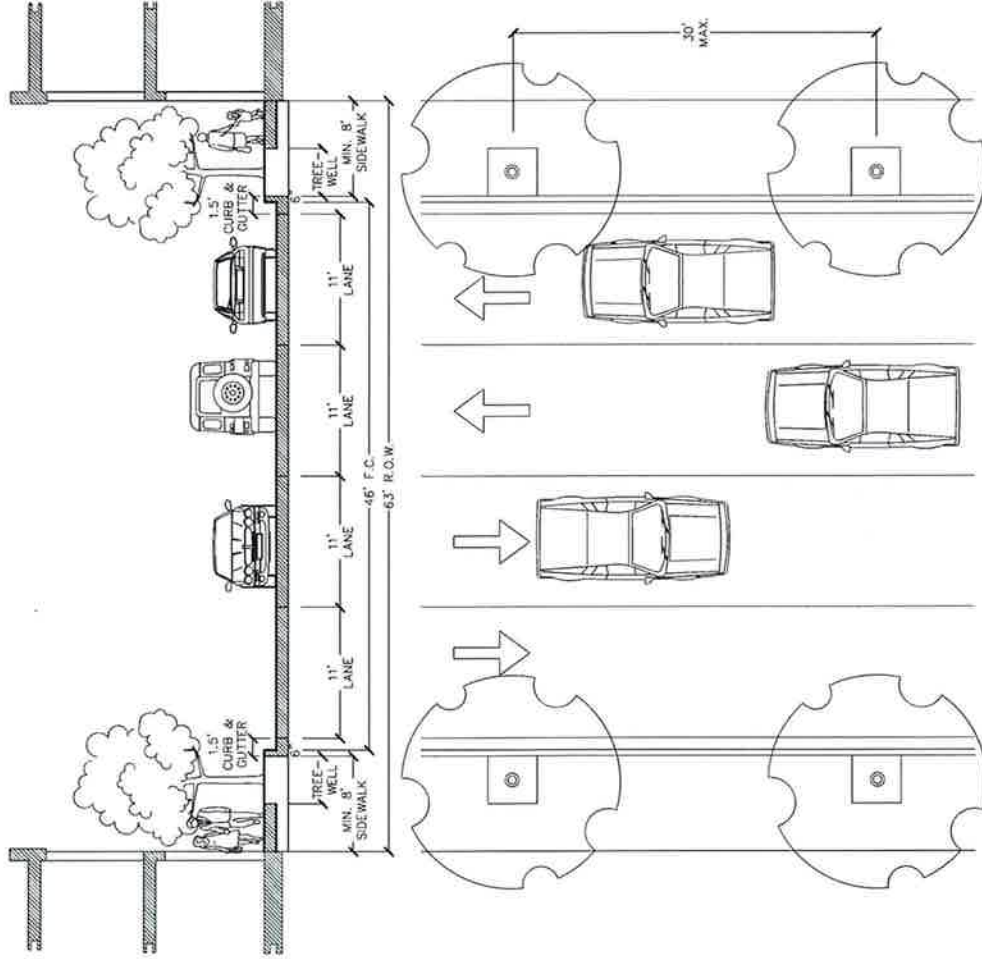
Paved Width:

Right of Way:

Sidewalks:

Greenspace:

<17,600 vpd
Four 11' lanes
None
None
46' from face
of curb
63'
Both sides of
street, min. 8'
wide with grated
tree wells against
curb
Both sides of
street,
tree wells



12.2.9

TWO-WAY SQUARE

The TWO-WAY SQUARE is designed to be utilized in town-square type scenarios, central to development, adjacent to mixed use with high volumes of pedestrian traffic. On street parking and high levels of pedestrian use keep vehicular speeds low.

10 TWO-WAY SQUARE

Design Service Volume:

Traffic Lanes:

Bicycle Lanes:

Parking:

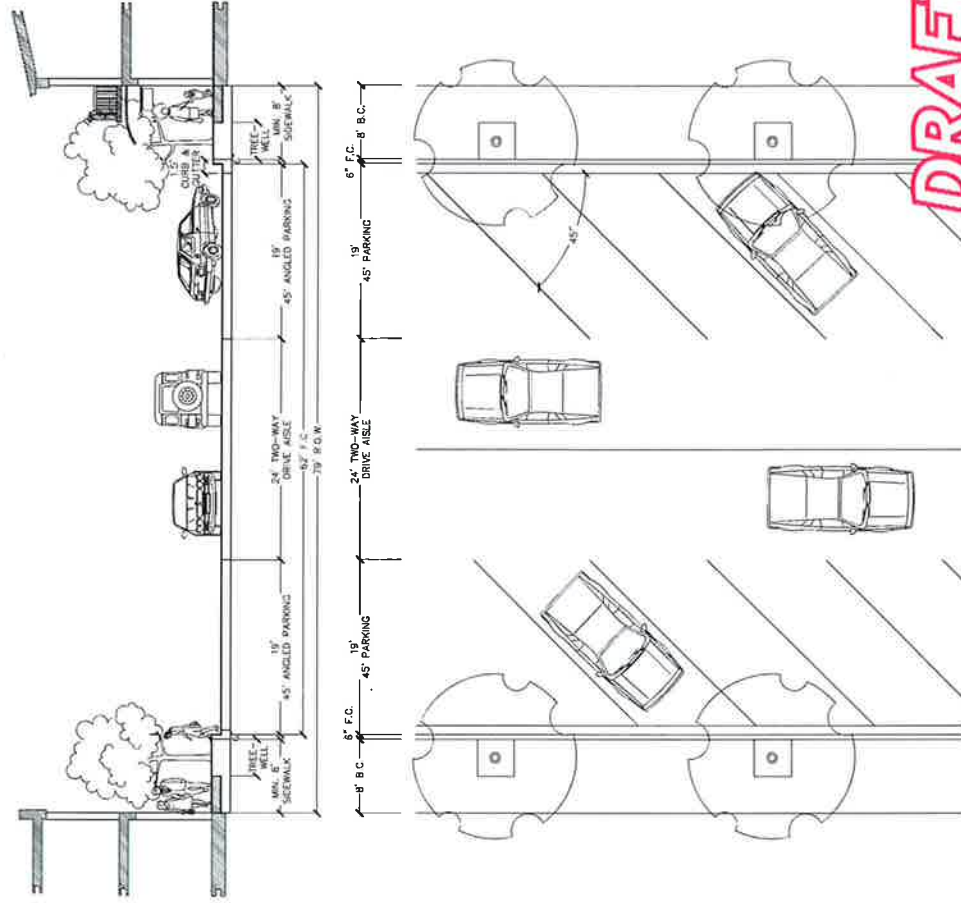
< 4,000 vpd
Two 12' lanes
Shared with motorist
lane
Two 19' lanes,
angled 45°, with
back in or pull in
62' from face of curb
79'

Paved Width:

Right of Way:

Sidewalks:

Both sides of street, min. 12' wide with grated tree wells against curb
Both sides of street, tree wells

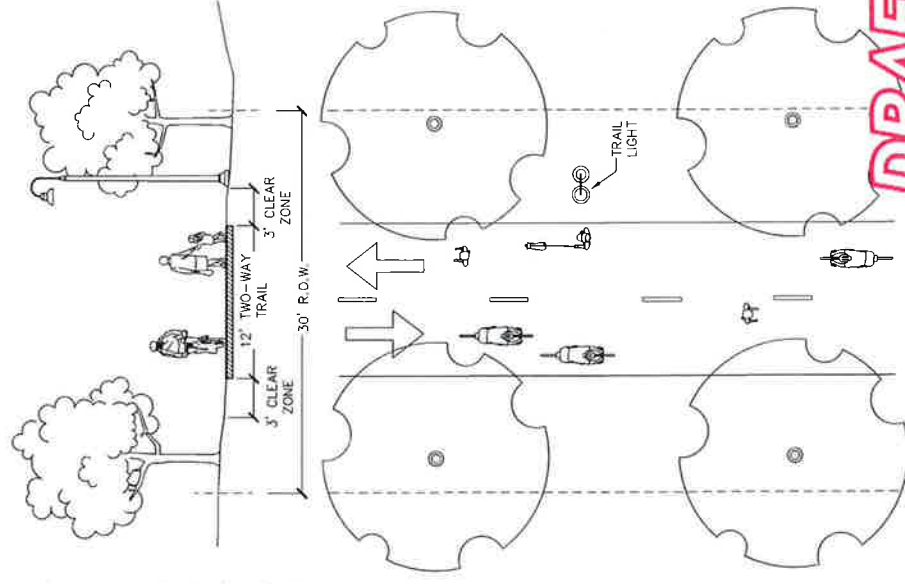


PAVED TRANSPORTATION TRAILS provide safe, alternative means of transportation for a variety of non-motorized uses. The Fayetteville Alternative Transportation and Trails Master Plan identifies trail corridors that connect neighborhoods, businesses, schools and parks. The goal of the Master Plan is to create an interconnected system of trails throughout Fayetteville to provide a network of alternative transportation routes for people of all ages to safely travel around the City. All transportation trails are constructed 12 feet in width in order to accommodate the high volume and variety of users including walkers, joggers, strollers, bicycles, wheelchairs, and any other non-motorized use.

ASPHALT TRAIL is used in areas where the trail is located above of the flood prone areas and away from vehicle traffic. Trail pavement should match the adjacent pavement surface when connecting to existing trail.

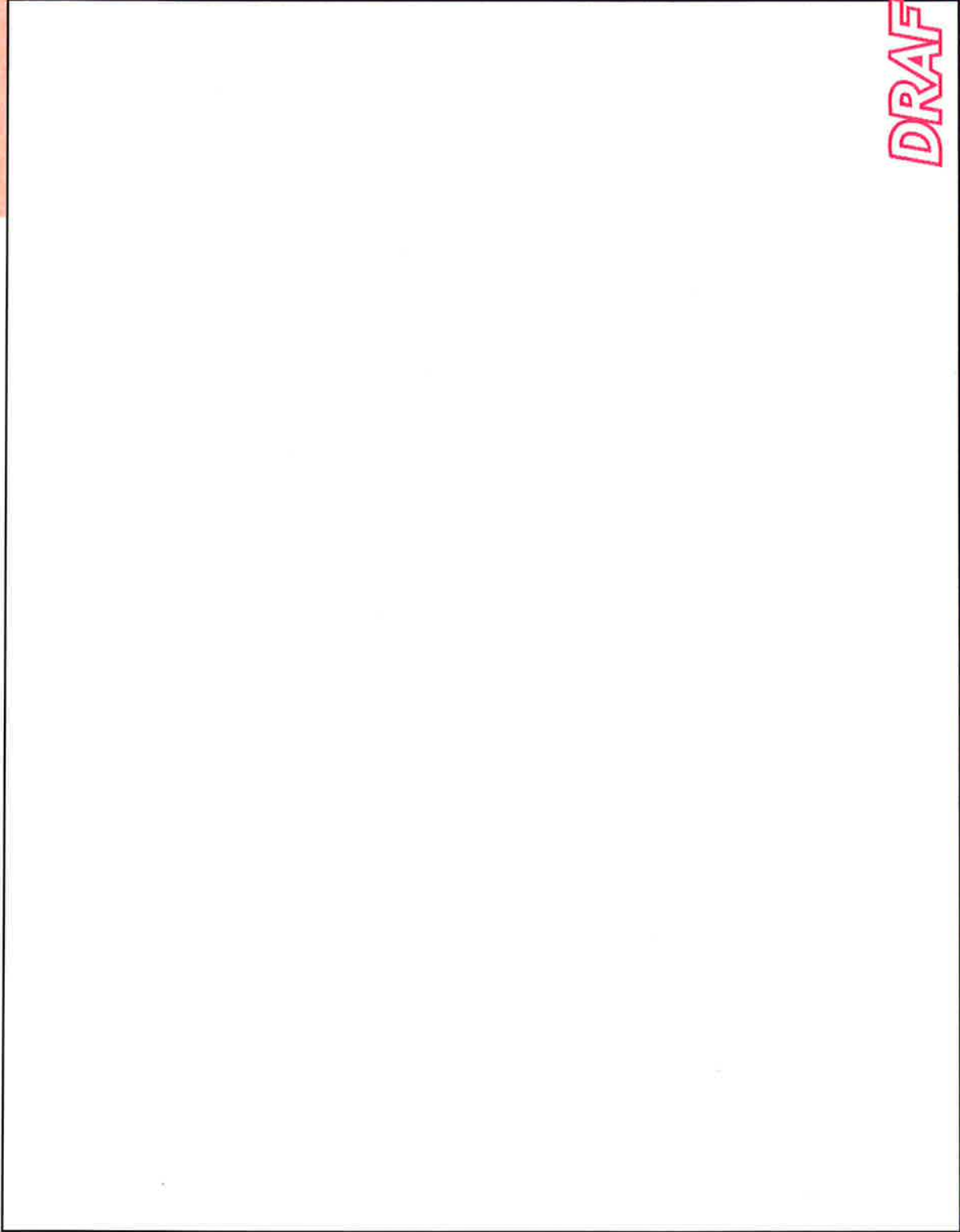
CONCRETE TRAIL is used when the trail is located in a flood prone area along a creek. Concrete holds up much better than asphalt when subjected to flood waters. Concrete is also used at road crossings including the ramps and other areas where increased durability is necessary. Trail pavement should match the adjacent pavement surface when connecting to existing trail.

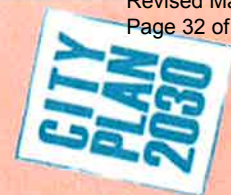
Desired Operating Speed: 15 mph
Travel Lanes: Two 6' lanes
Paved Width: 12'
Right of Way: 30' minimum
Greenspace: Both sides of trail





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Master Transportation Plan Guiding Policies

Circulation: Guiding Policies

In order to guide the formulation of a Master Transportation Plan and direct the Planning Commission regarding land use decisions which affect transportation issues, the following policies are suggested:

- 12.2.10.a Promote the coordinated and efficient use of all available and future transportation modes. (Goal 4)
- 12.2.10.b Meet the diverse transportation needs of the people of the City, including rural and urban populations and the unique mobility needs of the elderly and disability communities.
- 12.2.10.c Ensure the repair and necessary improvements of roads and bridges throughout the City to provide a safe, efficient and adequate transportation network.
- 12.2.10.d Minimize the harmful effects of transportation on public health and on air and water quality, land and other natural resources.
- 12.2.10.e Promote reliance on energy-efficient forms of transportation.
- 12.2.10.f Incorporate a public participation process in which the public has timely notice and opportunity to identify and comment on transportation concerns.
- 12.2.10.g Monitor and improve transportation facilities to conveniently serve the intra-city and regional travel needs of Fayetteville residents, business and visitors.
- 12.2.10.h Monitor the incidence of traffic accidents and implement physical and operational measures to improve public safety.
- 12.2.10.i Support mass transit which offers convenient and reliable alternatives to the automobile. (Goal 4e)
- 12.2.10.j Establish facilities which accommodate safe and convenient travel for pedestrians and bicyclists. (Goal 4e)
- 12.2.10.k Promote mixed-use and traditional neighborhood development to reduce roadway demand and change travel patterns. (Goal 3b, Goal 4)
- 12.2.10.l Encourage consideration of the impacts on the transportation network in land use decisions made by the Planning Commission.
- 12.2.10.m Periodically update the Master Street Plan in order to evaluate the context sensitivity and the appropriateness of right-of-way dedication requirements.
- 12.2.10.n Encourage the construction of sheltered bus stops and bicycle parking facilities at transit stops, shopping centers and employment centers.
- 12.2.10.o Support multi-modal transportation options such as trails, sidewalks, bike lanes and mass transit. (Goal 4)
- 12.2.10.p Promote the continued expansion of the City's trail network through proactive planning and the acquisition of trail easements. (Goal 4)
- 12.2.10.q Promote increased bicycle usage by providing integrated bicycle facilities on new and redesigned roadways, where appropriate. (Goal 4)



PC Meeting of May 2, 2011

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~April 19, 2011~~ Updated May 3, 2011

ADM 11-3776: Administrative Item (MASTER STREET PLAN 2030): Submitted by STRATEGIC PLANNING & INTERNAL CONSULTING to amend the Master Street Plan Map. Planner: Jesse Fulcher

Background:

The current Master Street Plan Map was adopted by Resolution No. 161-07 on September 4, 2007. The 2007 update focused on standardizing the street cross-sections, classifying streets within the Westside annexation area, and increasing the number of collector streets.

Updates:

An original goal of this update was to identify new streets on the Master Street Plan map based on the policies of the Access Management Ordinance, which sets recommended distances between local, collector and arterial streets. However, the level of detail provided by the Access Management Ordinance couldn't realistically be applied on the scale of the Master Street Plan Map. For that reason staff evaluated locations to add new collector streets, using a quarter mile grid as a guide. This allowed staff to strategically locate numerous new collector streets in areas with the highest development potential, even if that development is not intended to occur in the near future. Fewer streets were added in areas with limited development potential due to restrictive topography.

Another goal in the update was to create context sensitive streets. Context-sensitive street design looks at local conditions to determine the most appropriate street design that optimizes mobility and safety for all modes of travel. A one-size-fits-all design approach cannot be applied to every existing street. Accordingly, staff has included street corridor plans as an on-going action step in the City Plan document. Context-sensitive design principals, however, are applied to future collector and principal arterials streets.

Two new collector street cross-sections have been added to the document. Each utilizes the current 59' foot right-of-way, but street striping can be used to delineate either on-street parking or bicycle lanes. This allows the street function to change over time depending on the surrounding context and ensures a narrower travel lane and reduced vehicle speeds in areas that attract significant pedestrian traffic.

The second change was a further reduction in the right-of-way requirements for the minor and

principal arterial streets and the addition of a principal arterial cross-section that allows on-street parking in more urban environments. The additional area between the sidewalk and travel lane created by a bike lane or on-street parking provides a significant buffer between vehicles and pedestrians and allows the greenspace width to be decreased. The overall right-of-way for principal arterials has been reduced from 97 feet to 87 feet and from 85 feet to 77 feet for minor arterials.

Another important discussion centered on alleys, and how not only the design, but also parking and addressing can inhibit use by solid waste and emergency vehicles. Staff from Strategic Planning, Current Planning, Fire, Solid Waste and Engineering worked together to determine what issues were encountered in the field and how each of these could be addressed. A bullet-point list of requirements is now listed in the alley cross-sections that if provided, will allow solid waste collection in alleys. Language from the International Fire Code has also been included to clarify the use of alleys for one- and two-family developments as well.

12.2.1 Alleys

Alleys are used in conjunction with streets to provide rear access to properties, garages and off-street parking. Driveways connected to alleys should have sufficient depth to allow vehicles to park and not encroach into the alley right-of-way.

Solid Waste

Solid waste pick-up is allowed, subject to the following standards:

- "No parking" signs are installed at the entrance(s) and mid-block locations.
- Designated locations for carts and recycle bins are kept free of obstructions.
- Bulk hauling and brush collection is placed at the public street.
- A 20' driveway is provided between the garage/house and alley right-of-way.
- On-street parking is provided.
- Address numbers are installed on the front and rear of every structure.
- Minimum radius requirements are provided.
- Dead-end alleys are prohibited.

Fire Department

Alleys used in conjunction with single- and two-family units are not intended to serve as fire access roads when structures also adjoin a private or public street that provides the required fire access. Fire access roads shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

When an alley serves as the sole access, or when more than one access is required due to building height, condition of terrain, climatic conditions, the potential for impairment of a single road by vehicle congestion, or other factors that could limit access, alleys may need to be designed in accordance with the Arkansas Fire Code to support apparatus access, with approval from the fire code official.

Other updates to the cross-sections include:

- Modifying the Low Impact street section to allow flexibility in swale design.

- Addition of a front-end parking street section (Two-way Square) for urban environments.

Recommended Motion: Staff recommends forwarding **ADM 11- 3776 (Master Street Plan)** to the City Council with a recommendation for approval.

Planning Commission Action: ☒ **Forwarded** ☐ **Denied** ☐ **Tabled**

Motion #1: Winston (motion to downgrade Howard Nickell/Rupple Road to a Collector Street between W. Salem and HWY 112.

Second: Earnest

Vote: 5-4-0 (Commissioners Cabe, Bunch, Cook and Chesser voting 'No')

Motion #2: Winston (motion to forward MSP map)

Second: Hoskins

Vote: 8-1-0 (Commissioner Chesser voting 'No')

Meeting Date: ~~April 25, 2011~~ Rescheduled to May 2, 2011

Vote:

ADM 11-3774: Administrative Item (CITY PLAN 2030): Submitted by STRATEGIC PLANNING & INTERNAL CONSULTING to amend the Comprehensive Land Use Plan.

ADM 11-3775: Administrative Item (FUTURE LAND USE MAP): Submitted by STRATEGIC PLANNING & INTERNAL CONSULTING to amend the Future Land Use Map.

ADM 11-3776: Administrative Item (MASTER STREET PLAN): Submitted by STRATEGIC PLANNING & INTERNAL CONSULTING to amend the Future Land Use Map.

Jesse Fulcher, Current Planner, gave the staff report for all three City Plan 2030 items.

Public Comment:

Michael Mauldin, Salem Hills Estates, requested the commission downsize Howard Nickell road to a two-lane Collector and discussed traffic safety concerns.

Gregory Smith, Salem Estates Hills, agreed with the comments of Michael Mauldin and also requested speed tables on Howard Nickell.

Richelle Costrell, Salem Estates Hills, this is a big cut-through. She also requested to downgrade Howard Nickell.

Cliff (unaudible), Salem Estates Hills, 3634 Howard Nickell road, discussed traffic safety and requested to downgrade Howard Nickell.

Katie Jackson, Salem Estates Hills, discussed traffic safety and requested to downgrade Howard Nickell.

Flint Harris, Salem Estates Hills, discussed neighborhood integrity and requested to downgrade Howard Nickell.

(Unaudible), 3618 Howard Nickell Road, Salem Estates Hills, discussed traffic safety and requested to downgrade Howard Nickell.

Roy Slaughter, 3606 Howard Nickell, Salem Estates Hills, discussed traffic safety and requested to downgrade Howard Nickell.

Maggie Lee, Salem Estates Hills, discussed traffic safety and requested to downgrade Howard Nickell and asked if this were annexed would sewer be provided.

Public comment was closed.

Kit Williams, City Attorney, answered the question about sewer service discussing that the City would not automatically provide sewer service.

Commissioner Winston discussed the pros and cons of Howard Nickell as a Collector or Principal Arterial. He would like to propose it be downgraded to a Collector.

Motion #1:

Commissioner Winston made a motion to modify ADM 11-3776 Master Street Plan to downgrade Howard Nickell Road to a Collector only through the Salem Hills Neighborhood and it would remain a Principal Arterial on either side of the neighborhood (starting at West Salem Road and ending at Dean Solomon Road). **Commissioner Earnest seconded the motion.**

Commissioner Cook discussed reasons for disagreement with the motion, discussing a past traffic study, and the fact that eventually capacity will or may dictate that this road be improved to four lanes. He stated that it would be a disaster to go back on the plan at this point that has been in place for a number of years.

Commissioner Hoskins discussed that there are better routes for an arterial roadway in this area and conducted detailed evaluations of various routes during a project in this area.

Commissioner Chesser discussed that Wedington is a four lane road next to his neighborhood and he doesn't feel that it splits the area. If we downgrade this to a Collector we will have to upgrade another area to an arterial and we will have the same objections to other neighbors. He discussed that it seems more fair to keep the road as it is currently designated as it had this designation before this neighborhood was even built and if the arterial were reclassified in another location it would be affecting people who were not aware of it.

Commissioner Hoskins discussed that along Salem the houses are set back as far as 95 feet and discussed details of other alternative arterial routes.

Commissioner Chesser discussed that he might be able to support a re-classification of this road if we had another plan in place for the arterial to go somewhere else.

Commissioner Bunch discussed that even if we downgrade it now we will be stringing the neighborhood along because this will be re-considered in another five years. She stated that she doesn't think we can give this up now.

Commissioner Kennedy discussed that this will be an issue as long as this neighborhood is here.

Upon roll call the motion to downgrade Howard Nickell to a Collector through the Salem Hills Estates passed with a vote of 5-4-0 (commissioners Cabe, Bunch, Cook, and Chesser voting 'No').

Commissioner Earnest discussed that the proposed street grid in the Planning Area is in conflict with the primary goals in City Plan to encourage infill and discourage sprawl.

Motion #2:

Commissioner Earnest made a motion to remove all streets on the Master Street Plan in the northeast quadrant of the Planning Area. **The motion failed for lack of a second.**

Motion #3:

Commissioner Winston made a motion to forward ADM 11-3776 (Master Street Plan update) to City Council with a recommendation for approval. **Commissioner Hoskins** seconded the motion. **Upon roll call the motion passed with a vote of 8-1-0 (Commissioner Chesser voting 'No').**

*Planning Commission
May 2, 2011
Page 8 of 8*

Motion #4:

Commissioner Earnest made to amend ADM 11-3774 City Plan 2030 document to move the Benchmark of “Determine the feasibility of a Local Housing Trust Fund and Land Bank” to short term. **Commissioner Cook** seconded the motion. **Upon roll call the motion passed with a vote of 9-0-0.**

Motion #5:

Commissioner Earnest made to amend ADM 11-3774 City Plan 2030 to move the Benchmark of “Continue to develop and implement form-based codes...” to short term. **Commissioner Chesser** seconded the motion. **Upon roll call the motion passed with a vote of 9-0-0.**

Fulcher requested that the Commission incorporate a revision to the ADM 11-3774 City Plan 2030 document to incorporate language that Chapter 164 Nonconforming Structures of the Unified Development Code be evaluated.

Motion #6:

Commissioner Chesser made to forward ADM 11-3774 City Plan 2030 document to the City Council with a recommendation of approval with the amendment as requested by staff for evaluation of Chapter 164. **Commissioner Earnest** seconded the motion. **Upon roll call the motion passed with a vote of 9-0-0.**

Motion #7:

Commissioner Winston made to forward ADM 11-3775 Future Land Use Map to the City Council with a recommendation of approval. **Commissioner Chesser** seconded the motion. **Upon roll call the motion passed with a vote of 9-0-0.**

There being no further business, the meeting was adjourned at 7:10 PM.

Handed out
at the City
Council meeting

6-21-11

12.2.1 ALLEYS

Alleys are used in conjunction with streets to provide rear access to properties, garages and off-street parking. Driveways connected to alleys should have sufficient depth to allow vehicles to park and not encroach into the alley right-of-way.

Solid Waste

Solid waste pick-up is allowed, subject to the following standards:

- "No parking" signs are installed at the entrance(s) and mid-block locations.
- Designated locations for carts and recycle bins are kept free of obstructions.
- Bulk hauling and brush collection is placed at the public street.
- Building walls and projections are located at least 10' from the edge of the alley pavement. To prevent encroachment into the right-of-way, additional separation may be required if parking is provided between the building and alley.
- On-street parking is provided.
- Address numbers are installed on the front and rear of every structure.
- Minimum radius requirements are provided.
- Dead-end alleys are prohibited.

Fire Department

Alleys used in conjunction with single- and two-family units are not intended to serve as fire access roads when structures also adjoin a private or public street that provides the required fire access. Fire access roads shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

When an alley serves as the sole access, or when more than one access is required due to building height, condition of terrain, climatic conditions, the potential for impairment of a single road by vehicle congestion, or other factors that could limit access, alleys may need to be designed in accordance with the Arkansas Fire Code to support apparatus access, with approval from the fire code official.

CITY
PLAN
2030

DRAFT



PUBLIC VIEWPOINT: Planning Decision A Good One

Tuesday, June 21, 2011

NORTHWEST ARKANSAS — On May 2, the Fayetteville Planning Commission voted for neighborhood preservation, safety and fidelity to the city's core principles by amending the Master Street Plan for Howard Nickell Road. Our neighborhood, the Estates at Salem Hills, is deeply thankful to the Planning Commission. We have respectfully requested that City Council accept the Planning Commission's recommendation.

The previous map proposed to widen the road through the middle of our neighborhood to a four-lane principal artery. This would have destroyed the beautiful and cohesive community we have built. Downgrading the line on the map to a two-lane collector will preserve our community. This is a neighborhood with dozens of children and grandchildren biking and playing in front yards, annual block parties and Fourth of July celebrations - the kind of neighborhood that Fayetteville would want to preserve, in the city and its planning area.

The tangible threat to safety is clear by considering the accidents on Crossover, the only other principal arterial parkway on the Master Street Plan. Just last month, the city issued a press release regarding Crossover: "Police announce stepped-up enforcement to reduce injuries and crashes." Anyone visiting us can immediately see that a road like Crossover does not belong in the middle of our neighborhood.

The Planning Commission's action corrected a mistake made eight years ago, when this beautiful neighborhood was created with a ticking time bomb embedded in it.

This development was approved by the city, facing onto a proposed artery, instead of backing onto it. There are 16 curb cuts from our driveways onto the proposed artery, grossly inconsistent with the city's access management policy - a symptom of the larger mismatch between this neighborhood and the artery. As one of the current planning commissioners pointed out, this neighborhood never would have been approved today, facing onto a principal artery.

The city does have a legitimate need for connectivity, but the strategic plan says this should be accomplished by a grid of smaller roads. As City Plan 2030 states, "Two two-lane roads are better than one four-lane road." We have quite an ample such grid planned for this part of town, as the revised Master Street Plan shows. These current documents reinforce the city's 2003 traffic study, commissioned at a cost of \$250,000, which recommended keeping our road at two lanes for its 2023 plan.

The Planning Commission's May 2 vote to amend the map was the culmination of four years of efforts by our neighborhood, at dozens of meetings of the City Council, Street Committee and Planning Commission. It was a vote for safety, neighborhood integrity and distributed traffic flow - all core principles of Fayetteville.

That is why we have requested the City Council to approve the revised Master Street Plan, as recommended by the Planning Commission.

BOB COSTRELL / Fayetteville

Opinion, Pages 5 on 06/21/2011

Master Street Plan: Howard Nickell Rd.

Bob Costrell

3683 Howard Nickell Rd.

Fayetteville, AR 72704

Estates at Salem Hills POA

City Council Meeting, June 21, 2011

Thank you, Planning Commission !

PC devoted many hours & much effort to this issue.

- 7 of 9 members: individual site visits to neighborhood
- 3 agenda/wkg meetings discussed HN (1/28, 2/14, 4/21)
- 3 meetings discussed Howard Nickell (3/28, 4/11, 5/2)

Final vote reflected many concerns

Downgraded Howard Nickell from 4 lanes to 2

Core Principles for Fayetteville

- Neighborhood Preservation
- Safety
- Distributed Traffic Flow

“Two 2-lane roads are better than one 4-lane road”

Our Neighborhood

- 23 families
- Active POA
- Annual block parties, 4th of July fireworks
- Dozens of children & grandchildren
- Not designed for artery through the middle

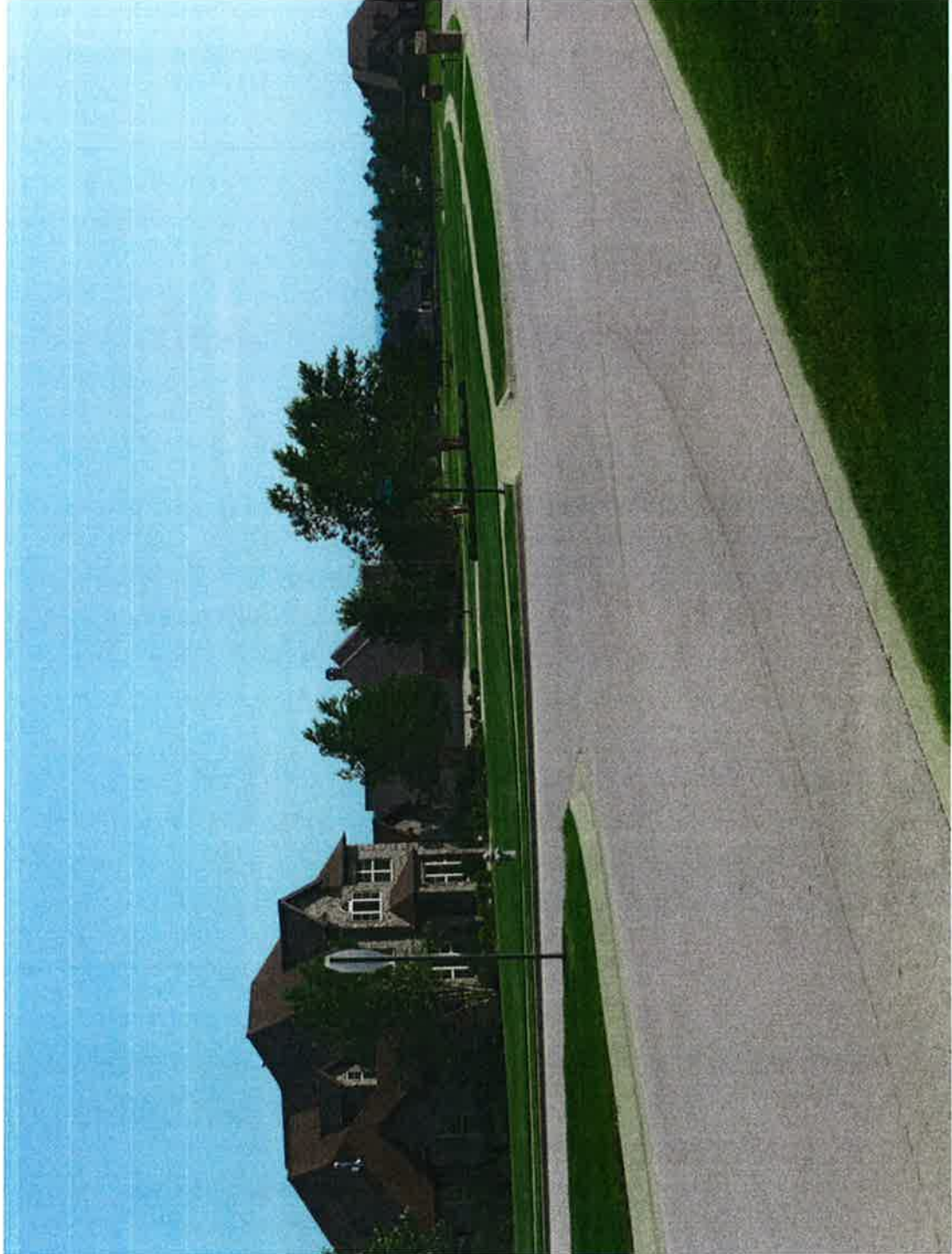
Our Neighborhood: Roy's & Susan's House



Getting Ready for the Grandkids



Mike's & Angel's House



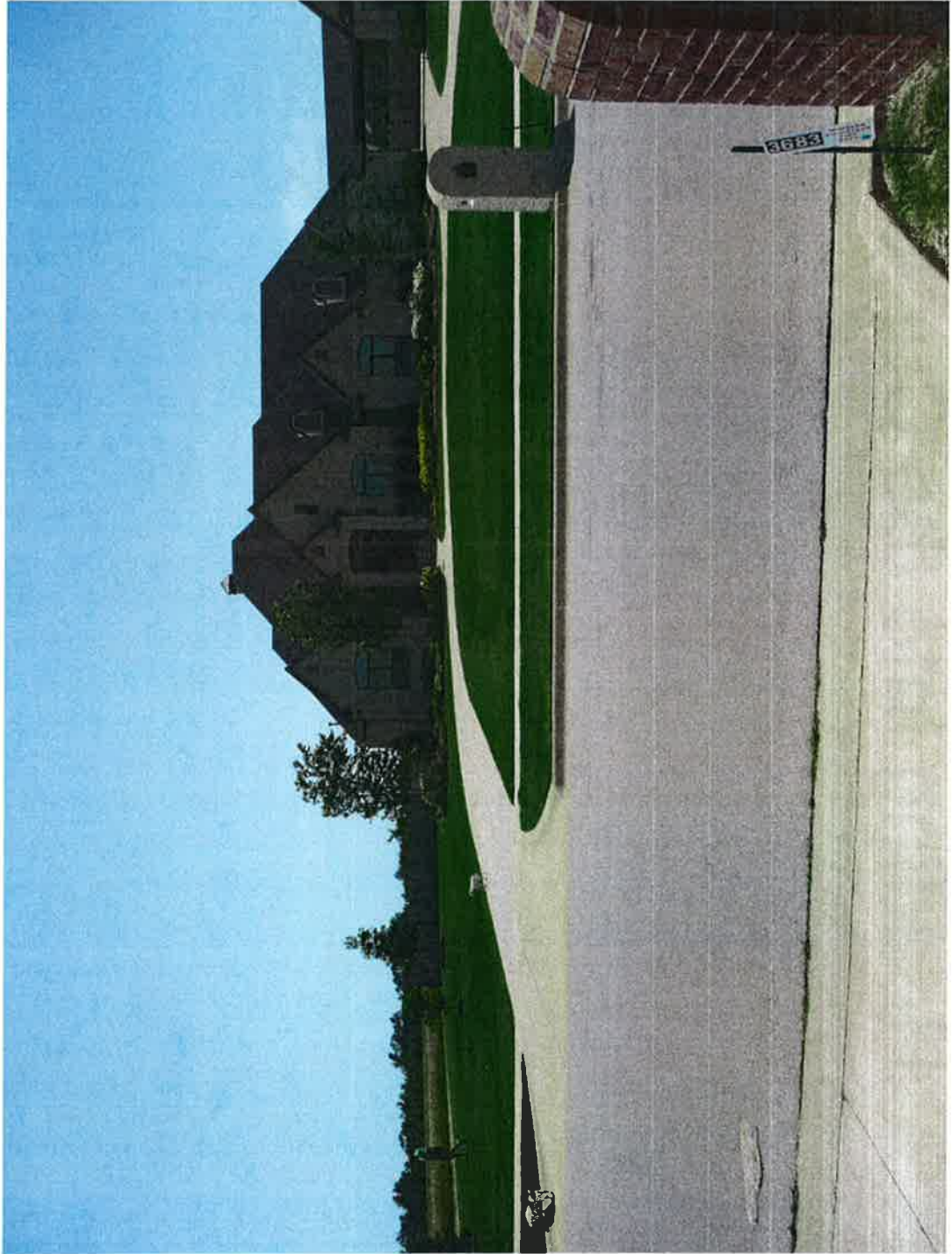
T.A.'s House



Heading into the Curve



Rick's & Ashley's House

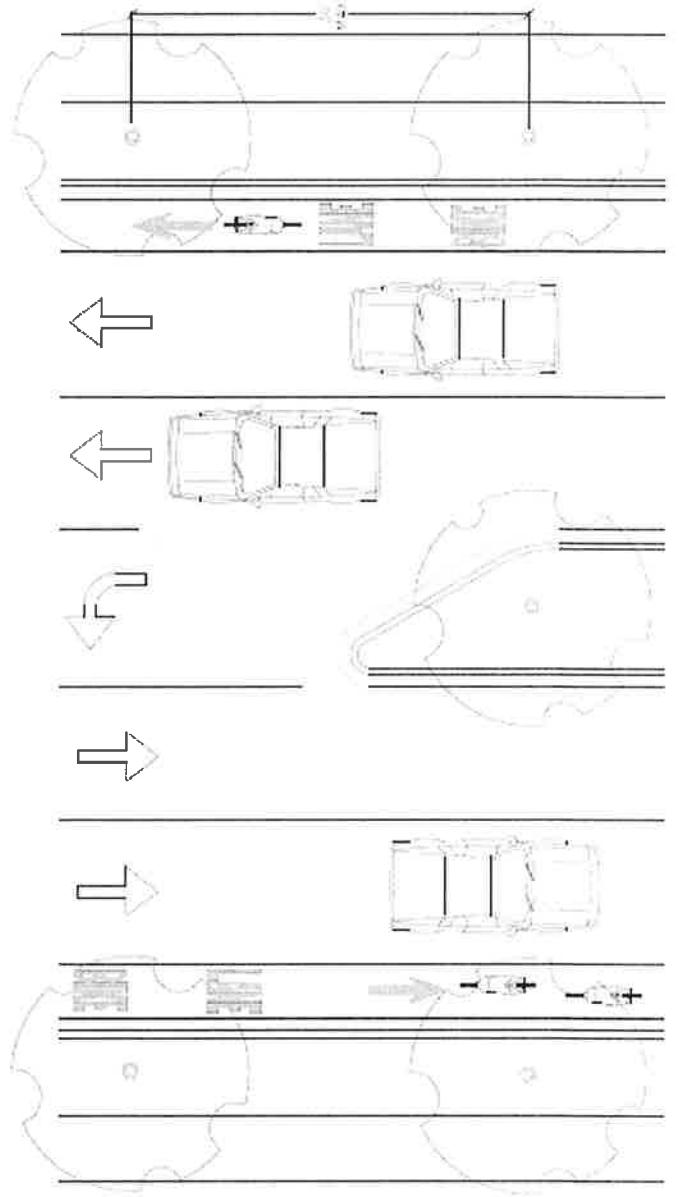
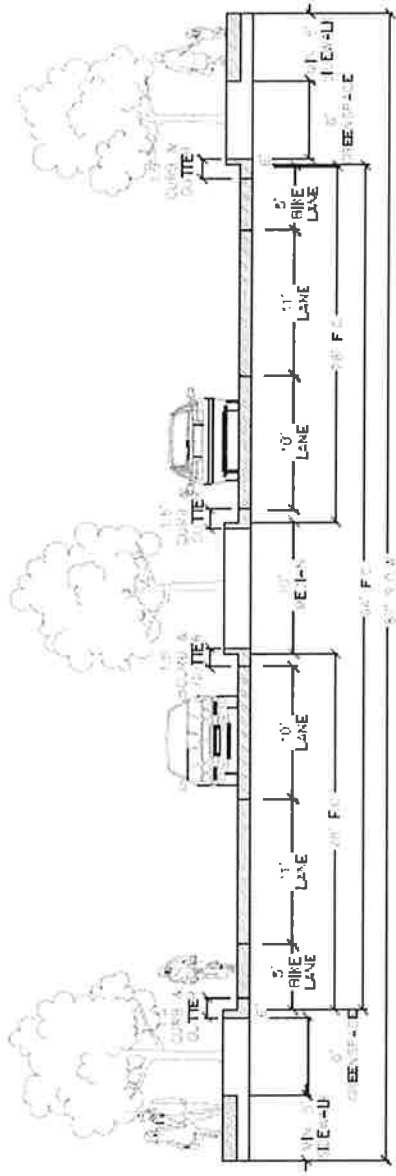


Our House – and the first likely victim



What Would Neighborhood Look Like?

PRINCIPAL ARTERIAL BOULEVARD (WITH BIKE LANES)



What Would Neighborhood Look Like?



Inside of Sidewalk

Curb

What Would Neighborhood Look Like?

- Only other Principal Arterial Pkwy: Crossover
 - The analogy with Garland by UA is misleading
 - Garland ends at Maple
 - the artery's purpose is to get *through* neighborhood *fast*
- Imagine Crossover through our neighborhood

Crossover: not the busy part



Crossover: we would have trucks, too



Crossover: well, not *very* busy



Safety



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
POLICE DEPARTMENT
100-A West Rock Street
Fayetteville, AR 72701
P (479) 587-3555 F (479) 587-3522



NEWS RELEASE

FOR IMMEDIATE RELEASE: May 11, 2011

Contact: **Craig Stout**
(479) 587-3580

RE: POLICE ANNOUNCE STEPPED UP ENFORCEMENT TO REDUCE INJURIES AND CRASHES

The Fayetteville Police Department announced today they would begin directed traffic enforcement in an effort to reduce vehicle accidents on Crossover Road (Hwy 265).

Neighborhood Design

- Approved in 2003
- **Facing onto road**
 - Should back onto road for principal artery
- Artery would divide & destroy neighborhood
- Planning Comm has corrected this mistake

Mismatch Between Neighborhood & Artery



Original stipulation:
5 curb cuts

Approved for:
8 cuts

Amended to:
9 cuts

Today:
16 cuts

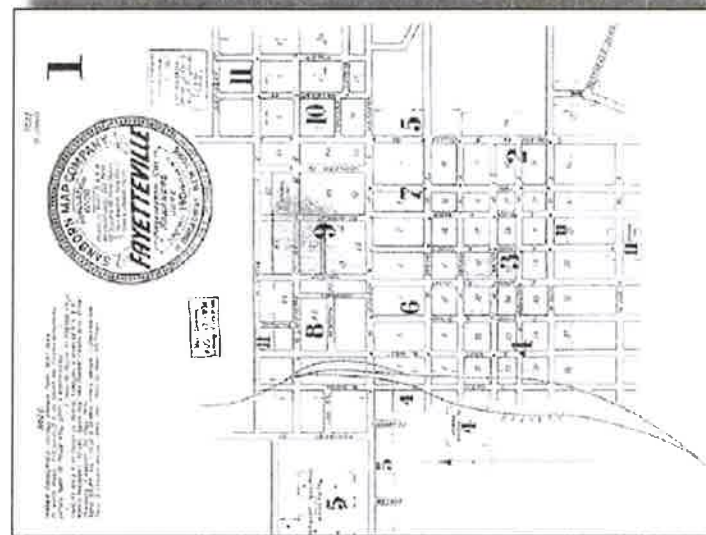
Future:
17-18 cuts

Distributed Traffic Flow

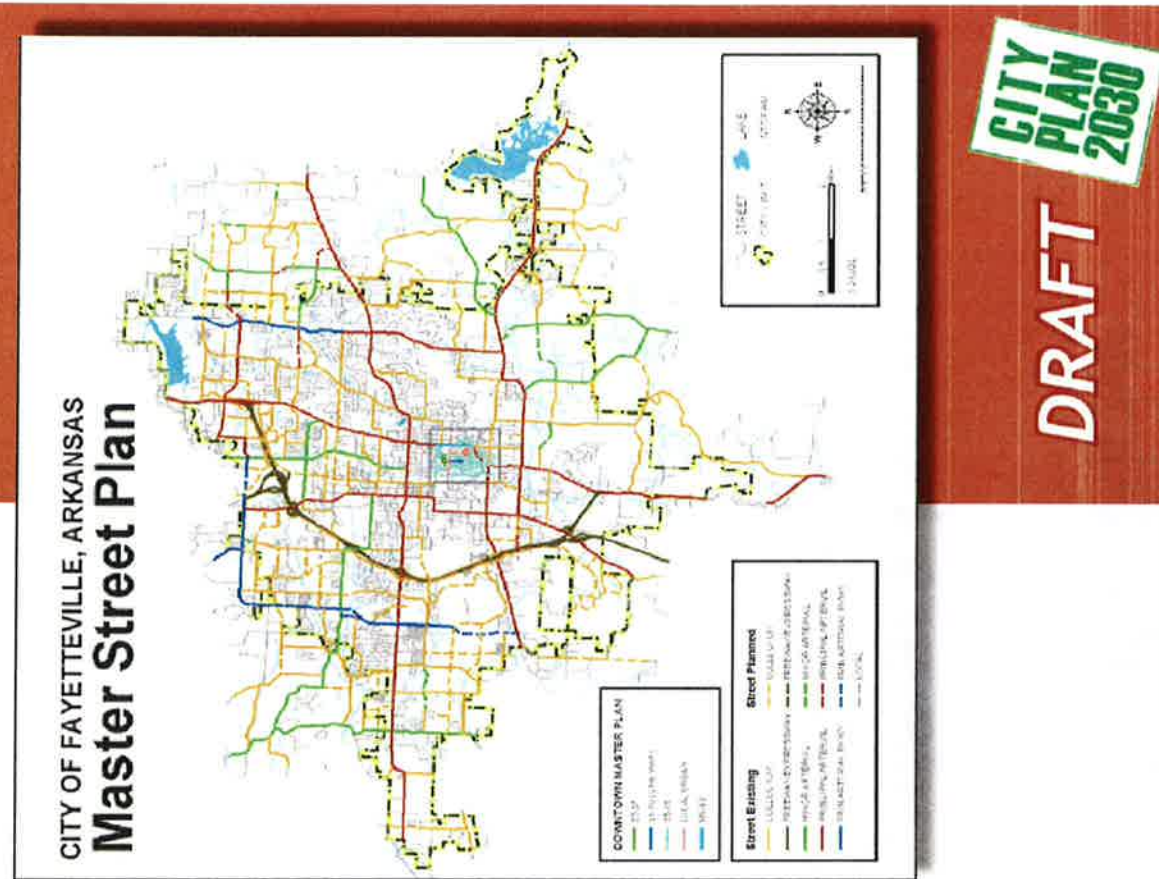
**“Two 2-lane roads are better
than one 4-lane road”**

c. **Plan & construct multiple corridors instead of single oversized ones**

An interconnected network of streets offers motorists a variety of options to get from one destination to the next. Generally, more streets per square mile result in a more open network and drivers can avoid the degree of peak hour congestion that occurs when a limited number of large streets become congested. **Two two-lane roads are better than one four-lane road.** Traffic can be easily dispersed within a road network, rather than all motorists having to depend on one major thoroughfare.



1910 Sanborn Map, Downtown Fayetteville



Fay's 2003 Traffic Study called for 2 lanes for 2023

City of Fayetteville, Arkansas Traffic and Transportation Study
Executive Summary

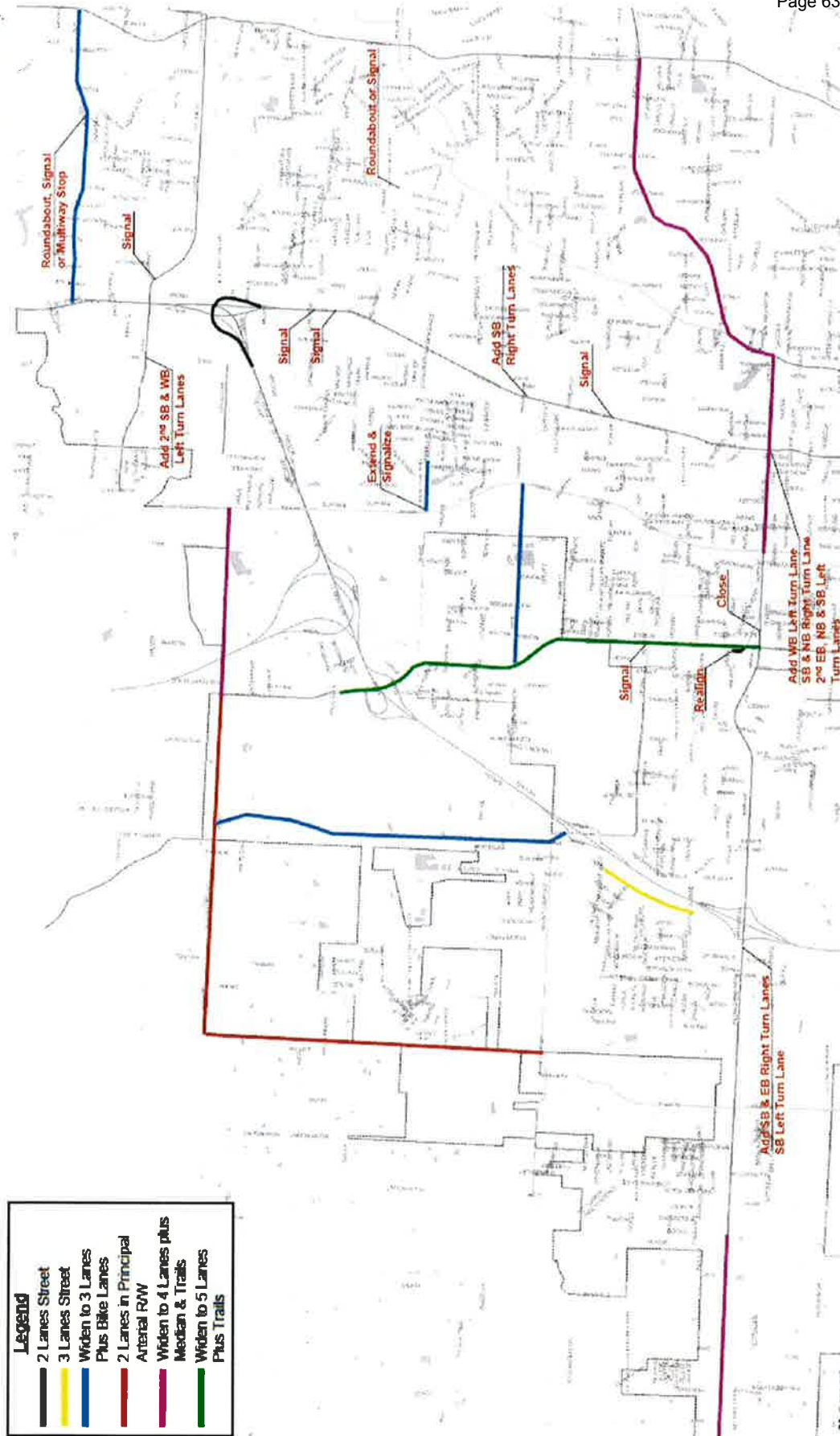


FIGURE ES-4 Long Range (2023) Traffic Improvements

ES-4 Long.pdf

BUCHER, WILLIS & RATLIFF ES-7
CORPORATION

[illegible]

Thank you, City Council

For the time and effort you have spent on this issue, listening, speaking, and working with us, not only in recent weeks, but over the 4 years we have been coming to you.

Master Street Plan: Howard Nickell Rd. 7/5/11 Presentation

Bob Costrell
3683 Howard Nickell Rd.
Fayetteville, AR 72704
Estates at Salem Hills

Core Issues

- Neighborhood Preservation
- Safety
- Distributed Traffic Flow

“Two 2-lane roads are better than one 4-lane road”

Fayetteville Council of Neighborhoods (FCON)

- May 26: heard presentations by city staff & our POA on this issue.
- June 30: voted to recommend **revised** MSP, as recommended by the Planning Commission
- **Reason:** Neighborhood Preservation

City Staff's Presentation, 6/21/11

City staff response to “neighborhood” & “safety” is:

- **“Context Sensitive Design”**
 - Purports to address “aesthetics” & safety
 - Examples: Little Rock, Sacramento, Portland

“Context-Sensitive Design”

The facts will show:

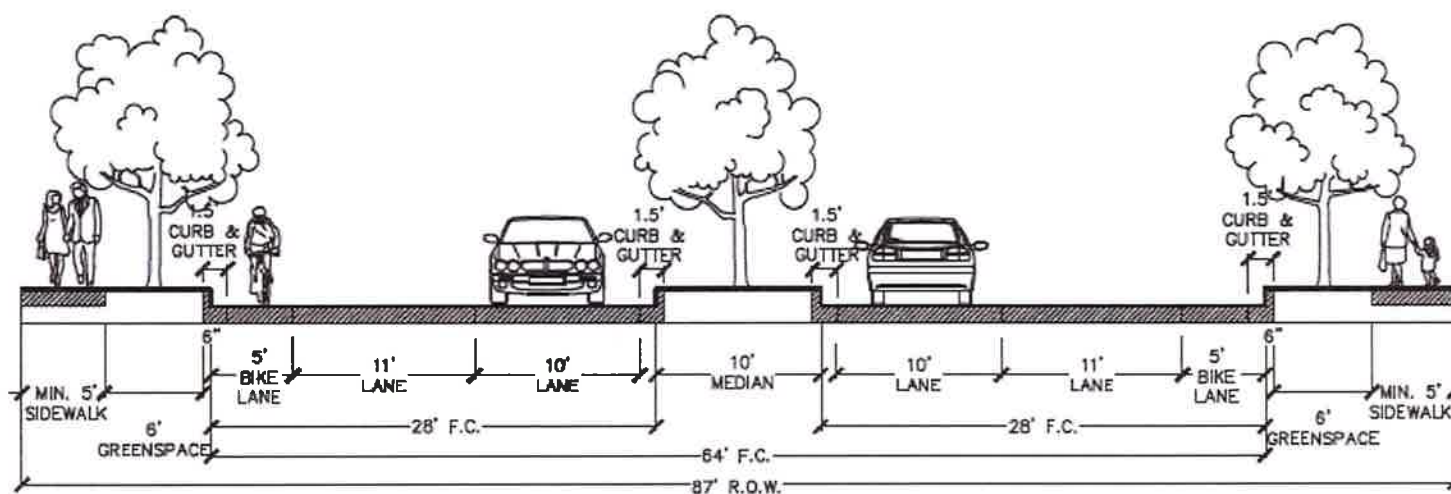
- The “boulevards” presented look **nothing at all** like the City’s X-section

City staff’s claim for safety is unsupported:

- Median does nothing for safety – may hurt it
 - Planning Commissioner: danger of U-turns into speeding traffic

“Context Sensitive Design”

- 87' Cross-Section
- 10' Median Strip
- 54' Pavement

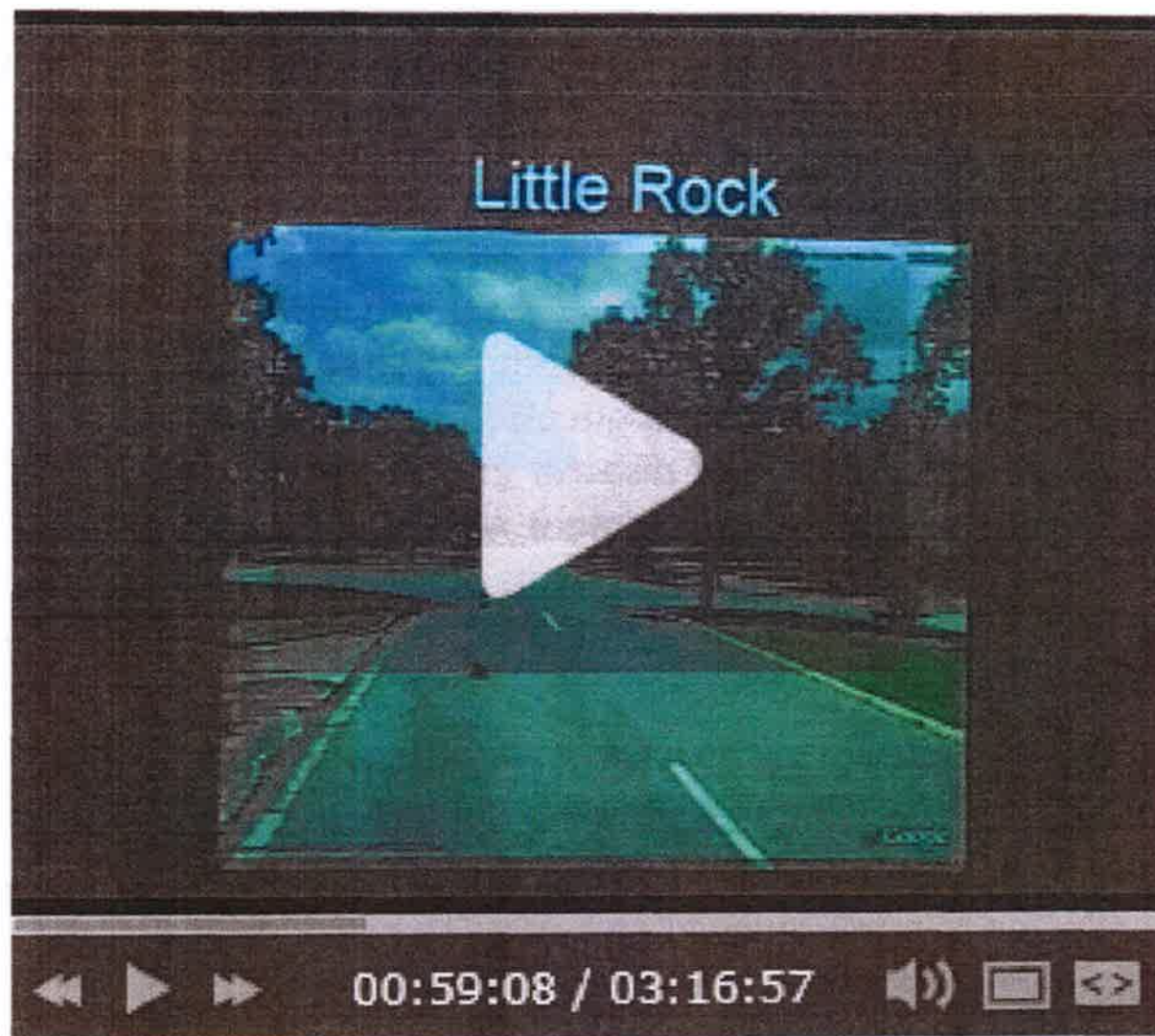


Note: 28' F.C. seems mistaken. Should be 27'.

Examples Given

- Pleasant Valley Drive, Little Rock
- T Street, Sacramento
- unnamed street, Portland

City Presentation: Little Rock



City Council Meeting

Google Earth. The spot depicted is: Pleasant Valley Drive & Shenandoah Valley Drive



Measuring Cross-Section

Google map provides direct overhead, with scale, so accurate measurements can be made, with ruler. Scale does not reproduce on printout, unfortunately. However, scale was accurately measured on-screen. Thus, measurements shown below are accurate. Viewer can roughly verify using road lane widths.

Cross-Section: Pleasant Valley Dr. @ Shenandoah



Cross-Section: Pleasant Valley v. Fayetteville

Cross-section (sidewalk-to-sidewalk):

150' vs. 87'

Cross-section is not “about the same.”

Does not fit in Fay ROW.

Curb-to-curb:

87' vs. 64'

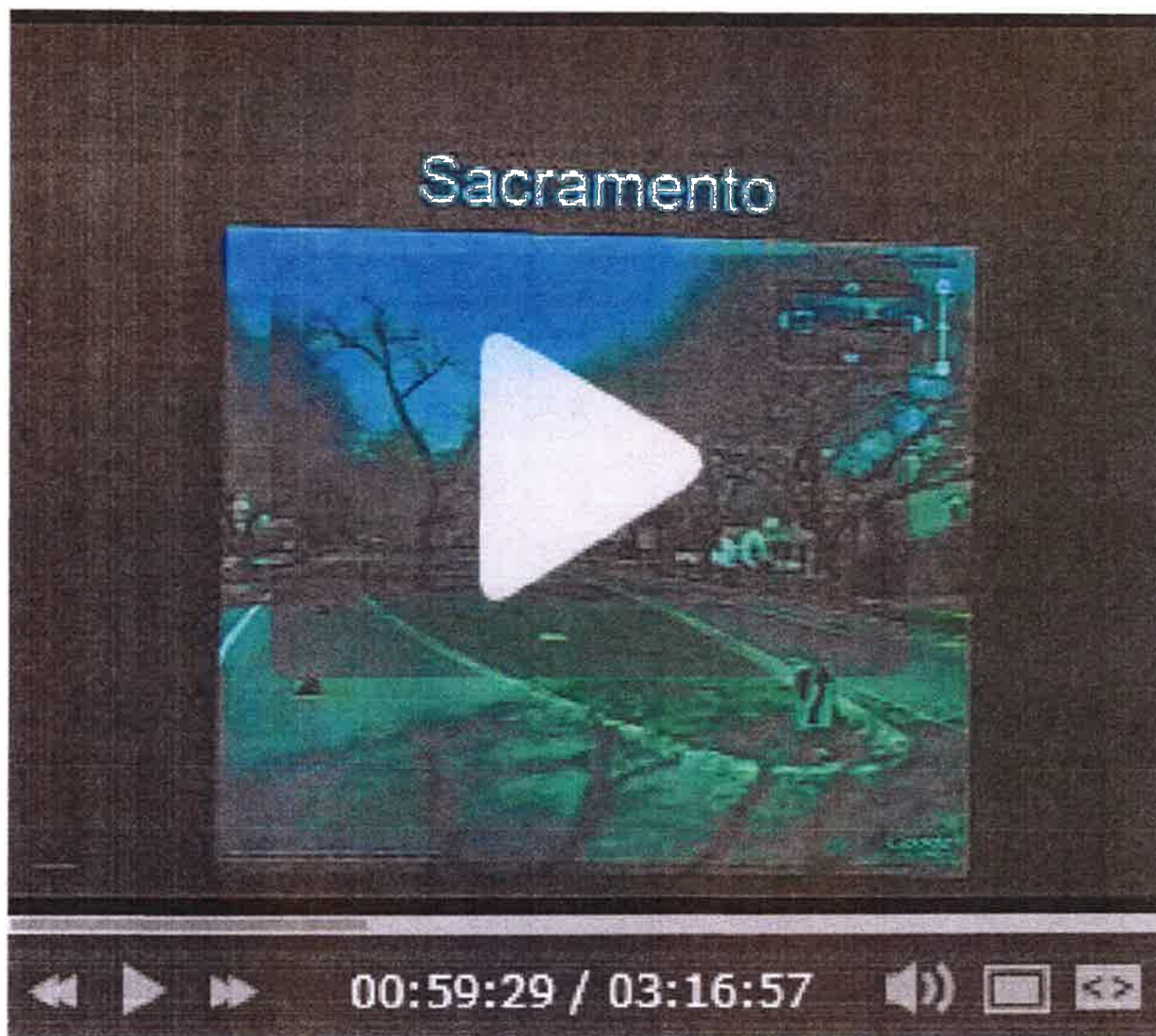
Does not fit in Fay plan

Median strip:

39' vs. 10'

Pleasant Valley is much greener

City Presentation: Sacramento



City Council Meeting

Google Earth. The spot depicted is:
T Street at 44th Street



Street Type

T street is a city street with 2 parks in the middle.

Spot depicted is entering Sunset Park from the east.

T Street: A City Street with 2 Parks in the Middle



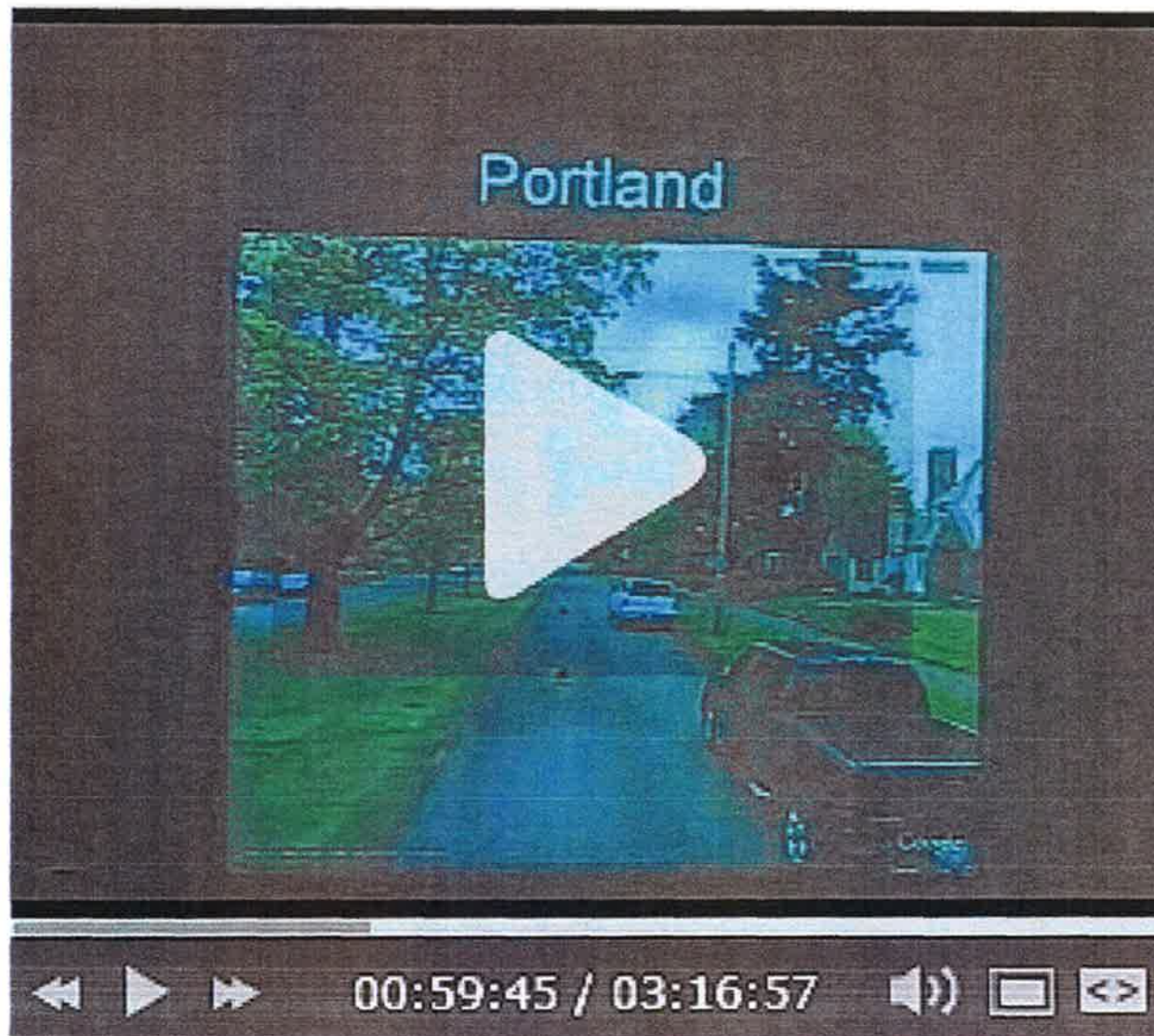
Cross-Section

There is no similarity between Fay's cross-section for a principal artery and that of a city road with a park in the middle.

Sunset Park on T Street: 57' median vs. 10' for Fay



City Presentation: Portland



City Council Meeting

Cross-Section

Street was not identified, so unable to google cross-section.

However, the median appears wider than 10' and the pavement appears narrower than 27'.

X-Section with 10' Median on Ruppel Rd

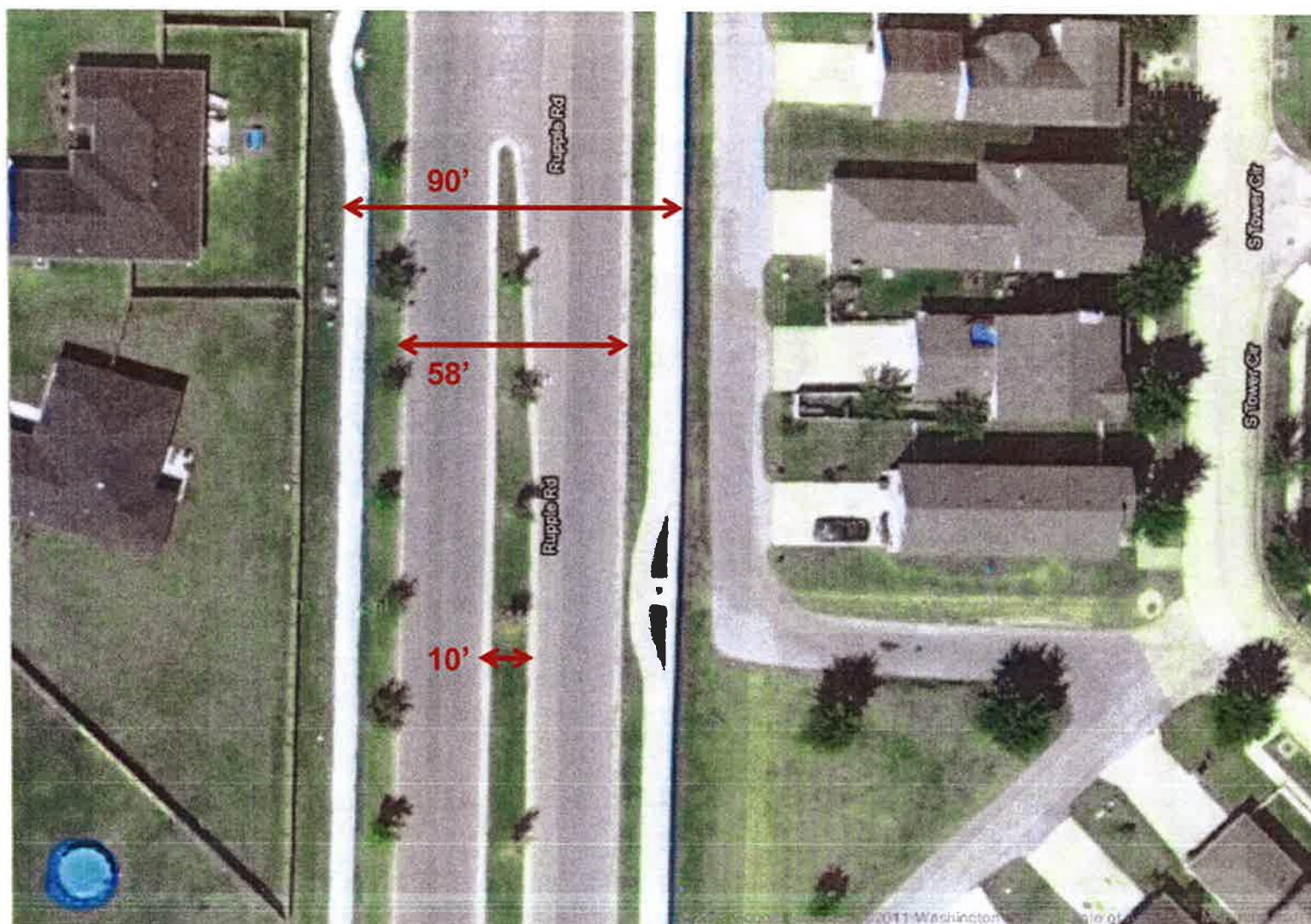
- City has laid out part of Ruppel with similar X-sec
- Section below the dead end, by Clabber Creek
- Prototype for our neighborhood
- But houses back onto it
- Road through HN will run at considerably higher speed than it does on dead end portion of Ruppel

Cross-Section: Ruppel Road at Clabber Creek



Note: all houses **back** onto the road
Looks nothing like the examples presented.

Cross-Section: Ruppel Road at Clabber Creek



HN proposal has even more pavement: 64' vs. 58' curb-to-curb

Cross-Section: Ruppel Road at Clabber Creek



Note: dead-end at top.

“Boulevard”: window dressing for high speed road to-be

What Would Median Strip do for Safety?

- Imagine Crossover through our neighborhood
- Now imagine Crossover with a 10' median strip
- Why would this be safer?

Crossover: what difference with a median?

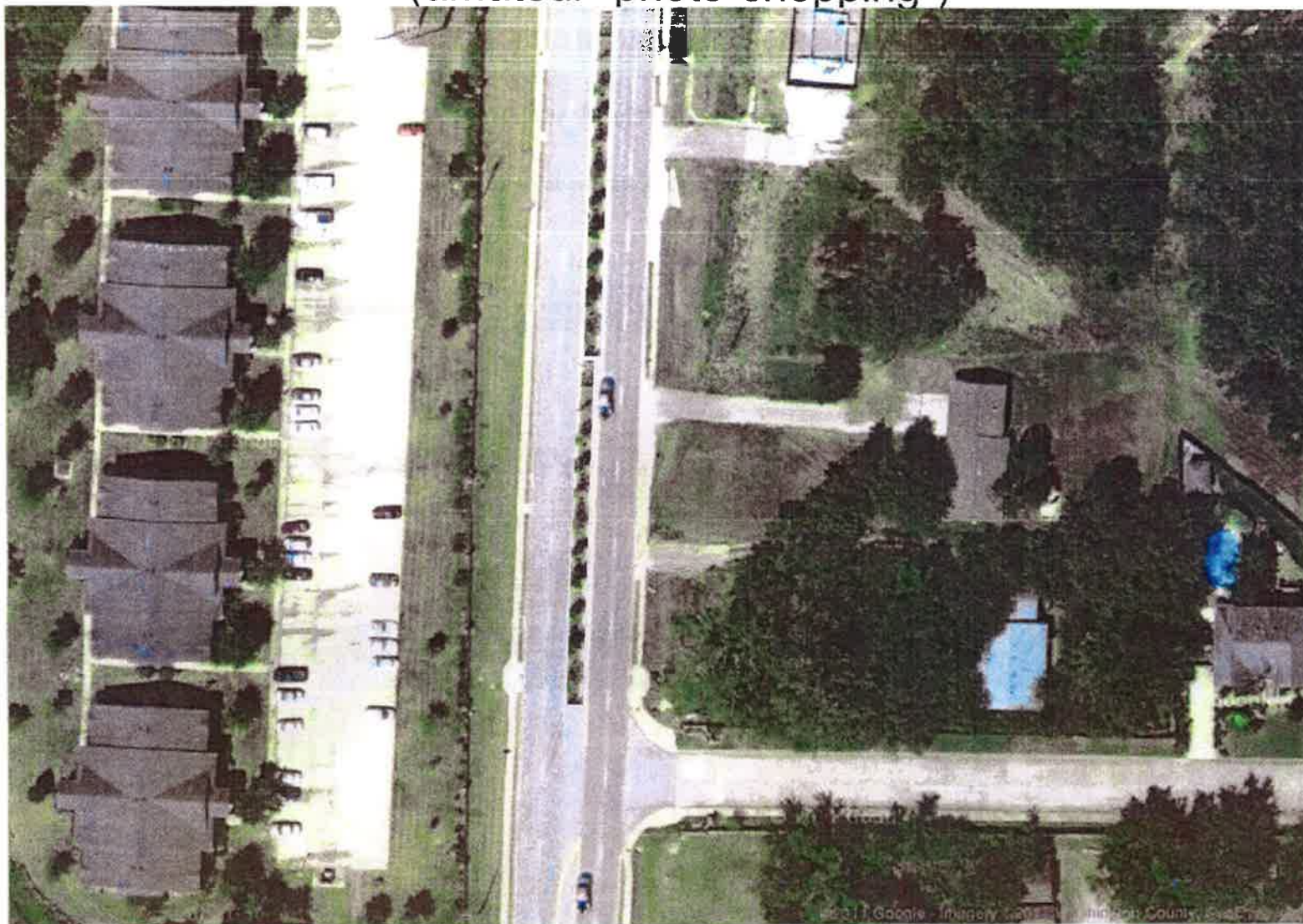


Cross-Section: Crossover near Deerpath



Middle lane is 11'. Median of 10' would fit.

Cross-Section: Crossover with 10' Median (amateur "photo-shopping")



HN proposal has even more pavement: 64' vs. 58' curb-to-curb

Would median strip make Crossover safe?



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS



POLICE DEPARTMENT

100-A West Rock Street

Fayetteville, AR 72701

P (479) 587-3555 F (479) 587-3522

NEWS RELEASE

FOR IMMEDIATE RELEASE: May 11, 2011

**Contact: Craig Stout
(479) 587-3580**

***RE: POLICE ANNOUNCE STEPPED UP ENFORCEMENT TO REDUCE INJURIES
AND CRASHES***

The Fayetteville Police Department announced today they would begin directed traffic enforcement in an effort to reduce vehicle accidents on Crossover Road (Hwy 265).

Summary: Neighborhoods & Safety

- “Context-sensitive design” is a fig leaf to pretend this will not hurt our neighborhood.
- **This would be destructive of our neighborhood**
 - The old map puts Crossover with 10' median (+ 6' more pavement) through our neighborhood
- **This would impair safety in our neighborhood**

City Staff's Presentation, 6/21/11

- \$ Millions spent or committed on corridor
 - Projects cited: van Asch & Rupple South to MLK
- Argument seems to be that these expenditures are predicated on 4-lane artery through our neighborhood, i.e. money was wasted otherwise

Response to Staff on Expenditures

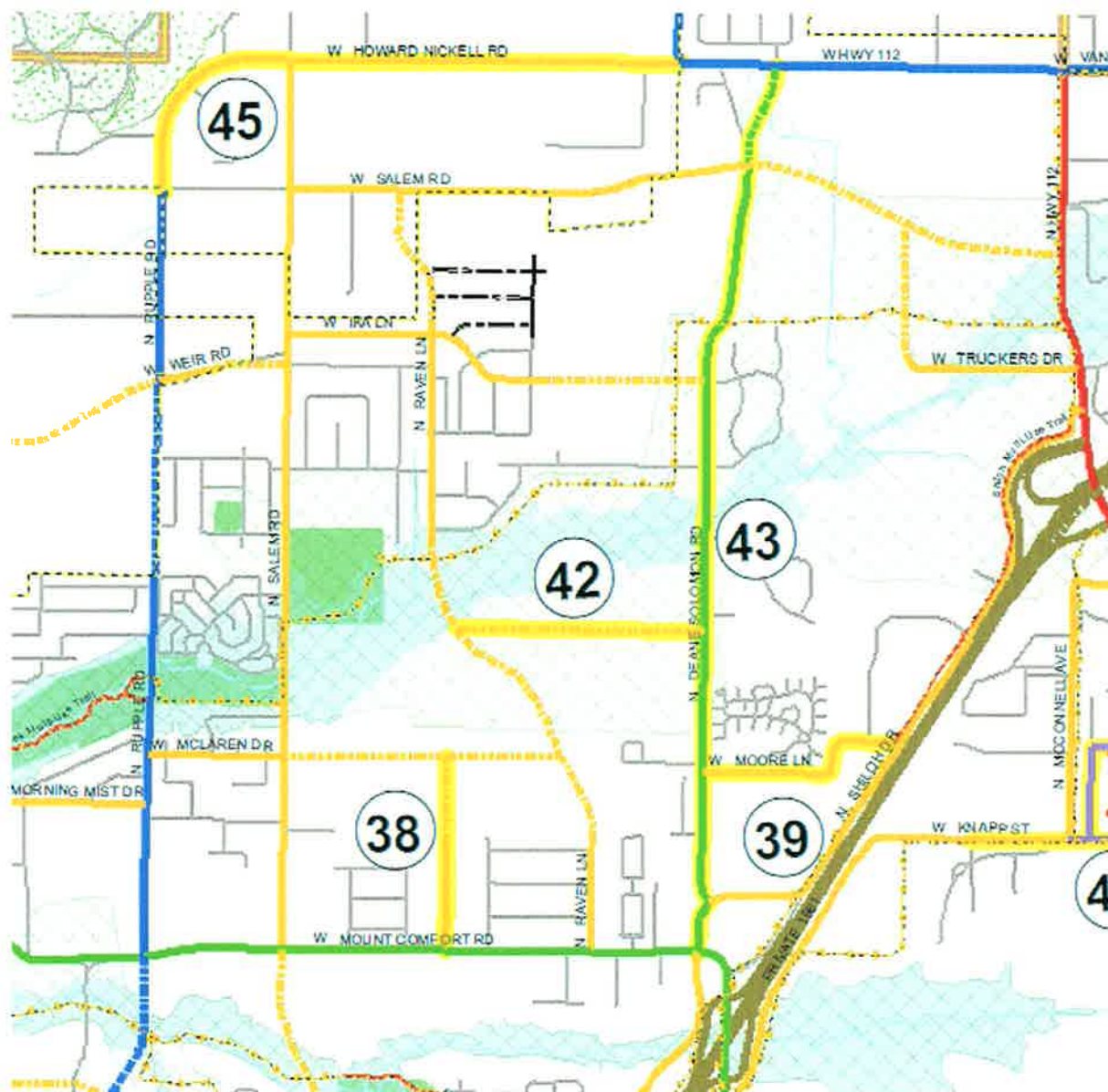
Value of projects **not** contingent on 4-lane thru HN

- City's stated view of prospects for 4-lane through HN:
 - "distant future, if ever"
 - "no plans to seek funding"
 - "no plans to annex"
- **Not credible to claim millions spent on such speculative basis**
- Van Asch to 112: a good thing on its own merits
- Ruppel north from MLK: feeds multiple routes east
 - Including multiple routes in northwest, shown on MSP
- Map for "Transportation Improvement Program"
on city website does not even show our neighborhood

“What if two 2-lanes is not enough?”

- **Question presumes grid will be tried first**
- **Planning for a 4-lane through HN will discourage development of proposed 2-lanes**
 - Yellow dotted lines will be less likely to become solid
- Proposed MSP has more than two 2-lanes.
It also has 4-lane on Deane Solomon
- Planning for “what if” can become
Planning “what is to be”

Revised Map Has Rich Grid



Thank you, City Council

For the time and effort you have spent on this issue, listening, speaking, and working with us, not only in recent weeks, but over the 4 years we have been coming to you.

**Please keep the new map,
as recommended by the Planning
Commission and the Fayetteville
Council of Neighborhoods**

City of Fayetteville Staff Review Form

C. 1
CDBG Reimbursement
Page 1 of 22City Council Agenda Items
and
Contracts, Leases or Agreements

8/16/2011

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Services

Division

Development Services

Department

Action Required:

Approval of an agreement for reimbursement of funds to the CDBG fund for the Habitat for Humanity Huntsville property purchase and approval of a Budget Adjustment for \$90,000.00.

\$ 90,000.00

Cost of this request

\$ -

Category / Project Budget

Land Acquisition

Program Category / Project Name

1010.6600.5805.00

Account Number

\$ -

Funds Used to Date

CDBG Remit

Program / Project Category Name

11025.1

Project Number

\$ -

Remaining Balance

General

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

Department Director

07-26-2011
Date

Previous Ordinance or Resolution #

City Attorney

7-28-2011
Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

8-1-2011
Date

Received in City Clerk's Office 07-26-11 P02:12 RCVD

Chief of Staff

8-1-11
DateReceived in
Mayor's Office

Mayor

8/1/11
Date

Staff recommends approval of reimbursement agreement and budget adjustment for \$90,000.00

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Director of Development Services 

From: Yolanda Fields, CS Director 

Date: July 20, 2011

Subject: Huntsville Property – Land Acquisition Funding Reimbursement

PROPOSAL:

In August of 2007 a Community Development Block Grant (CDBG) in the amount of \$90,000.00 was awarded to Habitat for Humanity of Washington County (HFH-WC) to use towards the purchase of 8.8 acres of property owned by the City of Fayetteville. The property located on Huntsville Road was to be used for the development of homes for extremely-low and very low income families. At this time HFH-WC has determined that the project will not move forward, as indicated in the attached resolution. In accordance with this request, HFH-WC will deed the property back to the City of Fayetteville and the funding utilized from CDBG to help purchase the 8.8 acres will be returned to the CDBG program.

Proceeds from the land acquisition were posted to the City of Fayetteville – General Fund. Therefore, reimbursement of CDBG funds will be made from this fund in the amount of \$90,000.00

RECOMMENDATION:

Staff recommends approval of an agreement for reimbursement of funds to CDBG fund for the Huntsville property and approval of a Budget Adjustment for \$90,000.00.

BUDGET IMPACT:

Budget adjustment for \$90,000.00.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT TO RELEASE HABITAT FOR HUMANITY OF WASHINGTON COUNTY, INC. AND THE CITY OF FAYETTEVILLE FROM THE REAL ESTATE SALES CONTRACT OF NOVEMBER 15, 2006 AND TO RECONVEY THE PROPERTY TO THE CITY OF FAYETTEVILLE AND TO APPROVE A BUDGET ADJUSTMENT OF \$90,000.00

WHEREAS, after receiving approximately eight acres from the City (paid for primarily by a \$90,000.00 grant from the City's Community Development Block Grant Program) in 2006, Habitat for Humanity worked with the U of A's Community Design Center in hopes of constructing attractive, sustainable, attainable housing;

WHEREAS, by 2009 Habitat for Humanity had concluded that necessary land development and infrastructure costs for this development made it unfeasible for affordable housing; and

WHEREAS, Habitat for Humanity has requested that it be released from its 2006 contract; and

WHEREAS, the U of A Community Design Center has agreed that the 2006 contract can be released.

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 Contract To Release Habitat For Humanity Of Washington County, Inc. And The City Of Fayetteville From The Real Estate Sales Contract Of November 15, 2006 And To Reconvey The Property To The City Of Fayetteville and authorizes Mayor Jordan to execute this Contract.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the attached Budget Adjustment of \$90,000.00.

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

V11.0415

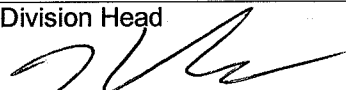
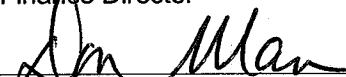
C. 1

CDBG Reimbursement
Number: 22
Page 3 of 22

Budget Year 2011	Division: Miscellaneous Department: Mayors Administration	Request Date 8/16/2011	Adjustment Number CDBG Reimbursement Page 5 of 22
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BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION	
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For an agreement for reimbursement of funds to CDBG fund for the Habitat for Humanity, Huntsville property purchase. Receiving the land back and refunding the purchase price.

Division Head		Date	8-16-2011
Budget Director		Date	
Department Director	Paul A. Bueh	Date	8-1-2011
Finance Director		Date	
Chief of Staff		Date	8-1-11
Mayor		Date	8/1/11

Prepared By:	B. Fell	bfell
Reference:		
Budget & Research Use Only		
Type:	A	B
	C	D
	E	P
General Ledger Date		
Posted to General Ledger	Initial	Date
Checked / Verified	Initial	Date

[illegible]

**CONTRACT TO RELEASE
HABITAT FOR HUMANITY OF WASHINGTON COUNTY, INC.
AND THE CITY OF FAYETTEVILLE FROM THE REAL ESTATE SALES
CONTRACT OF NOVEMBER 15, 2006 AND TO RECONVEY
THE PROPERTY TO THE CITY OF FAYETTEVILLE**

WHEREAS, on October 25, 2006, Habitat For Humanity of Washington County, Inc. executed the Real Estate Sales Contract offering to purchase approximately eight acres from the City of Fayetteville for \$152,000.00 (\$90,000.00 of those funds came from the Fayetteville Community Development Block Grant); and

WHEREAS, on November 7, 2006, the Fayetteville City Council passed Ordinance No. 4944 agreeing to this Real Estate Sales Contract with Habitat For Humanity; and

WHEREAS, on November 15, 2006, Mayor Dan Coody executed the Real Estate Sales Contract on behalf of the City of Fayetteville; and

WHEREAS, Habitat For Humanity of Washington County, Inc. determined in 2009 that the land development and infrastructure costs for its proposed 20 lots for affordable housing on the eight acres were so high that its affordable housing could not be built on these lots; and

WHEREAS, on July 28, 2009, Habitat For Humanity of Washington County, Inc.'s Board of Directors passed a Resolution requesting that the City of Fayetteville release it from the Real Estate Sales Contract of November 15, 2006; and

WHEREAS, on July 18, 2011, Stephen Luoni, Director of the University of Fayetteville Community Design Center, agreed that the 2006 contract could be released; and

WHEREAS, the City Council of the City of Fayetteville desires to accommodate Habitat For Humanity of Washington County, Inc.'s request.

NOW, THEREFORE IT IS AGREED BY HABITAT FOR HUMANITY OF WASHINGTON COUNTY, INC., hereinafter "Habitat for Humanity" and the CITY OF FAYETTEVILLE as follows:

1. Habitat for Humanity shall and does hereby release the City of Fayetteville from all terms and conditions of the Real Estate Sales Contract of November 15, 2006 and agrees to reconvey the subject eight acres of land to the City of Fayetteville.

2. The City of Fayetteville shall and does hereby release Habitat for Humanity from all terms and conditions of the Real Estate Sales Contract of November 15, 2006 and agrees to repay funds actually paid from Habitat for Humanity's own resources for the conveyance of the eight acres to Habitat for Humanity. The City also agrees to repay to the Community Development Block Grant the \$90,000.00 which had been awarded to Habitat for Humanity to

help purchase this property. There shall be no repayment of any portion of the potential \$52,000.00 in credits that might have been authorized by the City Engineer and Planning and Development Management Director.

3. Habitat for Humanity further agrees that the City of Fayetteville should directly repay all funds received from Fayetteville's Community Development Block Grant for this project to Fayetteville's Community Development Block Grant.

4. Habitat for Humanity further agrees to indemnify the City of Fayetteville, its officials and employees from any claims, causes of actions or liability connected or related to this agreement to release Habitat for Humanity from its November 15, 2006 Real Estate Sales Contract.

IN AGREEMENT WITH ALL OF THE PROMISES, TERMS AND CONDITIONS ABOVE, the authorized representatives of HABITAT FOR HUMANITY OF WASHINGTON COUNTY, INC. and the CITY OF FAYETTEVILLE sign our names below on the date indicated:

**HABITAT FOR HUMANITY
OF WASHINGTON COUNTY, INC.**

**CITY OF
FAYETTEVILLE, ARKANSAS**

By: _____

By: _____
LIONELD JORDAN, Mayor

Printed Name and Title

Date

Date

ATTEST OR WITNESS:

ATTEST:

By: _____

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

Printed Name and Title



www.accessfayetteville.org

C. 1
CDBG Reimbursement
THE CITY OF FAYETTEVILLE, ARKANSAS
DEVELOPMENT SERVICES DEPARTMENT
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

14 July 2011

Mr. Stephen Luoni, Director
University of Arkansas Community Design Center
104 N. East Avenue
Fayetteville, AR 72701

RE: Status of the University of Arkansas/USEPA/ANRC/Habitat for Humanity Huntsville Road Affordable Housing Project, aka "Porchscapes"

Dear Mr. Luoni,

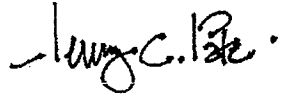
I have been given the task of finding final resolution for the City regarding the Porchscapes project. As you are aware, the City's involvement in this project was to sell the Habitat for Humanity organization a tract of land off of Huntsville Road at a reasonable price to assist in making the project happen. Federal Community Development Block Grant (CDBG) funding was also provided through the City's Community Development program for the Sustainable Development Project on which your team worked. Subsequently, this funding was utilized for the acquisition of property for the project. The land purchase was completed and the Habitat organization holds the deed to this property.

It is my understanding that all parties mutually agree that the Porchscapes project is not going to occur as was originally intended, for a variety of reasons. The Board of Directors for Habitat for Humanity passed a Resolution (attached) requesting the City release Habitat from the land purchase contract it entered into with the City of Fayetteville in November of 2006. In addition, after meeting with Mayor Jordan and Chief of Staff Don Marr in 2009, and through a letter to the Mayor in March of 2010, you have indicated that your grant obligations associated with the USEPA's Section 319 Non-point Source Pollution program grant required you to secure a new client and get the project back on schedule by June 1st, 2010. Failure to do so would result in a cancellation of the grant by USEPA and ANRC, and you indicated that after that date you "would make no further request of the City to enforce conformance with the conditions of the sale." I assume that this did not occur, and the grant has subsequently been cancelled, as we have heard nothing further since that time.

Representing the City, it is my belief that at all levels we desired to see this project come to fruition, much as you and your team did. Given that we are several years down the road, however, we would like to tie up any loose ends as much as possible. From our position, the land acquisition funding needs to be reimbursed to the CDBG program under its federal guidelines. Failure to complete the reimbursement process could lead to a reduction in future CDBG funding to the City and/or other restrictions from the Department of Housing and Urban Development. It is our intent to take the deed to the property back and return the acquisition funds to the CDBG program to be used for other eligible projects. The City requests that you sign the attached letter acknowledging the UACDC wants the contract ended, as you have indicated, and waiving any third party beneficiary claims on the contract. After receiving this confirmation, we will schedule a closing for Habitat to deed the land back to us and return the funds to CDBG.

If you have any questions, please don't hesitate to contact me. A reply by Monday, August 01 would be greatly appreciated.

Best Regards,



Jeremy C. Pate, APA, ASLA
Development Services Director
City of Fayetteville, Arkansas

Date 7-18-2011

Mayor Lioneld Jordan
City Administration Building
113 W. Mountain Street
Fayetteville, AR 72701

RE: Habitat contract

Dear Mayor Jordan:

In conformance with my letter of March 23, 2010, this letter acknowledges that the University of Arkansas now agrees that the University no longer requests or desires the City of Fayetteville to attempt to enforce its Real Estate Sales Contract with Habitat for Humanity of Washington County, Inc. entered into about November 15, 2006. Furthermore, the University acknowledges that it is not a third party beneficiary of such contract and waives any such third party beneficiary rights under the contract.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephen Luoni', with a stylized flourish at the end.

STEPHEN LUONI, Director
University of Arkansas Community Design Center



104 North East Avenue
Fayetteville, AR 72701
phone 479-575-5772
fax 479-575-7045

<http://uacdc.uark.edu>

outreach center of the
school of architecture

March 23, 2010

The Honorable Lioneld Jordan
Mayor of Fayetteville, Arkansas
City Administration Building
113 West Mountain Street
Fayetteville, AR 72701
mayor@ci.fayetteville.ar.us

**Re: Status of the University of Arkansas/USEPA/ ANRC/Habitat for Humanity Huntsville Road
Affordable Housing Project**

Dear Mayor Jordan:

Thank you for your consideration of the matter regarding the status of the Huntsville Road affordable housing project, hereafter known as Porchscapes. This three-year project is a collaboration among the University of Arkansas, McClelland Engineering Consultants, Inc., the U.S. Environmental Protection Agency (USEPA), the Arkansas Natural Resources Commission (ANRC), and Habitat for Humanity of Washington County (Habitat), and funded under USEPA's Section 319 Non-point Source Pollution program. The City of Fayetteville also made critical contributions towards project development, especially through sale of the property to Habitat under very favorable conditions. As you may recall, the conditions of that sale stipulated in Ordinance 4944 and ratified November 7, 2006 bind Habitat to carry out the terms of the grant made by ANRC to the University of Arkansas. Basically, ANRC wants a demonstration Low Impact Development with housing constructed on the site.

While Habitat has since withdrawn their commitments to the project under its new Executive Director, Wendi Jones, for several stated reasons, our grant obligations require us to secure a new client by June 1st, 2010. Failure to secure a new client and move the project back on schedule towards construction will result in the withdrawal of further funding and cancellation of the grant by ANRC and USEPA. We are currently holding informal discussions with a prospective client, and request that the City continue to enforce conformance with the conditions of the sale as well as those of the Community Development Block Grant awarded by the City to Habitat in support of the property purchase. Should we find a new client willing to sponsor construction of the project we fully expect reversal of the agreements between the City and Habitat, since Habitat has indicated to us their intended cooperation in facilitating construction of the project by another housing provider.

If we are unsuccessful in securing a new client resulting in cancellation of the grant after June 1st, we make no further request of the City to enforce conformance with the conditions of sale. However, the City should understand organizations' capacities in allocating future resources, given its own interest in seeing more construction of affordable housing. While the project team



has billed ANRC \$252,000 for modeling, engineering, planning, and education services, more than \$1.3 million in professional services have been delivered over the last three years. The unexpected retirement of former Executive Director, Patsy Brewer, who commissioned Porchscapes, threw the project off schedule in terms of time and organizational capacity to continue with the project. Habitat has given several public reasons for their withdrawal, including fundraising issues, revised infrastructure costs due to poor soil conditions and floodplain map revisions (understood and approved by Brewer), and philosophy about affordability (they don't want to account for the cost of infrastructure). Please note that the project had been redesigned to meet the technical challenges posed by impervious soils and floodplain map revision conditions. Patsy and I were confident that her funding sources would have met the \$6 million goal needed for the entire 43-unit project. Habitat's new administration has certainly been very casual about its investment in the project despite the incredible amount of resources expended by the rest of the project team, the City, and others (i.e., the University's Women's Giving Circle, Kellogg Foundation, USGBC). We all miss Patsy's ambition and capacity to solve for multiple issues.

Nonetheless, we have greatly appreciated the City's leadership at all levels in the project, and look forward to another once-in-a-lifetime opportunity to build a demonstration project in Fayetteville. Thanks again for your consideration, and let's hope something miraculous happens by June.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Luoni", with a stylized flourish at the end.

Stephen Luoni, Director
Steven L. Anderson Chair in Architecture and Urban Studies

RESOLUTION

A RESOLUTION TO RELEASE HABITAT FOR HUMANITY OF WASHINGTON COUNTY, AR., INC. FROM THE TERMS OF THE REAL ESTATE CONTRACT WITH THE CITY OF FAYETTEVILLE TO PURCHASE PROPERTY FOR AFFORDABLE HOUSING AS PART OF A DEMONSTRATION PROJECT

Whereas, Habitat For Humanity of Washington County, Arkansas, Inc. entered into a Real Estate contract, dated October 26, 2006, with the City of Fayetteville for land owned by the City, and

Whereas, the land was to be purchased for development of at least 20 lots for affordable housing, in conjunction with the University of Arkansas Community Design Center, and

Whereas, the initial cost estimates for the project were considered to be reasonable and affordable, and are now considered beyond Habitat's resources.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF HABITAT FOR HUMANITY OF WASHINGTON COUNTY, ARKANSAS, INC.:

Section 1. That the Board of Directors of Habitat for Humanity of Washington County, Arkansas, Inc. requests the City of Fayetteville to release Habitat from the sales contract, dated October 26, 2006, in whatever manner deemed legal and proper.

Section 2. That the Board of Directors of Habitat for Humanity of Washington County, Arkansas, Inc. further resolves to work with the City of Fayetteville to assure the return of the Community Development Block Grant funds used to partially fund the purchase.

PASSED and APPROVED this 28th day of July, 2009.

APPROVED:

By: Tommy Lewis
Tommy Lewis, President

ATTEST:

By: Judith Davis
Judith Davis, Secretary

ORDINANCE NO. 4944

AN ORDINANCE WAIVING THE REQUIREMENTS OF §34.27, CODE OF FAYETTEVILLE AND APPROVING A REAL ESTATE SALES CONTRACT WITH HABITAT FOR HUMANITY OF WASHINGTON COUNTY, INC. IN THE AMOUNT OF \$152,000 FOR THE PURCHASE OF EIGHT ACRES SOUTH OF HUNTSVILLE ROAD AND SEVEN HILLS TRANSITIONAL HOUSING; AND DESIGNATING A PORTION OF THE REMAINING ACREAGE SOUTH AND EAST OF THIS PARCEL AS PASSIVE GREENSPACE OR PARKLAND

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby waives the requirements of § 34.27, Code of Fayetteville, and approves a Real Estate Sales Contract with Habitat For Humanity Of Washington County, Inc. in the amount of \$152,000.00 for the purchase of eight acres south of Huntsville Road and Seven Hills Transitional Housing. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof. The Engineering and Planning Divisions may authorize credits to Habitat against the purchase price for the fair value of storm water management features in excess of normal code requirements and educational demonstration projects to spur innovation and increased efficiency for other developers in the storm water management area.

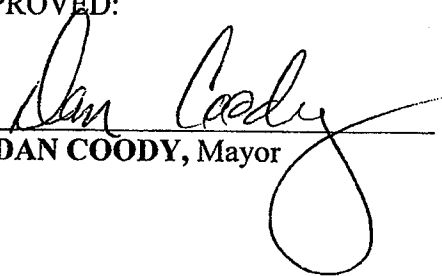
Section 2: That the City Council of the City of Fayetteville, Arkansas hereby designates a portion of the remaining acreage south and east of this parcel as passive greenspace or parkland to be developed after consultation among Habitat for Humanity of Washington County, Inc., the City Parks Department and the Parks and Recreation Board. A portion of the consideration to purchase the eight acres may include design and development of this parkland by Habitat and its development partner.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said contract with Habitat for Humanity of Washington County, Inc.

PASSED and APPROVED this 7th day of November, 2006.

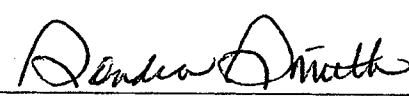
APPROVED:

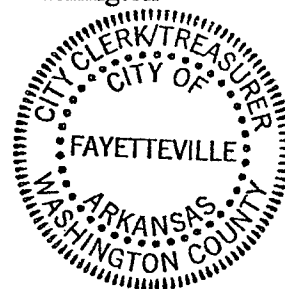
By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk



REAL ESTATE SALES CONTRACT

1. **The City of Fayetteville, Arkansas** offers to sell and Habitat For Humanity Of Washington County, Inc. (hereinafter Habitat For Humanity) offers to buy, subject to terms and conditions set forth in this contract, approximately eight (8) acres more particularly described in Exhibit "1" attached hereto and made a part hereof.

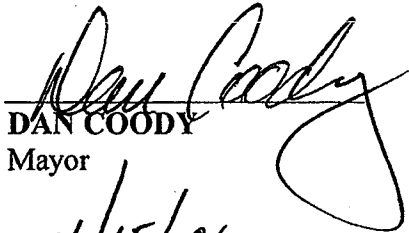
SEE ATTACHED EXHIBIT "1" FOR PROPERTY DESCRIPTION

2. **Purchase Price:** Subject to the following conditions, Habitat For Humanity shall pay for the property One Hundred Fifty-Two Thousand Dollars (\$152,000.00). One Hundred Thousand Dollars (\$100,000.00) shall be due at closing. The remaining Fifty-Two Thousand Dollars (\$52,000.00) shall be subject to credits authorized by the City Engineer and the Planning and Development Management Director and shall be due prior to the issuance of the first building permit for any lot developed upon this property.
3. Conveyance will be made Habitat For Humanity by General Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property.
4. No title insurance shall be required of the City of Fayetteville for this sale and conveyance. Habitat For Humanity may request and pay for title insurance at its option.
5. The City of Fayetteville agrees to allow Habitat For Humanity, at Habitat For Humanity's expense, to survey the property.
6. Taxes and special assessments due on or before closing shall be paid by the City of Fayetteville. General taxes, ad valorem taxes and special assessments shall be prorated as of closing.
7. The closing date shall be within one hundred eighty (180) days after approval of this Real Estate Contract by the City Council, which can be extended by agreement of the Mayor for an additional sixty (60) days. If such date of closing falls on a weekend or holiday, it will be held the following working day.
8. Possession of the property shall be delivered to Habitat For Humanity on the date of closing.
9. The City of Fayetteville hereby grants permission for Habitat For Humanity or its designees to enter the above described property and improvements for the purpose of inspection and/or surveying.
10. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the City of Fayetteville.
11. The City of Fayetteville shall disclose to Habitat For Humanity any and all environmental hazards of which the City of Fayetteville has actual knowledge.

12. Habitat For Humanity Of Washington County, Inc. agrees to develop this parcel into at least twenty (20) lots to be used for its affordable housing projects in conjunction with the University of Arkansas Community Design Center. Habitat For Humanity further agrees to assist the U of A in applying for and complying with grants to make this project more affordable for the future homeowners. Habitat For Humanity shall employ advanced ecological storm water management development techniques and require its homeowners to properly maintain all such facilities pursuant to non-amendable restrictive covenants.
13. Habitat For Humanity Of Washington County, Inc. agrees to develop this eight acre parcel as a Planned Zoning District so that the Planning Commission and City Council can review and approve the design of the subdivision and the proposed innovative designs of the houses.
14. The City of Fayetteville and Habitat For Humanity agree that the benefits to the City of Fayetteville of the advanced stormwater management techniques employed on this site (both for control of stormwater and drainage and as demonstration projects for the benefit and education of other developers) should form a portion of the compensation for this purchase and designate the City Engineer and the Planning and Development Management Director to ascertain and determine the fair market value of these services which shall reduce the amount owed on the purchase price of this eight acre parcel.
15. This agreement shall be governed by the laws of the State of Arkansas.
16. This agreement, when executed by both Habitat For Humanity and the City of Fayetteville shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.

CITY OF FAYETTEVILLE
A Municipal Corporation

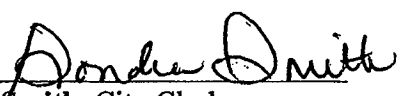
By:


DAN COODY
Mayor

Date:

11/15/06

Attest:

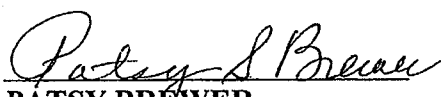

Sondra Smith, City Clerk

Date:

11/15/06

**HABITAT FOR HUMANITY OF
WASHINGTON COUNTY, INC.**

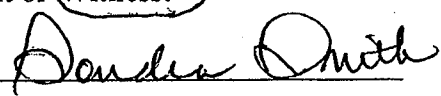
By:


PATSY BREWER
Executive Director

Date:

10-25-06

Agent or Witness:



Date:

10-25-06

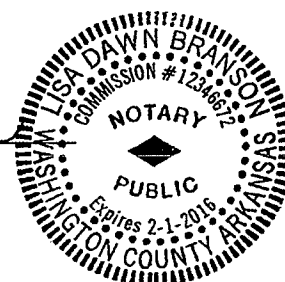
ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Patsy Brewer** to me well known as the person who executed the foregoing document, and who stated and acknowledged that she is the Executive Director of Habitat For Humanity Of Washington County, Inc. and is duly authorized in her respective capacity to execute the foregoing instrument for and in the name and behalf of the corporation, and further stated and acknowledged that she had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 25th day of October, 2006.

Lisa Dawn Branson
Notary Public



My Commission Expires:
2-1-2016

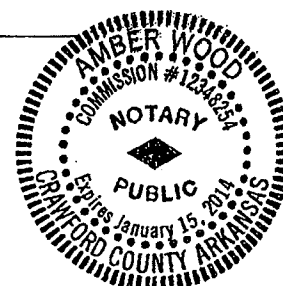
ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

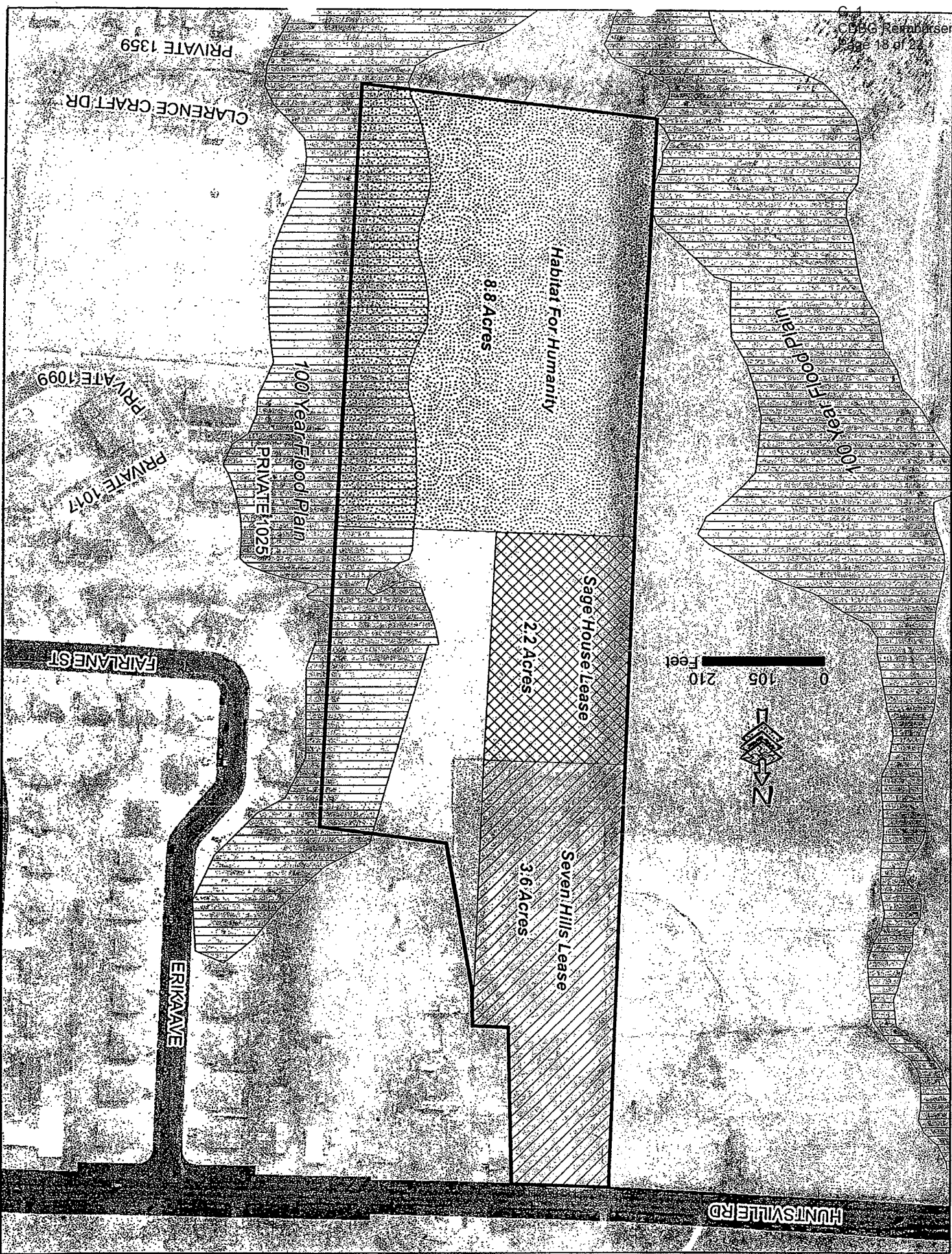
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody and Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor and City Clerk of the City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 15th day of October, 2006.

Amber Wood
Notary Public



My Commission Expires:
1-15-14

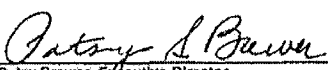


A. U.S. Department of Housing and Urban Development		J. Type of Loan	
		1. ☐ FHA	2. ☐ FMHA
		3. ☐ Conv. Unins.	4. ☐ VA
		5. ☐ Conv. Ins.	6. ☒ Other.
		6. File Number 31369	7. Loan Number
Settlement Statement		B. Mortgage Ins. Case No.	
C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked ("POC") were paid outside the closing; they are shown here for information purposes and are not included in the totals.			
D. Name of Borrower: Habitat for Humanity of Washington County, Arkansas, Inc.			
E. Name of Seller: City of Fayetteville, Arkansas TIN:			
F. Name of Lender: Arvest Bank, P.O. Box 1327, Fayetteville, AR 72702			
G. Property Location: 8.18 acres of the E 1/2 of the NE, Section 22-16-30 Huntsville Rd., Fayetteville, AR			
H. Settlement Agent: Heritage Land Title of Arkansas (479) 442-6400 TIN: 71-0728029			
Place of Settlement: 2153 E. Joyce Blvd, Suite 201, Fayetteville, AR 72703			
I. Settlement Date: 2/14/2008 Proration Date: 2/14/2008			
J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction	
100. Gross amount due from borrower:		400. Gross amount due to seller:	
101. Contract sales price	152,000.00	401. Contract sales price	152,000.00
102. Personal property		402. Personal property	
103. Settlement charges to borrower (line 1400)	1,491.77	403.	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance:		Adjustments for items paid by seller in advance:	
106. City/town taxes		406. City/town taxes	
107. County taxes		407. County taxes	
108. Assessments		408. Assessments	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. Gross amount due from borrower:	153,491.77	420. Gross amount due to seller:	152,000.00
200. Amounts paid by or in behalf of the borrower:		500. Reduction in amount due to seller:	
201. Deposit or earnest money		501. Excess deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	501.80
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first mortgage loan	
205. Loan Proceeds	11,458.75	505. Payoff of second mortgage loan	
206. CDBG	99,000.00	506.	
207. Credit from City of Fayetteville	52,000.00	507. Credit from City of Fayetteville	52,000.00
208.		508.	
209.		509.	
Adjustments for items unpaid by seller:		Adjustments for items unpaid by seller:	
210. City/town taxes		510. City/town taxes	
211. County taxes 1/1/2008 to 2/14/2008	3.02	511. County taxes 1/1/2008 to 2/14/2008	3.02
212. Assessments		512. Assessments	
213.		513.	
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215.		515.	
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218.		518.	
219.		519.	
220. Total paid by/for borrower:	153,491.77	520. Total reduction in amount due seller:	52,504.82
300. Cash at settlement from/to borrower:		600. Cash at settlement to/from seller:	
301. Gross amount due from borrower (line 120)	153,491.77	601. Gross amount due to seller (line 420)	152,000.00
302. Less amount paid by/for borrower (line 220)	153,491.77	602. Less total reduction in amount due seller (line 520)	52,504.82
303. CASH (I)FROM (I)TO BORROWER	0.00	603. CASH (I)FROM (X)TO SELLER	99,495.38

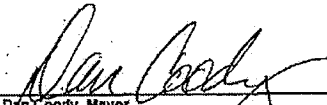
SUBSTITUTE FORM 1099 SELLER STATEMENT - The information contained in Blocks E, G, H and I and on line 401 (or, if line 401 is asterisked, lines 403 and 404), 406, 407 and 408-412 (applicable part of buyer's real estate tax reportable to the IRS) is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is required to be reported and the IRS determines that it has not been reported.

SELLER INSTRUCTION - If this real estate was your principal residence, file form 2119, Sale or Exchange of Principal Residence, for any gain, with your income tax return; for other transactions, complete the applicable parts of form 4797, Form 6252 and/or Schedule D (Form 1040).

Buyer(s):
Habitat For Humanity of Washington County, AR


Patsy Brewer, Executive Director

Seller(s):
City of Fayetteville, Arkansas, a municipal corporation


Dan Coody, Mayor

**CONTRACT TO RELEASE
HABITAT FOR HUMANITY OF WASHINGTON COUNTY, INC.
AND THE CITY OF FAYETTEVILLE FROM THE REAL ESTATE SALES
CONTRACT OF NOVEMBER 15, 2006 AND TO RECONVEY
THE PROPERTY TO THE CITY OF FAYETTEVILLE**

WHEREAS, on October 25, 2006, Habitat For Humanity of Washington County, Inc. executed the Real Estate Sales Contract offering to purchase approximately eight acres from the City of Fayetteville for \$152,000.00 (\$90,000.00 of those funds came from the Fayetteville Community Development Block Grant); and

WHEREAS, on November 7, 2006, the Fayetteville City Council passed Ordinance No. 4944 agreeing to this Real Estate Sales Contract with Habitat For Humanity; and

WHEREAS, on November 15, 2006, Mayor Dan Coody executed the Real Estate Sales Contract on behalf of the City of Fayetteville; and

WHEREAS, Habitat For Humanity of Washington County, Inc. determined in 2009 that the land development and infrastructure costs for its proposed 20 lots for affordable housing on the eight acres were so high that its affordable housing could not be built on these lots; and

WHEREAS, on July 28, 2009, Habitat For Humanity of Washington County, Inc.'s Board of Directors passed a Resolution requesting that the City of Fayetteville release it from the Real Estate Sales Contract of November 15, 2006; and

WHEREAS, on July 18, 2011, Stephen Luoni, Director of the University of Fayetteville Community Design Center, agreed that the 2006 contract could be released; and

WHEREAS, the City Council of the City of Fayetteville desires to accommodate Habitat For Humanity of Washington County, Inc.'s request.

NOW, THEREFORE IT IS AGREED BY HABITAT FOR HUMANITY OF WASHINGTON COUNTY, INC., hereinafter "Habitat for Humanity" and the CITY OF FAYETTEVILLE as follows:

1. Habitat for Humanity shall and does hereby release the City of Fayetteville from all terms and conditions of the Real Estate Sales Contract of November 15, 2006 and agrees to reconvey the subject eight acres of land to the City of Fayetteville.

2. The City of Fayetteville shall and does hereby release Habitat for Humanity from all terms and conditions of the Real Estate Sales Contract of November 15, 2006 and agrees to repay funds actually paid from Habitat for Humanity's own resources for the conveyance of the eight acres to Habitat for Humanity. The City also agrees to repay to the Community Development Block Grant the \$90,000.00 which had been awarded to Habitat for Humanity to

help purchase this property. There shall be no repayment of any portion of the potential \$52,000.00 in credits that might have been authorized by the City Engineer and Planning and Development Management Director.

3. Habitat for Humanity further agrees that the City of Fayetteville should directly repay all funds received from Fayetteville's Community Development Block Grant for this project to Fayetteville's Community Development Block Grant.

4. Habitat for Humanity further agrees to indemnify the City of Fayetteville, its officials and employees from any claims, causes of actions or liability connected or related to this agreement to release Habitat for Humanity from its November 15, 2006 Real Estate Sales Contract.

IN AGREEMENT WITH ALL OF THE PROMISES, TERMS AND CONDITIONS ABOVE, the authorized representatives of HABITAT FOR HUMANITY OF WASHINGTON COUNTY, INC. and the CITY OF FAYETTEVILLE sign our names below on the date indicated:

**HABITAT FOR HUMANITY
OF WASHINGTON COUNTY, INC.**

**CITY OF
FAYETTEVILLE, ARKANSAS**

By: Gaye L. Wilcox

By: LIONELD JORDAN, Mayor

Gaye L. Wilcox / President
Printed Name and Title

8/3/11
Date

Date

ATTEST OR WITNESS:

ATTEST:

By: Kelly L. Colebar

By: Sondra E. Smith, City Clerk/Treasurer

Kelly L. Colebar, Project Coordinator
Printed Name and Title

City of Fayetteville Staff Review Form

C. 2
Benefits Renewal
Page 1 of 10

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

8/16/2011

City Council Meeting Date
Agenda Items Only

Missy Leflar
Submitted By

Human Resources
Division

Chief of Staff
Department

Action Required:

Staff requests that Council approve the renewal of the following benefits and benefits services at no increased cost: Datapath Administrative Services (COBRA and FSA), Delta Trust Bank (HSA), and Ace USA (AD&D). Staff further requests that Council conserve City monetary resources by approving a change to United Health Care for employee health insurance. While this change would save money, there would still be a \$52,458.48 increase in 2012 annual premiums which staff requests the City absorb in this time of flat employee wages.

\$ 3,685,619.52
Cost of this request

Health Insurance
Category / Project Budget

Citywide
Program Category / Project Name

XXXX.XXXX.51XX.XX
Account Number

\$ -
Funds Used to Date

Citywide
Program / Project Category Name

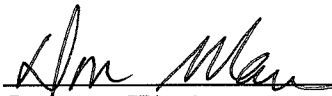
N/A
Project Number

\$ -
Remaining Balance

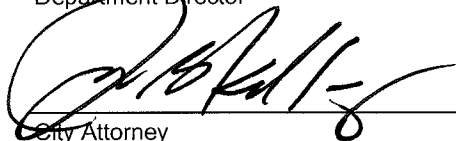
General Fund
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

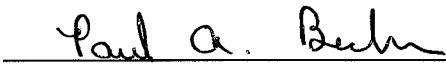

Department Director 8-2-11
Date

Previous Ordinance or Resolution # _____

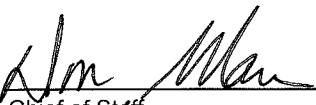

City Attorney 8/2/11
Date

Original Contract Date: _____

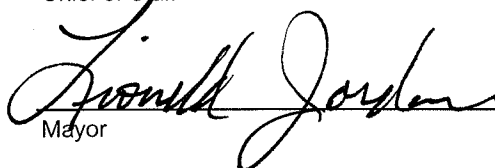
Original Contract Number: _____


Finance and Internal Services Director 8-2-2011
Date

Received in City
Clerk's Office


Chief of Staff 8-2-11
Date

Received in
Mayor's Office


Mayor 8/2/11
Date

Comments:

RESOLUTION NO. _____

A RESOLUTION APPROVING A 2012 EMPLOYEE BENEFITS PACKAGE

**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 2011 employee benefits package as recommended in the staff memorandum attached as Exhibit "A".

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

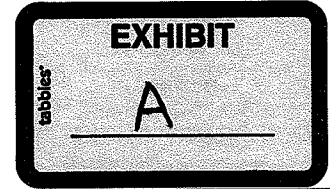
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council members
Thru: Don Marr, Chief of Staff
From: Missy Leflar, Human Resource Director
Date: July 29, 2011
Subject: Employee benefits renewals



PROPOSAL:

It is proposed that the City Council renew the City's employee benefits for 2012, as more fully described below. The proposal is made now in order for the employee benefits enrollment process to proceed on time, and so that City employees may retain what many consider the most positive aspect of their employment with the City: their benefits. Employee benefits are an extremely important positive in an environment where economic times have caused raises to cease.

There are four City paid benefits contracts coming up for renewal for 2012. Three of them are for the same price as the City currently pays. Staff recommends renewal of these three contracts. The first is with Datapath Administrative Services for administration of the legally required Section 125 Summary Plan Description and COBRA Administration services, as well as administration of the employee Flexible Spending Accounts (medical reimbursement and dependent care reimbursement). The second is with Delta Bank & Trust for the administration of employee Health Savings Accounts. The third is with Ace USA for group Accidental Death & Dismemberment insurance (\$25,000 coverage in the event an employee dies in an accident or loses a limb).

The fourth City paid benefit contract coming for renewal for 2012 is the health insurance. The City's current health insurance carrier, Blue Cross, has proposed an increase of 7.75% which would increase the City's total expenditures for employee health insurance by \$ 307,185.24. City staff thus looked into less expensive alternatives, with the guidance of the City's Benefits Brokers, and it ultimately came down to three choices:

- A. Continue with the present Blue Cross coverage at a greatly increased expense of \$307,185.24 to the City and to the employees, with whom such an expensive burden would likely have to be shared;
- B. Change to a different Blue Cross coverage that would significantly increase the out of pocket deductible expense for employees, at an increase less than Choice "A" above but still enough of an increase the burden might need to be shared by employees;
- C. Change to United Health Care coverage for comparable coverage to the current Blue Cross plan with the same out of pocket deductible expense for employees that they currently have, at significantly less of an increased expense than either Choice "A" or Choice "B", above.

Staff recommends that Council approve Choice "C", the United Health Care plan. Staff further recommends that Council approve Choice "C" with the City absorbing the costs of the increase, which would be \$52,458.48 (which is \$254,726.76 less expensive than remaining with the current Blue Cross plan). Although the City has historically split insurance increases with employees 50/50, this has occurred in the context of employees also receiving raises, cost of living increases, etc. Employees are not currently receiving raises and have not since

2009. (Some employees who did not receive their 2009 raises, due to lack of funding occurring that year, are just now receiving them.) When an increase in payroll deductions for insurance occurs against a backdrop of flat wages, it obviously cuts an employee's home pay.

Please refer to the attached tables setting out the details of Choices "A", "B" and "C". Please note that the City currently offers two plans, a "Traditional" (PPO) plan and a "High Deductible" (HDHP) plan. Employees elect to participate in one or the other. This choice would continue under proposed Choice "C". The dollar amounts provided in this memo refer to the total cost of the Traditional and High Deductible plans combined.

Council may wish to know that Choice "C", the United Health Care plan, has some differences between it and the current plan, which include the following items that help explain the less expensive cost:

- It has different pharmacy coverage for employees in the High Deductible plan. Under the present High Deductible plan employees pay all pharmacy costs until the high deductible is met (\$3,000 for an individual, \$6,000 for a family), then the plan covers prescriptions 100%. Under the Choice "C" High Deductible plan employees pay all pharmacy costs until the high deductible is met, then pay co-pays of \$10/\$35/\$60 on prescriptions for the next \$1,000, then the plan pays 100%.
- The deductible accumulators are different on the Traditional plan. Under the present Traditional plan, non-covered expenses go toward one deductible, period. Under the "Choice C" Traditional plan, in-network expenses go toward the in-network deductible, while out-of-network expenses go toward the out-of-network deductible.
- For those with coverage on the Traditional plan, there is a higher "co-insurance maximum" dollar amount that has to be paid by employees for in-network medical services. For those on the High Deductible plans, it has a co-insurance maximum where there wasn't any before but it's applicable to limited situations. As you know, a "co-insurance maximum" is the dollar amount at which the plan pays 100% of medical expenses. It stops the employee's financial loss.
- The three month carry over provision that the Traditional Plan had is discontinued. This means that a new deductible will always begin for each calendar year.
- There will no longer be an out-of-network wellness benefit.

However, there are some plan enhancements which include:

- There will be a monetary incentive by the insurance company (in the form of gift certificates) for employees who participate in certain wellness activities. By participating in the designated wellness activities, employees (and covered spouses) can receive a gift cards which they may select from over 350 national retailers. The gift certificate amounts are for up to \$175 per employee (and up to \$175 per covered spouse for family coverage).
- The ambulance coverage is improved. Ambulance services will not have a maximum. Currently there is a maximum of \$1,000 for a ground ambulance and \$5,000 for air ambulance services. However these services are much more costly and often employees have had hundreds of dollars of ambulance expenses that were not covered by insurance. Under UHC ambulance services will be paid just like other medical expenses with no annual maximum.

- The prescription drug mail order system is enhanced. It will cover more than just maintenance drugs.
- Diabetic supplies will be more favorably covered. Diabetic test strips will be paid under the pharmacy plan, which means a cost of \$10, \$30 or \$50 (under the Traditional Plan) rather than being applied to the deductible.
- Periodic vision exams will be covered. This coverage will be available every 2 years and will be paid just like other medical expenses

SUMMARY OF STAFF RECOMMENDATIONS:

Staff recommends that Council approve renewal of the Datapath, Delta Trust, and Ace USA contracts, so that these same services will continue at no increased cost to the City.

Staff further recommends that the Council approve Choice "C", the United Health Care health insurance plan, with the City absorbing the cost increase due to employee wages remaining flat.

BUDGET IMPACT:

These planned items are being budgeted for in the City's 2012 budget, subject to Council approval of the above.

City staff and staff from the City's Benefits Broker, Stephens, Inc., are available to answer any questions you may have.

"CURRENT PLAN" "PLAN C"

	Current Monthly Rate		UHC-City Takes 100% of Inc	
PPO	Individual	Family	Individual	Family
Employee	\$18.42	\$93.18	\$18.42	\$93.18
City	\$231.06	\$565.21	\$232.52	\$571.80
Total	\$249.48	\$658.39	\$250.94	\$664.98

Total Annual City Costs	Current	100% inc to City
Individual- 173	\$ 479,680.56	\$ 482,711.52
Family-386	\$ 2,618,052.72	\$ 2,648,577.60
TOTAL	\$ 3,097,733.28	\$ 3,131,289.12

Cost Difference \$ 33,555.84

	Current Monthly Rate		UHC-City Takes 100% of Inc	
HDHP	Individual	Family	Individual	Family
Employee	\$10.08	\$26.58	\$10.08	\$26.58
City	\$137.12	\$361.87	\$143.65	\$380.79
Total	\$147.20	\$388.45	\$153.73	\$407.37
City HSA Contribution	\$70.80	\$156.66	\$70.80	\$156.66
	\$218.00	\$545.11	\$224.53	\$564.03

Total Annual City Costs	Current	100% inc to City
Individual- 50	\$ 124,752.00	\$ 128,670.00
Family- 60	\$ 410,675.76	\$ 425,660.40
TOTAL	\$ 535,427.76	\$ 554,330.40

Cost Difference \$ 18,902.64

Total Cost Difference \$ 52,458.48

Existing Plan - 7.75% Inc

"CURRENT PLAN" "PLAN A"

C. 2
Benefits Renewal
Page 7 of 10

	Current Monthly Rate		BCBS-City Takes 100% of Inc	
PPO	Individual	Family	Individual	Family
Employee	\$18.42	\$93.18	\$18.42	\$93.18
City	\$231.06	\$565.21	\$250.39	\$616.24
Total	\$249.48	\$658.39	\$268.81	\$709.42

Total Annual City Costs	Current	100% inc to City
Individual- 173	\$ 479,680.56	\$ 519,809.64
Family-386	\$ 2,618,052.72	\$ 2,854,423.68
TOTAL	\$ 3,097,733.28	\$ 3,374,233.32

Cost Difference \$ 276,500.04

	Current Monthly Rate		BCBS-City Takes 100% of Inc	
HDHP	Individual	Family	Individual	Family
Employee	\$10.08	\$26.58	\$10.08	\$26.58
City	\$137.12	\$361.87	\$148.53	\$391.97
Total	\$147.20	\$388.45	\$158.61	\$418.55
City HSA Contribution	\$70.80	\$156.66	\$70.80	\$156.66
	\$218.00	\$545.11	\$229.41	\$575.21

Total Annual City Costs	Current	100% inc to City
Individual- 50	\$ 124,752.00	\$ 131,598.00
Family- 66	\$ 410,675.76	\$ 434,514.96
TOTAL	\$ 535,427.76	\$ 566,112.96

Cost Difference \$ 30,685.20

Total Cost Difference \$ 307,185.24

"CURRENT PLAN"

"PLAN C"

City of Fayetteville

Medical Renewal - Effective Date January 1, 2012

Option #1

Option #2

BENEFITS / COST		Arkansas Blue Cross Blue Shield				United Healthcare			
		Current Benefits				Choice Plus			
		PPO		HDHP		9AK-P Traditional		7PF-P HDHP w Embedded Deductible	
		In Network	Non Network	In Network	Non Network	In Network	Non Network	In Network	Non Network
Plan Design		Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins
PCP Office Visit		Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins
Specialist Office Visit		Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins
Inpatient Hospital		Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins
Emergency Room		Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins
Urgent Care		Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins
Ambulance		\$1,000/trip ground	\$1,000/trip ground	\$1,000/trip ground	\$1,000/trip ground	80% After Ded	80% After Ded	100% After Ded	100% After Ded
		\$5,000/year air	\$5,000/year air	\$5,000/year air	\$5,000/year air	No Limit by Ground or Air	No Limit by Ground or Air	No Limit by Ground or Air	No Limit by Ground or Air
Annual Deductible - IND		\$500		\$3,000	\$6,000	\$500	\$1,000	\$3,000	\$5,000
Annual Deductible - FAM		2 x Individual Aggregate		\$6,000	\$12,000	2 x Individual Aggregate		2 x Individual Aggregate	
Coinurance		80%/20%	60%/40%	100%/0%	80%/20%	80%/20%	60%/40%	100%/0%	80%/20%
Annual Coinsurance Max - IND		\$1,000	\$4,000	\$0	Unlimited	\$2,000	\$3,000	\$1,000	\$1,000
Annual Coinsurance Max - FAM		\$2,000	\$8,000	\$0	Unlimited	\$3,000	\$6,000	\$2,000	\$2,000
Rx Drug Copays		\$10/\$30/\$50 Participating Pharmacies		Ded & Coins	None	\$10/\$30/\$50 Participating Pharmacies		\$10/\$35/\$60 Participating Pharmacies	
Mail Order Rx		Maintenance Drugs Only		Does Not Apply		Included		Included	
Medical Lifetime Max Per Person		Unlimited		Unlimited		Unlimited		Unlimited	
Wellness Benefits		No Ded	No Ded	No Ded	No Ded	No Ded	Not Covered	No Ded	Not Covered
		100%	80%	100%	80%	100%		100%	
3 Month Carryover Provision		Yes		Not Allowed		No		Not Allowed	
Monthly Rates		Current	Renewal	Current	Renewal				
Employee Only	173	\$249.48	\$268.81	50	\$147.20	\$250.94		\$153.73	
Family	386	\$658.39	\$709.42	66	\$388.45	\$664.98		\$407.37	
Estimated Monthly Premium		\$297,298.58	\$320,340.25	\$32,997.70	\$35,554.80	\$300,094.90		\$34,572.92	
Estimated Annual Premium		\$3,567,582.96	\$3,844,083.00	\$395,972.40	\$426,657.60	\$3,601,138.80		\$414,875.04	
Estimated from Current			7.75%		7.75%	0.94%		4.77%	
Employee Only	92.5%	\$39,923.04	\$43,016.32	93%	\$6,844.80	\$40,156.67		\$7,148.45	
Family	85.8%	\$218,050.87	\$234,951.39	93%	\$23,843.06	\$220,233.40		\$25,004.37	
		\$257,973.90	\$277,967.71		\$30,687.86	\$260,390.07		\$32,152.82	
Annualized		\$3,095,686.85	\$3,335,612.53		\$368,254.33	\$3,124,680.84		\$385,833.79	
Monthly H.S.A. Contributions					Monthly H.S.A. Contributions by City			Monthly H.S.A. Contributions by City	
Employee				\$70.80	\$3,540.00			\$3,540.00	
Family				\$156.66	\$10,339.56			\$10,339.56	
					\$13,879.56			\$13,879.56	
Annualized					\$166,554.72			\$166,554.72	
Total Employer Cost of Plan		\$3,095,686.85	\$3,335,612.53		\$534,809.05	\$3,124,680.84		\$552,388.51	
Combined Plan Totals		Current PPO & HDHP \$3,630,495.90		Renewal PPO & HDHP \$3,898,958.82		PPO & HDHP \$3,677,069.34			

This benefit includes *Simply Engaged* program.

This is not intended to be a complete summary of benefits. Please refer to the benefit summary for any limitations or exclusions.

Stephens
Stephens Insurance, LLC

"PLAN B"

"CURRENT PLAN"

City of Fayetteville

Medical Renewal - Effective Date January 1, 2012

BENEFITS / COST	Arkansas Blue Cross Blue Shield						Arkansas Blue Cross Blue Shield					
	Current Benefits						Non-Grandfathered Plans with Standard Formulary					
	PPO		HDHP				Option 1		Option 2		Option 3 - HDHP H.S.A. 613	
Plan Design	In Network	Non Network	In Network	Non Network			In Network	Non Network	In Network	Non Network	In Network	Non Network
PCP Office Visit	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins			Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins
Specialist Office Visit	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins			Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins
Inpatient Hospital	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins			Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins
Emergency Room	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins			Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins
Urgent Care	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins			Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins	Ded & Coins
Ambulance	\$1,000/trip ground	\$1,000/trip ground	\$1,000/trip ground	\$1,000/trip ground			\$1,000/trip ground	\$1,000/trip ground	\$1,000/trip ground	\$1,000/trip ground	\$1,000/trip ground	\$1,000/trip ground
	\$5,000/year air	\$5,000/year air	\$5,000/year air	\$5,000/year air			\$5,000/trip air	\$5,000/trip air	\$5,000/trip air	\$5,000/trip air	\$5,000/year air	\$5,000/trip air
Annual Deductible - IND	\$500		\$3,000	\$6,000			\$750		\$1,000		\$4,000	\$8,000
Annual Deductible - FAM	2 x Individual Aggregate		\$6,000	\$12,000			2 x Individual Aggregate		2 x Individual Aggregate		\$8,000	\$16,000
Coinurance	80%/20%	60%/40%	100%/0%	80%/20%			80%/20%	60%/40%	80%/20%	60%/40%	100%/0%	80%/20%
Annual Coinurance Max - IND	\$1,000	\$4,000	\$0	Unlimited			\$1,000	\$4,000	\$1,000	\$4,000	\$0	Unlimited
Annual Coinurance Max - FAM	\$2,000	\$8,000	\$0	Unlimited			\$2,000	\$8,000	\$2,000	\$8,000	\$0	Unlimited
Rx Drug Copays	\$10/\$30/\$50 Participating Pharmacies		Ded & Coins	None			\$10/\$30/\$50 Participating Pharmacies		\$10/\$30/\$50 Participating Pharmacies		Ded & Coins	None
Mail Order Rx	Maintenance Drugs Only		Does Not Apply				Maintenance Drugs Only		Maintenance Drugs Only		Does Not Apply	
Medical Lifetime Max Per Person	Unlimited		Unlimited				Unlimited		Unlimited		Unlimited	
Wellness Benefits	No Ded	No Ded	No Ded	No Ded			No Ded	No Ded	No Ded	No Ded	No Ded	No Ded
	100%	80%	100%	80%			PPACA Wellness	PPACA Wellness	PPACA Wellness	PPACA Wellness	PPACA Wellness	PPACA Wellness
3 Month Carryover Provision	Yes		Not Allowed				Yes		Yes		Yes	
Monthly Rates	PPO	Current	Renewal	HDHP	Current	Renewal						
Employee Only	173	\$249.48	\$268.81	50	\$147.20	\$158.61	\$264.08	\$255.05	\$151.84			
Family	386	\$658.39	\$709.42	66	\$388.45	\$418.55	\$696.93	\$673.09	\$400.68			
Estimated Monthly Premium		\$297,298.58	\$320,340.25		\$32,997.70	\$35,554.80	\$314,700.82	\$303,936.39	\$34,036.88			
Estimated Annual Premium		\$3,567,582.96	\$3,844,083.00		\$395,972.40	\$426,657.60	\$3,776,409.84	\$3,647,236.68	\$408,442.56			
Estimated from Current			7.75%			7.75%	5.85%	2.23%	3.15%			
Employee Only	92.5%	\$39,923.04	\$43,016.32	93%	\$6,844.80	\$7,375.37	\$42,259.40	\$40,814.38	\$7,060.56			
Family	85.8%	\$218,050.87	\$234,951.39	93%	\$23,843.06	\$25,690.60	\$230,814.85	\$222,919.33	\$24,593.74			
		\$257,973.90	\$277,967.71		\$30,687.86	\$33,065.96	\$273,074.25	\$263,733.71	\$31,654.30			
Annualized		\$3,095,686.85	\$3,335,612.53		\$368,254.33	\$396,791.57	\$3,276,891.06	\$3,164,804.49	\$295,124.86			
Monthly H.S.A. Contributions					Monthly H.S.A. Contributions by City				Monthly H.S.A. Contributions by City			
Employee				\$70.80	\$3,540.00	\$3,540.00			\$3,540.00			
Family				\$156.66	\$10,339.56	\$10,339.56			\$10,339.56			
					\$13,879.56	\$13,879.56			\$13,879.56			
Annualized					\$166,554.72	\$166,554.72			\$166,554.72			
Total Employer Cost of Plan		\$3,095,686.85	\$3,335,612.53		\$534,809.05	\$563,346.29	\$3,276,891.06	\$3,164,804.49	\$461,679.58			
Combined Plan Totals		Current PPO & HDHP \$3,630,495.90			Renewal PPO & HDHP \$3,998,958.82		Option 1 & HDHP \$3,840,237.35		Option 2 & HDHP \$3,728,150.77		Option 2 PPO & Option 3 HDHP \$3,626,484.07	

This is not intended to be a complete summary of benefits. Please refer to the benefit summary for any limitations or exclusions.

Stephens
Stephens Insurance, LLC

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

C. 3
Amend Chapter 169 & Chapter 170
Page 1 of 54

August 16, 2011

City Council Meeting Date

Chris Brown ^{CB}

Submitted By

Engineering

Division

Development Services

Department

Action Required:

An ordinance to amend UDC Chapter 169 Physical Alteration of Land and Chapter 170 Stormwater Management, Drainage and Erosion Control

\$

-

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

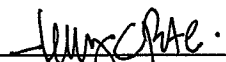
Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

07/28/2011
Date

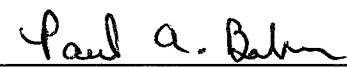
Previous Ordinance or Resolution #


City Attorney

7/24/2011
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Service Director

7-31-2011
Date

Received in City Clerk's Office
07-29-11 P03:03 RCVD



Chief of Staff

8-1-11
Date

Received in Mayor's Office


Mayor

8/1/11
Date

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

Council Meeting of August 16, 2011

To: Mayor and City Council

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

From: Chris Brown, City Engineer *CB*

Date: July 28, 2010

Subject: An ordinance to revise UDC Chapter 169 Physical Alteration of Land and Chapter 170 Stormwater Management, Drainage and Erosion Control

PROPOSAL

In 2010, the City Council approved changes to Chapters 169 and 170 of the City's Unified Development Code. The changes, among other things, defined maintenance responsibilities for stormwater management systems, and added requirements for site plans for 1&2 family residences to contain a plan for erosion and sediment control and final on-site drainage. In conjunction with these changes, policy changes related to the building permit and inspection process for site drainage and erosion control have been implemented, and enforcement of existing grading and drainage ordinances have been more comprehensively enforced on single family home sites to meet the code requirements.

The goal of these changes was to both protect water quality during construction, and ensure that grading on single family home sites is done properly, thereby reducing complaints from citizens related to lot grading and drainage issues.

During the implementation of the ordinance and policy revisions, and through conversations with multiple contractors and City inspectors, it became apparent that amendments to the ordinance were needed to clarify certain provisions, simplify post construction maintenance provisions, and allow more flexibility in erosion control practices on small sites to achieve the stated goals. Therefore, the following ordinance changes are proposed:

Chapter 169:

- 1) Revisions to Sections 169.02 and 169.12, to clarify stabilization requirements for adjacent/nearby properties that are disturbed by construction activities.
- 2) Clarification that grading permits are not required for single family homes or duplexes, when only 1 structure is constructed per lot, regardless of the number of structures constructed upon at one time.
- 3) Clarification of the applicability of Section 169.06.
- 4) Clarification of topsoil stockpile requirements, and a specific allowance for topsoil stockpiles as a sediment control BMP.

Chapter 170:

- 1) Removal of the requirement for maintenance agreements in Section 170.08. This portion of the ordinance has not been used since its adoption. Maintenance requirements for stormwater systems is planned for review as part of the Drainage Criteria Manual update; upon completion of the Manual update, another revision to this section will most likely be required to align the Manual requirements with the ordinance.
- 2) The specific requirement for construction exits has been removed. Construction exits are a BMP that are intended for haul roads and larger sites that have numerous trucks exiting at a single location; the requirement for a construction exit is not appropriate for all sites. Construction exits will still be utilized for certain sites, when they are applicable.
- 3) Required locations of Concrete wash areas have been clarified.
- 4) Requirements for information to be included in building permit applications has been expanded to clarify expectations for site plans submitted with permit applications.

RECOMMENDATION

Staff and recommends approval of revisions to UDC Chapter 169 Physical Alteration of Land and Chapter 170 Stormwater Management, Drainage and Erosion Control. (The Planning Commission did not review these particular amendments).

BUDGET IMPACT

The proposed ordinance amendments will cause no budget impact.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTIONS OF CHAPTER 169: **PHYSICAL ALTERATION OF LAND** AND CHAPTER 170: **STORMWATER MANAGEMENT, DRAINAGE AND EROSION CONTROL**

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 the following sections or subsections in Chapter 169: **Physical Alteration of Land** and enacts replacement sections or subsections as shown in Exhibit A:

§169.02(A); §169.06(A) and (F)(3) and §169.12.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals the following sections or subsections in Chapter 170: **Stormwater Management, Drainage and Erosion Control** and enacts replacement sections or subsections as shown in Exhibit B:

§170.08(C) and (D); §170.10 (A)(3) and (6) and §170.12(B).

PASSED and APPROVED this 16th day of August, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT A

C. 3
Amend Chapter 169 & Chapter 170
Page 5 of 54

TITLE XV UNIFIED DEVELOPMENT CODE CHAPTER 169: PHYSICAL ALTERATION OF LAND

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CHAPTER 169: PHYSICAL ALTERATION OF LAND**169.01 Intent**

- (A) It is the city's intent to safeguard the health, safety, and welfare of Fayetteville citizens by implementing standards and procedures for the physical alteration of land. It is not the city's intent to supersede federal or state regulations such as, but not limited to, the Occupational Health & Safety Act.
- (B) The purpose of this chapter is to control grading, clearing, filling, and cutting (or similar activities) which alone or in combination cause landslides, flooding, degradation of water quality, erosion and sedimentation in storm sewer systems and water storage basins. It is also the intent of this chapter that through the implementation of the guidelines and regulations contained herein, the existing scenic character and quality of the neighborhood and city as a whole not be diminished.

(Code 1991, §161.01; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. 5336, 8-3-10)

169.02 General Requirements

- (A) *Protection.* Persons engaged in land alteration activities regulated by this chapter shall take measures to protect public and private properties from damage by such activities. Adjacent and nearby properties affected by land alterations shall be restored in accordance with the requirements of this Chapter.
- (B) *Site conditions.* Development shall generally conform to the natural contours of the land, natural drainage ways, and other existing site conditions.
- (C) *Adjacent properties.* All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such development. More specifically, new development may not unreasonably impede water runoff from higher properties nor may it unreasonably channel water onto lower properties.
- (D) *Restoration.* Land, shall be revegetated and restored as close as practically possible to its original conditions so far as to minimize runoff and erosion are concerned. Previously forested areas shall follow the City's Landscape Manual for mitigation of forested areas.

(Code No. 1991, §161.02; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. 4855, 4-18-06; Ord. 5336, 8-3-10)

169.03 Permits Required/Exceptions

- (A) *Permit required.* No grading, filling, excavation, or land alteration of any kind shall take place without first obtaining:
- (1) A grading permit pursuant to this chapter except as specified in §169.03(B);
 - (2) A stormwater management, drainage and erosion control permit (hereinafter referred to as a "drainage permit") except as specified in §170.03(C) and §170.03(D); and
 - (3) An Arkansas Department of Environmental Quality Stormwater Construction Permit and incorporated Stormwater Pollution Prevention Plan, if required by state law.
 - (4) A grading permit is required by the City for any development occurring within the Hillside/Hilltop Overlay District boundaries. If a parcel of land is divided by the Hillside/Hilltop Overlay District boundary, then only that portion of land lying within the boundary is subject to the requirements of this chapter.
- (B) *Exceptions where no grading permit is required.* Grading permits are not required for the following:
- (1) *Excavation below finish grade.* Excavations below finished grade for basements, swimming pools, hot tubs, septic systems, retaining walls under 4 feet in height, and like structures authorized by a valid building permit.
 - (2) *Cemetery graves.* Cemetery graves.
 - (3) *Refuse disposal.* Refuse disposal sites controlled by other regulations.
 - (4) *Single-family/duplex.* Construction of one single-family residence or duplex per lot, not located within the 100 year flood plain, the Hillside/Hilltop Overlay District, or on a slope 15 % or greater.
 - (5) *Building additions.* Building additions of less than 2,000 square feet where associated land alteration activities are not beyond the scope of what is necessary to construct said addition and are not located within the 100 year flood plain, the Hillside/Hilltop Overlay District, or on a slope 15 % or greater.

- (C) *Grading permit application and approval.* No grading permit shall be issued until the grading plan, endorsed by a registered architect, landscape architect, or engineer, is approved by the City Engineer. A separate permit shall be required for each site; it may cover both excavations and fills. Grading permits may be issued jointly for parcels of land that are contiguous, so long as erosion control measures are in place until project completion. Any application for a required grading permit under this chapter shall be submitted concurrently with the application and calculations for a drainage permit if such a drainage permit is required by §170.03., coordination with Chapter 167. Tree Preservation and Protection is required.
- (D) *Permit posted.* A copy of the grading permit cover page shall be posted at or near the street right-of-way line and shall be clearly visible from the street.

(Code 1991, §161.03; Ord. No. 3551, 6-5-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. No. 4313, 5-15-01; Ord. 4855, 4-18-06; Ord. 5336, 8-3-10)

169.04 Minimal Erosion Control Requirements

If exempt under 169.03, a grading permit is not required. However, exempt as well as non-exempt activities shall be subject to the following minimal erosion and sedimentation control measures.

- (A) *Natural vegetation.* The potential for soil loss shall be minimized by retaining natural vegetation wherever possible. Development in the Hillside/Hilltop Overlay District should comply with the recommendations of the Hillside/Hilltop Best Management Practices Manual with regard to the retention of natural vegetation on Hillside/Hilltops.
- (B) *Stabilization.* A record of the dates when grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated shall be included in the erosion and sediment control plan. Except as provided in (1) and (2) below, stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.
- (1) Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceases is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.

- (2) Where construction activity will resume on a portion of the site within 21 days from when activities ceased, (e.g. the total time period that construction activity is temporarily ceased is less than 21 days) then stabilization measures do not have to be initiated on that portion of the site by the 14th day after construction activity temporarily ceased.
- (3) Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, and preservation of mature vegetation and other appropriate measures. *See Chapter 167 of the UDC for tree protection requirements.*
- (C) *Intermittent/perennial streams.* No intermittent or perennial stream, including a 25 foot perimeter strip measured from the top of the bank, shall be graded, developed, channeled, or physically altered unless adequate guarantees are made for erosion and sedimentation control both during construction and post construction. Likewise, cuts or fills shall be setback sufficiently from intermittent and perennial streams and other stormwater drainage systems to guarantee that there will be no damage from erosion or sedimentation. Final erosion and sedimentation control measures shall be approved by the City Engineer.
- (D) *Excavation material.* Excavation material shall not be deposited in or so near streams and other stormwater drainage systems where it may be washed downstream by high water or runoff. All excavation material shall be stabilized immediately with erosion control measures.
- (E) *Fording streams.* Fording of streams with construction equipment or other activities which destabilize stream banks shall not be permitted.
- (F) *Debris, mud, and soil in public streets.* Debris, mud and soil shall not be allowed on public streets but if any debris, mud, or soil from development sites reaches the public street it shall be immediately removed via sweeping or other methods of physical removal. Debris, mud, or soil in the street may not be washed off the street or washed into the storm drainage system. Storm drainage systems downstream of a development site should be protected from debris, mud, or soil in the event that debris, mud, or soil reaches the drainage system.

(Code 1991, §161.04; Ord. No. 3551, 6-5-91; Ord. No. 3947, §1, 2-6-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. 4855, 4-18-06; Ord. 5336, 8-3-10)

169.05 One-Time Approvals

- (A) *Utilities.* Public and private utility organizations may obtain a one-time approval from the City Engineer for all routine underground electric, water, sewer, natural gas, telephone, or cable facilities. The approval will include a utility organization and its contractors, agents, or assigns and will be permanent in nature as long as the original approved procedures are followed.
- (B) *Stockpiling materials.* One-time approval may be obtained by public or private entities for the stockpiling of fill material, rock, sand, gravel, aggregate, or clay at particular locations, subject to Zoning, Chapters 160 through 165.

(Code 1991, §161.05; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5336, 8-3-10)

169.06 Land Alteration Requirements

- (A) *Applicability.* This section shall apply to all land alteration activities, including those that do not require a grading permit.
- (B) *Requirements varied.* Variances of this chapter's requirements may be approved by the City Engineer. The extent to which variations may be made will depend on the soil types encountered, planned slopes, planned vegetation, and investigative engineering reports. In no case shall the City Engineer waive or modify any of the minimum erosion control requirements as given in §169.04.
- (C) *Cut or fill slopes.*
- (1) *Finish grade.* Cut or fill slopes shall have a finish grade no steeper than 33% (3.00 horizontal to 1 vertical), unless otherwise approved by the City Engineer. Land located within the Hillside/Hilltop Overlay District may have cut or fill slopes with a finish grade no steeper than 50% (2.00 horizontal to 1 vertical) unless otherwise approved by the City Engineer.
 - (2) *Maximum length.* The maximum length of any cut or fill slope without a terrace (as described in 169.06 (D) below) shall be 100 feet as measured along the ground. The terrace shall be at least six feet (6') wide.
 - (3) *Existing topography.* Cut or fill slopes shall be constructed to eliminate sharp angles of intersection with the existing terrain and shall be rounded and contoured to blend with the existing topography.
 - (4) *Setback requirements.* The following setback requirements shall be reviewed by

the City Engineer for purposes of assessing safety, stability, and drainage problems: (See illustrations).

- (a) *Setback from top or toe of cut or fill.* Buildings shall be setback from the top or toe of a cut or fill in accordance with Zoning, Chapters 160 through 165; Building Regulations, Chapter 173; or the approved grading plan, whichever is greatest.
- (b) *Setbacks from property lines.* The required setback of retaining walls, cut slopes, and fill slopes from property lines shall be as given in the illustrations. Property lines may be filled over or cut if a grading plan for the cut or fill is submitted jointly by the owner of both properties or with written permission from the adjacent property owner and if no utility easements are involved. If utility easements are involved, approval is required as given in (c) below in addition to the joint submittal requirement.
- (c) *Setbacks from the edge of an easement.* The required setback of retaining wall, cut slopes, and fill slopes from the edge of easements shall be as given in the illustrations. Where no utilities are present in an easement, or where utilities are planned to be relocated, and where such action is approved by all utilities, in writing, then easements may fall within a cut or fill section.
- (d) *Setbacks from structures.* The required setback of retaining walls, cut slopes, and fill slopes from structures shall be as given in the illustrations. If a structure forms an integral part of the retaining wall, then the setbacks do not apply to that structure.
- (e) *Calculating setbacks.* For the purpose of calculating setbacks, any cut or fill section which is on a slope of one to one or greater shall be considered a retaining wall.
- (f) *Administrative variance.* Setbacks from easement lines and structures may be varied administratively by the City Engineer if geotechnical and/or structural information is provided that in the opinion of the City Engineer justifies the variance.

- (g) *Additional information required.* The City Engineer may require further geotechnical and/or structural information to show that setbacks greater than those given are not needed to protect property, utilities, or the integrity of property lines.

(D) *Cuts.*

- (1) *Vertical height.* Cuts shall be limited to 10 feet in vertical height unless information demonstrating slope stability, erosion control, and drainage control is provided together with a re-vegetation plan. For nonsolid rock cuts, terraces shall be required for cuts greater than 10 feet in height. It is recommended that terracing be at a maximum ratio of one foot of horizontal terrace for every foot of vertical surface.
- (2) *Maximum vertical cut.* In solid rock, as determined by geotechnical and engineering data approved by the City Engineer, the maximum vertical cut shall be 30 feet.
- (3) *Fill material.* In no case shall a cut be allowed primarily for the purpose of obtaining fill material to a different site, unless the exporting site is located within an extraction district.

(E) *Fills.*

- (1) *Rocks/fill.* All imported fill shall be free of rocks greater than 12 inches in diameter and any detrimental organic material or refuse debris.
- (2) *Compaction.* Fill shall be placed and compacted as to minimize sliding or erosion of soil. Fill compaction shall equal the compaction of undisturbed, adjacent soil, except fills covered by Building Regulations, Chapter 173, or other structural fills. The City Engineer may require soil tests during compaction work or upon its completion at the expense of the permittee.
- (3) *Grade.* Fill shall not be placed on existing slope with a grade steeper than 15% (6.67 horizontal to 1 vertical) unless keyed into steps in the existing grade and thoroughly stabilized by mechanical compaction.
- (4) *Vertical height.* Fills shall be limited to 10 feet in vertical height unless information demonstrating slope stability, erosion control, and drainage control is provided together with a re-vegetation plan.

- (5) *Terraces.* Terraces shall be required for fills greater than 10 feet in height. It is recommended that terracing be at a maximum ratio of one foot of horizontal terrace for every foot of vertical surface.

(F) *Erosion and sedimentation control.*

- (1) *Permanent improvements.* Permanent improvements such as streets, storm sewers, curb and gutters, and other features for control of runoff shall be scheduled coincidental to removing vegetative cover from the area so that large areas are not left exposed beyond the capacity of temporary control measures.
- (2) *Phased Construction.* The area of disturbance onsite at any one time shall be limited to 20 acres. An additional 20 acres (a maximum of 40 acres of disturbance at any one time) may be stripped with the permission of the City Engineer in order to balance cut and fill onsite. No additional area may be open without the permission of the City Engineer until the previously disturbed areas have been temporarily or permanently stabilized.
- (3) *Stockpiling of top soil.* Top soil may be stockpiled and protected for later use on areas requiring landscaping. All storage piles of soil, dirt or other building materials (e.g. sand) shall be located more than 25 feet from a roadway, drainage channel or stream (from top of bank), wetland, and stormwater facility. The City Engineer may also require top soil stockpiles to be located up to fifty (50) feet from a drainage channel or stream, as measured from the top of the bank to the stockpile, for established TMDL water bodies; streams listed on the State 303(d) list; an Extraordinary Resource Water, Ecologically Sensitive Waterbody, and/or Natural and Scenic Waterbody, as defined by Arkansas Pollution Control and Ecology Commission Regulation No. 2; and/or any other uses at the discretion of the City Engineer.

Topsoil piles surfaces must be immediately stabilized with appropriate stabilization measures. Stabilization practices may include: temporary seeding (i.e. annual rye or other suitable grass), mulching, and other appropriate measures. Sediment control measures such as buffer strips, wattles, or silt fence shall be provided immediately for stockpiles and remain in place until other stabilization is in place. Storm drain inlets must be protected from potential

sedimentation from storage piles by silt fence or other appropriate barriers.

Properly stabilized topsoil stockpiles may be used for sedimentation control.

- (4) *Existing vegetation.* Every means shall be taken to conserve and protect existing vegetation.
- (5) *Re-vegetation.* Re-vegetation shall be required to meet the following performance standards (sediment controls shall remain in place until re-vegetation is established) unless otherwise allowed by the City Engineer:
 - (a) *Topsoil.* A minimum of 4 inches of topsoil shall be required to be either existing or installed in areas to be re-vegetated. Any application of topsoil and seeding under the drip line of a tree should be minimized to 3 inches so as not to damage the trees root system.
 - (b) *Zero to 10% grade:* Re-vegetation shall be a minimum of seeding and mulching. Said seeding shall provide complete and uniform coverage that minimizes erosion and runoff in no more than two growing seasons.
 - (c) *10:1 up to 4:1 grade:* Re-vegetation shall be a minimum of hydro-seeding with mulch and fertilizer, sod, or groundcover. Said planting shall provide complete and uniform coverage in no more than two growing seasons.
 - (d) *4:1 to 3:1 grade:* The slope shall be covered with landscape fabric and hydro-seeded with mulch and fertilizer, or staked sod, or groundcover. Said planting shall provide complete and uniform coverage in no more than two growing seasons.
 - (e) *More than 3:1 grade:* Any finish grade over 3:1 shall be stabilized with one or more of the following:
 - 1) Retaining walls;
 - 2) Cribbing with landscape fabric;
 - 3) Terracing with groundcover;
 - 4) Riprap;
 - 5) Staked Sod (up to 2:1 slope)
 If Cribbing, Terracing, or Riprap is used, the slope's stability and erodibility must be equivalent to or better than its predevelopment state.
 - (f) *Hillside/Hilltop Overlay District.* Re-vegetation of lands within the

Hillside/Hilltop Overlay District shall be planted immediately after the physical alteration of the land with complete and uniform ground cover. Sod, erosion fabric, herbaceous groundcover (in wooded areas), and/or a hydroseed with warm season grasses is required. Re-vegetation requirements shall be met prior to the issuance of a certificate of occupancy. Cut and Fill tie-back slopes shall be re-vegetated with appropriate tree species to achieve a minimum of 25% tree canopy at maturity.

- (6) *Plant/water.* Plant materials shall be watered or irrigated and tended. Where irrigation or regular watering is not available, only native or acclimated plant species shall be used. If the soil cannot properly sustain vegetation, it must be appropriately amended. If re-vegetation is not firmly established and healthy after one year, the urban forester shall require that it be redone in part or total.
- (7) *Plant/terrace bench.* Plant materials shall be planted along terrace benches. Said plantings shall be spaced as necessary to thoroughly stabilize the terrace bench. The remainder of the terraced slope shall be re-vegetated and stabilized according to §169.06(F)(5) above.
- (8) *Permanent erosion control.* The developer shall incorporate permanent erosion control features at the earliest practical time. Temporary erosion control measures will be used to correct conditions that develop during construction that were unforeseen during the design stage, that are needed prior to installation of permanent erosion control features, or that are needed temporarily to control erosion that develops during normal construction projects, but are not associated with permanent control features on the project.
- (G) *Undisturbed land requirements.* In the development of residential subdivisions, allowable grading of slopes shall be in accordance with this table.

Average Grade	Minimum Undisturbed Area
10 to 15 percent	40 percent
15 to 20 percent	50 percent
> 20 percent	60 percent

In the development of Large Scale Developments, Large Site Improvement Plans, and lots within the Hillside Overlay District, the minimum amount of undisturbed land shall equal the percent minimum

tree canopy pursuant to §167.04 (C). Planned Zoning Districts shall show undisturbed areas, but may be approved by the City Council with lesser percentages of undisturbed area than required above.

(H) *Required retaining wall and rock cut design.*

- (1) *Design/inspection.* Any retaining wall more than four feet in height shall be designed by a registered professional engineer, and shall be field inspected by the design engineer. The design engineer shall provide proof of inspection and certify that the wall was constructed in conformance with the design. The City Engineer may require retaining walls less than four feet in height to be designed by a professional engineer.
- (2) *Investigation/report.* All proposed rock cuts and any cut or fill 10 feet or greater will require a geotechnical investigation and a formal report submitted by a registered professional engineer qualified to make such investigations.
- (3) *Safety railings.* Safety railings may be required on any retaining wall 2.5 feet or higher. The decision as to whether to require safety railing shall be based on potential pedestrian and public access to the retaining wall and applicable building codes. This requirement for safety rails shall also apply to vertical or near vertical rock cuts and to steep (greater than 3:1) cut or fill slopes.

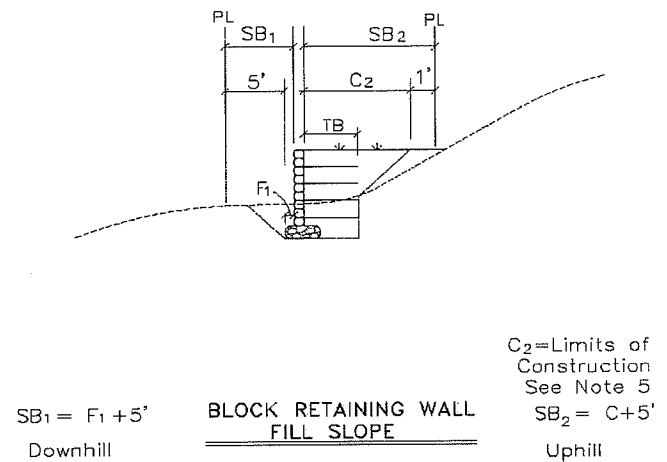
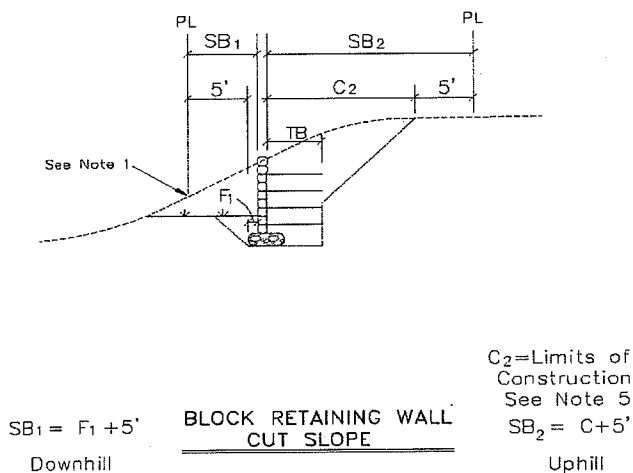
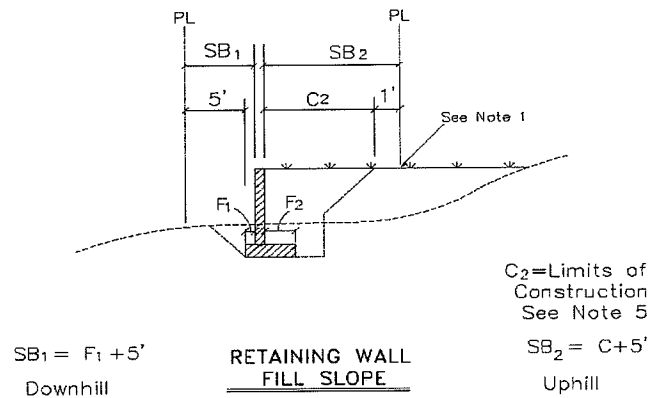
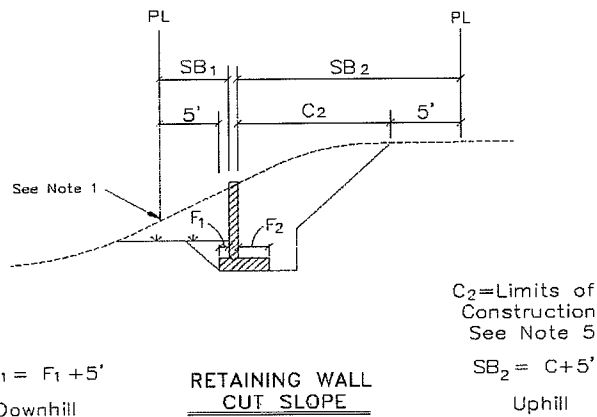
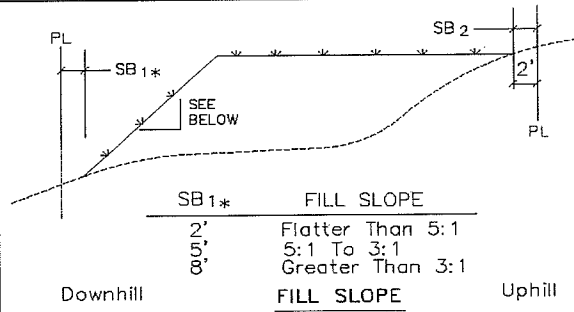
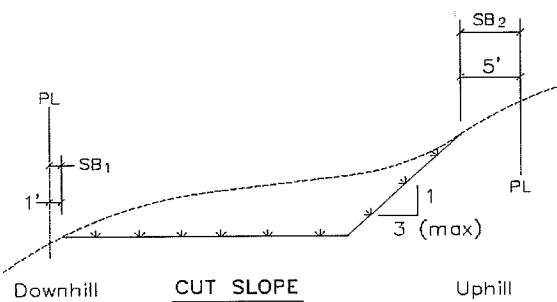
(Code 1991, §161.07; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. No. 4855, 4-18-06; Ord. 5336, 8-3-10)

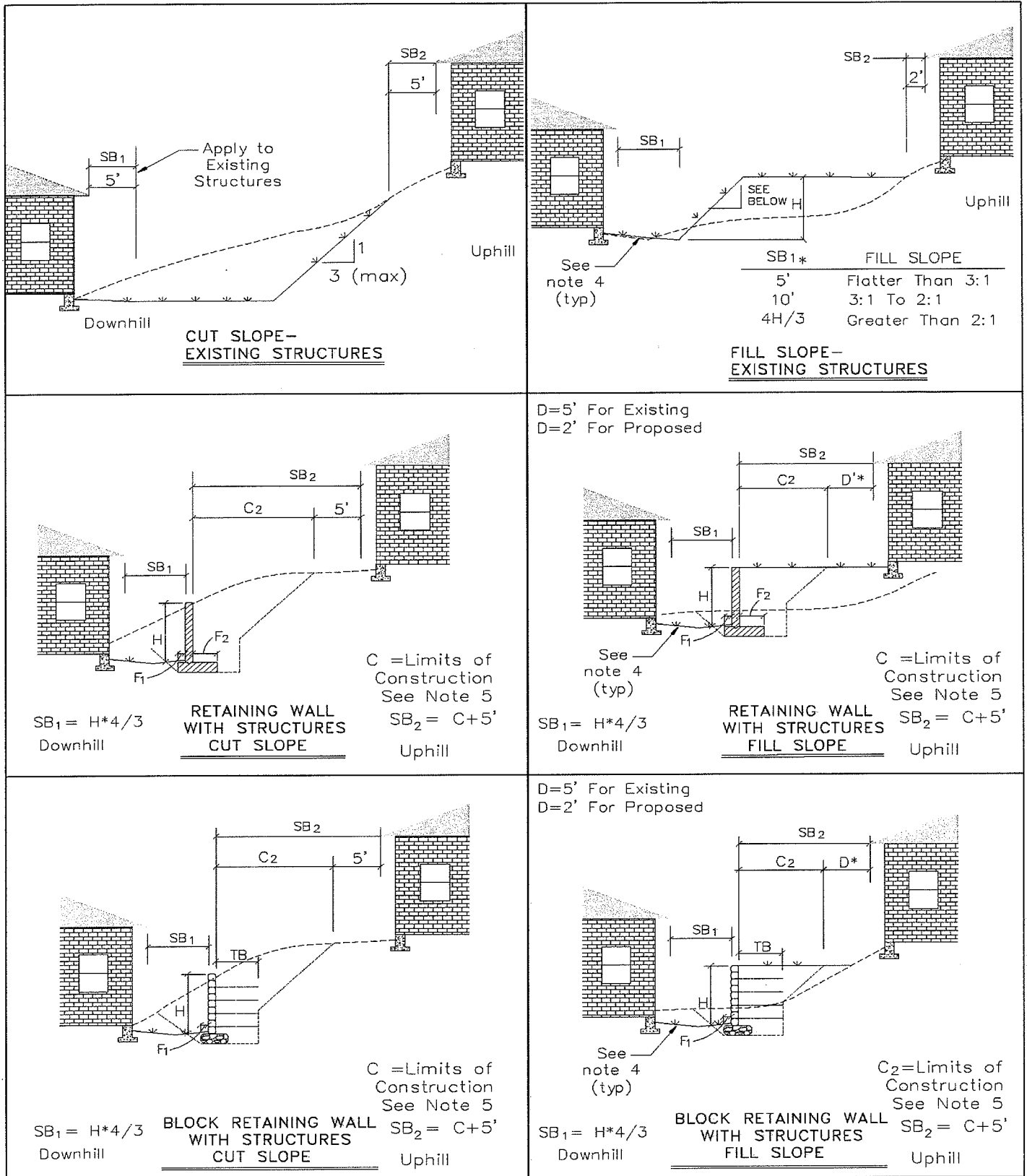
LEGEND

---	EXISTING GROUND
—	PROPERTY OR EASEMENT LINE
---	PROPOSED GROUND
---	CONSTRUCTION LIMITS
SB ₁	MINIMUM SETBACK FROM PROPERTY LINE DOWNHILL
SB ₂	MINIMUM SETBACK FROM PROPERTY LINE UPHILL
TB	TIE BACK
S	SLOPE
F ₁	FOUNDATION DOWNHILL
F ₂	FOUNDATION UPHILL
C ₁	LIMITS OF CONSTRUCTION—DOWNHILL
C ₂	LIMITS OF CONSTRUCTION—UPHILL

NOTES

1. WRITTEN PERMISSION FROM ADJACENT PROPERTY OWNER IS REQUIRED TO FILL OR EXCAVATE OVER EXISTING PROPERTY LINES.
2. CONSTRUCTION LIMITS INDICATED ARE FOR INITIAL CONSTRUCTION; RECONSTRUCTION; OR MAINTENANCE OF THE STRUCTURE IN THE FUTURE.
3. REVIEW ZONING & BUILDING SETBACK REQUIREMENTS, DEFER TO WHICHEVER MAY BE GREATER.
4. MINIMUM SLOPE AND DISTANCE FROM THE STRUCTURE PER STATE BUILDING CODE MUST NOT BE VIOLATED.
5. REFER TO THE OSHA TECHNICAL MANUAL SECTION 5 CHAPTER 2 FOR SOIL TYPES AND SLOPE EXCAVATION TO DETERMINE THE LIMITS OF CONSTRUCTION.





169.07 Grading Plan Specifications

(A) *Grading plan.* The applicant shall prepare a grading plan as follows:

- (1) *Site plan.* Site plan at a scale no smaller than one inch equals 50 feet, showing property lines; vicinity map; name of owner, developer and adjacent property owners.
- (2) *Existing grades.* Existing grades shall be shown with dashed line contours and proposed grades with solid line contours. Grading plans shall be required to show both the proposed grade and the undisturbed area. Contour intervals shall be a maximum of two feet. Spot elevations shall be indicated.
- (3) *Designation of grade.* Areas with 0 to 10%, 10 to 15%, 15 to 20% and more than 20% grade shall each be identified in a distinguishing manner.
- (4) *Identify land to be disturbed.* Land areas to be disturbed shall be clearly identified.
- (5) *Engineer/architect.* Seal of a registered engineer, architect, or landscape architect certifying that the plan complies with this chapter.
- (6) *Cuts and fills.* All cuts and fills, including height and slope, shall be clearly shown on the plan.
- (7) *Streets and rights-of-way.* Location and names of all existing or platted streets or rights-of-way within or adjacent to tract and location of all utilities and easements within or adjacent to the property shall all be indicated.
- (8) *Lot/building, etc. identification.* The proposed location of lots, buildings, streets, parking lots and parks, playgrounds or green space shall be indicated. Also to be indicated is any existing or proposed building within 100 feet of the site.
- (9) *Soil type.* Soil types shall be identified according to the Unified Soil Classification System.
- (10) *Natural features.* Location of natural features such as drainage ways, ponds, rock outcroppings, and tree cover. Indication of 100 year floodplains as defined by FEMA.
- (11) *Streets and drainage ways.* Profiles and cross sections for proposed streets and drainage ways.
- (12) *Acreage/zoning.* Total acreage and zoning classification.
- (13) *Surface water.* Provisions for collecting and discharging surface water.
- (14) *Underground utilities.* Profiles and cross sections of streets, drainage systems, and underground utilities, if they are necessary to clarify the grading plan in terms of potential erosion or runoff, or if the grading on site has the potential of disturbing the utility line.
- (15) *Treatment of slopes and benches.* The method of treatment for all slopes and benches shall be indicated.
- (16) *Natural vegetation preservation.* Proposals for preserving natural vegetation and description of re-vegetation or other permanent erosion control strategy.
- (17) *Runoff/sedimentation.* Specification of measures to control runoff and sedimentation during construction indicating what will be used such as straw bales, silt dams, brush check dams, lateral hillside ditches, catch basins, and the like.
- (18) *Preliminary plat master build-out grading plan.* The applicant shall prepare a master grading plan to be followed during individual lot development to convey runoff to a public drainage easement or right of way. In addition to the requirements of 169.07 A, the following shall be required for individual lot drainage design:
 - (a) Identify lot lines and conceptual foot print of residence.
 - (b) Establish the minimum finish floor and grading adjacent to the residential structure in accordance with Chapter 173 Building Regulations and the Arkansas Fire Prevention Code.
 - (c) Indicate individual lot drainage with the use of spot elevations and flow arrows.
 - (i) The minimum slope of the flow path from the top of curb, top bank, or approved drainage inlet to the high point of the final graded lot shall be at a minimum of 2% for grassed surfaces.
 - (ii) In general, drainage should be routed on the shortest practicable flow path to the public right of way or drainage easement.

- (d) Non structural grassed swales for rear lot drainage concentration is discouraged and shall not be installed in combination with a utility easement.
- (e) Utility Easements shall be graded and shaped in accordance with the master build-out grading plan during preliminary plat construction.
- (i) Provisions will be considered to accommodate positive drainage until build-out occurs.

(B) *Preliminary grade plan.* The preliminary grading plan shall include all the above items except (5), (7), (11), (13), and (14) above. In addition to the above items, the city may require a cross section through the property showing existing and proposed grades as part of the preliminary submission.

The following additional required information may be reported in text rather than shown on the grading plan.

- (1) *Time schedule.* A time schedule indicating the anticipated starting and completion dates of the development sequence and time of exposure of each area prior to stabilization measures.
- (2) *Description / fill material / compaction.* Description of quantity (in cubic yards), source, and composition of imported fill material and compaction specifications. Also, note the quantity (in cubic yards) and destination of excavation materials to be removed from the site.
- (3) *Dust.* Where excessive dust may become a problem, a plan for spraying water on heavily traveled dirt areas shall be addressed.
- (4) *Soils engineering study.* The City Engineer may require a soil engineering study, or soil loss calculations if site conditions so warrant.

(Code 1991, §161.08; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, 8-18-98; Ord. No. 4855, 4-18-06; Ord. 5336, 8-3-10)

169.08 Grading Plan Submittal

- (A) *Preliminary grading plan.* A preliminary grading plan shall be submitted at the time of preliminary plat submission for subdivisions or plat submission for large scale development, whichever is applicable.

(B) *Final grading plan.* No subdivision may be finalized, nor large scale development plat approved before a final grading plan has been submitted to the City Engineer and approved. The final grading plan and the final plat of land located within the Hillside/Hilltop Overlay District shall have the following plat note stating: 'Property and lot owners of lands located within the Hillside/Hilltop Overlay District shall have foundation plans designed, approved and sealed by a professional architect or engineer.'

(C) A copy of the Stormwater Pollution Prevention Plan (SWPPP) is required to be submitted with the grading plan for sites one acre or larger.

(D) In cases where neither subdivision plat, nor LSD plat is applicable, proof of notification of adjacent property owners and grading plan must be submitted simultaneously with the application for a grading permit.

(Code 1991, §161.09; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4855, 4-18-06; Ord. 5308, 3-16-10; Ord. 5336, 8-3-10)

Cross reference(s)—Notification and Public Hearings, Ch. 157.

169.09 Minor Modifications

Finish grades shall be allowed no more than a 0.50 foot tolerance from the grading plan. However, the City Engineer may authorize in writing minor modifications so long as they do not alter the direction of run-off and otherwise comply with the intent of this chapter. When applicable, major modifications must be brought before the Subdivision Committee for their approval.

(Ord. 5336, 8-3-10)

169.10 Approval

Approval of a grading plan is contingent on meeting all the requirements of this ordinance plus any set of varied requirements approved by the Planning Commission.

(Code 1991, §161.10; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, 8-18-98; Ord. 5336, 8-3-10)

169.11 Discovery Of Historic Resources

Whenever, during the conduct of grading any historical, pre-historical, or paleontological materials are discovered, grading shall cease and the City Engineer shall be notified.

(Code 1991, §161.21; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5336, 8-3-10)

169.12 Certificate Of Occupancy

All re-vegetation and grading plan improvements shall be in place before a certificate of occupancy shall be

issued, including cleanup and restoration/revegetation of adjacent and nearby property affected by construction activities.. When a property owner has finished building construction but has yet to install plant material, said owner may apply for a temporary certificate of occupancy. In evaluating whether or not to grant a temporary certificate of occupancy, the City Engineer shall consider weather conditions and temporary stabilization measures.

(Code 1991, §161.15; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5336, 8-3-10)

169.13 Owner Responsibility

The property owner shall be responsible both for his or her employees and for all contractors and subcontractors from the onset of development until the property is fully stabilized. If property is transferred anytime between the onset of development and at the time it is fully stabilized, all responsibility and liability for meeting the terms of the chapter shall be likewise transferred to the new property owner.

(Code 1991, §161.16; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5336, 8-3-10)

169.14-169.99 Reserved

(EXHIBIT "A" MARK-UP)

**TITLE XV UNIFIED DEVELOPMENT CODE
CHAPTER 169: PHYSICAL ALTERATION OF LAND**

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CHAPTER 169: PHYSICAL ALTERATION OF LAND**169.01 Intent**

- (A) It is the city's intent to safeguard the health, safety, and welfare of Fayetteville citizens by implementing standards and procedures for the physical alteration of land. It is not the city's intent to supersede federal or state regulations such as, but not limited to, the Occupational Health & Safety Act.
- (B) The purpose of this chapter is to control grading, clearing, filling, and cutting (or similar activities) which alone or in combination cause landslides, flooding, degradation of water quality, erosion and sedimentation in storm sewer systems and water storage basins. It is also the intent of this chapter that through the implementation of the guidelines and regulations contained herein, the existing scenic character and quality of the neighborhood and city as a whole not be diminished.

(Code No. 1991, §161.01; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. 5336, 8-3-10)

169.02 General Requirements

- (A) *Protection.* Persons engaged in land alteration activities regulated by this chapter shall take measures to protect public and private properties from damage by such activities. Adjacent and nearby properties affected by land alterations shall be restored in accordance with the requirements of this Chapter.
- (B) *Site conditions.* Development shall generally conform to the natural contours of the land, natural drainage ways, and other existing site conditions.
- (C) *Adjacent properties.* All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such development. More specifically, new development may not unreasonably impede water runoff from higher properties nor may it unreasonably channel water onto lower properties.
- (D) *Restoration.* Land, shall be revegetated and restored as close as practically possible to its original conditions so far as to minimize runoff and erosion are concerned. Previously forested areas shall follow the City's Landscape Manual for mitigation of forested areas.

(Code No. 1991, §161.02; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. 4855, 4-18-06; Ord. 5336, 8-3-10)

169.03 Permits Required/Exceptions

- (A) *Permit required.* No grading, filling, excavation, or land alteration of any kind shall take place without first obtaining:
- (1) A grading permit pursuant to this chapter except as specified in §169.03(B);
 - (2) A stormwater management, drainage and erosion control permit (hereinafter referred to as a "drainage permit") except as specified in §170.03(C) and §170.03(D); and
 - (3) An Arkansas Department of Environmental Quality Stormwater Construction Permit and incorporated Stormwater Pollution Prevention Plan, if required by state law.
 - (4) A grading permit is required by the City for any development occurring within the Hillside/Hilltop Overlay District boundaries. If a parcel of land is divided by the Hillside/Hilltop Overlay District boundary, then only that portion of land lying within the boundary is subject to the requirements of this chapter.
- (B) *Exceptions where no grading permit is required.* Grading permits are not required for the following:
- (1) *Excavation below finish grade.* Excavations below finished grade for basements, swimming pools, hot tubs, septic systems, retaining walls under 4 feet in height, and like structures authorized by a valid building permit.
 - (2) *Cemetery graves.* Cemetery graves.
 - (3) *Refuse disposal.* Refuse disposal sites controlled by other regulations.
 - (4) *Single-family/duplex.* Construction of one single-family residence or duplex per lot, not located within the 100 year flood plain, the Hillside/Hilltop Overlay District, or on a slope 15 % or greater.
 - (5) *Building additions.* Building additions of less than 2,000 square feet where associated land alteration activities are not beyond the scope of what is necessary to construct said addition and are not located within the 100 year flood plain, the Hillside/Hilltop Overlay District, or on a slope 15 % or greater.

(C) *Grading permit application and approval.* No grading permit shall be issued until the grading plan, endorsed by a registered architect, landscape architect, or engineer, is approved by the City Engineer. A separate permit shall be required for each site; it may cover both excavations and fills. Grading permits may be issued jointly for parcels of land that are contiguous, so long as erosion control measures are in place until project completion. Any application for a required grading permit under this chapter shall be submitted concurrently with the application and calculations for a drainage permit if such a drainage permit is required by §170.03., coordination with Chapter 167. Tree Preservation and Protection is required.

(D) *Permit posted.* A copy of the grading permit cover page shall be posted at or near the street right-of-way line and shall be clearly visible from the street.

(Code 1991, §161.03; Ord. No. 3551, 6-5-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. No. 4313, 5-15-01; Ord. 4855, 4-18-06; Ord. 5336, 8-3-10)

169.04 Minimal Erosion Control Requirements

If exempt under 169.03, a grading permit is not required. However, exempt as well as non-exempt activities shall be subject to the following minimal erosion and sedimentation control measures.

(A) *Natural vegetation.* The potential for soil loss shall be minimized by retaining natural vegetation wherever possible. Development in the Hillside/Hilltop Overlay District should comply with the recommendations of the Hillside/Hilltop Best Management Practices Manual with regard to the retention of natural vegetation on Hillside/Hilltops.

(B) *Stabilization.* A record of the dates when grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated shall be included in the erosion and sediment control plan. Except as provided in (1) and (2) below, stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.

- (1) Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceases is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.

- (2) Where construction activity will resume on a portion of the site within 21 days from when activities ceased, (e.g. the total time period that construction activity is temporarily ceased is less than 21 days) then stabilization measures do not have to be initiated on that portion of the site by the 14th day after construction activity temporarily ceased.

- (3) Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, and preservation of mature vegetation and other appropriate measures. See Chapter 167 of the UDC for tree protection requirements.

(C) *Intermittent/perennial streams.* No intermittent or perennial stream, including a 25 foot perimeter strip measured from the top of the bank, shall be graded, developed, channeled, or physically altered unless adequate guarantees are made for erosion and sedimentation control both during construction and post construction. Likewise, cuts or fills shall be setback sufficiently from intermittent and perennial streams and other stormwater drainage systems to guarantee that there will be no damage from erosion or sedimentation. Final erosion and sedimentation control measures shall be approved by the City Engineer.

(D) *Excavation material.* Excavation material shall not be deposited in or so near streams and other stormwater drainage systems where it may be washed downstream by high water or runoff. All excavation material shall be stabilized immediately with erosion control measures.

(E) *Fording streams.* Fording of streams with construction equipment or other activities which destabilize stream banks shall not be permitted.

(F) *Debris, mud, and soil in public streets.* Debris, mud and soil shall not be allowed on public streets but if any debris, mud, or soil from development sites reaches the public street it shall be immediately removed via sweeping or other methods of physical removal. Debris, mud, or soil in the street may not be washed off the street or washed into the storm drainage system. Storm drainage systems downstream of a development site should be protected from debris, mud, or soil in the event that debris, mud, or soil reaches the drainage system.

(Code 1991, §161.04; Ord. No. 3551, 6-5-91; Ord. No. 3947, §1, 2-6-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. 4855, 4-18-06; Ord. 5336, 8-3-10)

169.05 One-Time Approvals

- (A) *Utilities.* Public and private utility organizations may obtain a one-time approval from the City Engineer for all routine underground electric, water, sewer, natural gas, telephone, or cable facilities. The approval will include a utility organization and its contractors, agents, or assigns and will be permanent in nature as long as the original approved procedures are followed.
- (B) *Stockpiling materials.* One-time approval may be obtained by public or private entities for the stockpiling of fill material, rock, sand, gravel, aggregate, or clay at particular locations, subject to Zoning, Chapters 160 through 165.

(Code 1991, §161.05; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5336, 8-3-10)

169.06 Land Alteration Requirements

- (A) *Applicability.* This section shall apply to all land alteration activities, including those that do not require a grading permit.
- (B) *Requirements varied.* Variances of this chapter's requirements may be approved by the City Engineer. The extent to which variations may be made will depend on the soil types encountered, planned slopes, planned vegetation, and investigative engineering reports. In no case shall the City Engineer waive or modify any of the minimum erosion control requirements as given in §169.04.
- (C) *Cut or fill slopes.*
- (1) *Finish grade.* Cut or fill slopes shall have a finish grade no steeper than 33% (3.00 horizontal to 1 vertical), unless otherwise approved by the City Engineer. Land located within the Hillside/Hilltop Overlay District may have cut or fill slopes with a finish grade no steeper than 50% (2.00 horizontal to 1 vertical) unless otherwise approved by the City Engineer.
 - (2) *Maximum length.* The maximum length of any cut or fill slope without a terrace (as described in 169.06 (D) below) shall be 100 feet as measured along the ground. The terrace shall be at least six feet (6') wide.
 - (3) *Existing topography.* Cut or fill slopes shall be constructed to eliminate sharp angles of intersection with the existing terrain and shall be rounded and contoured to blend with the existing topography.
 - (4) *Setback requirements.* The following setback requirements shall be reviewed by

the City Engineer for purposes of assessing safety, stability, and drainage problems: (See illustrations).

- (a) *Setback from top or toe of cut or fill.* Buildings shall be setback from the top or toe of a cut or fill in accordance with Zoning, Chapters 160 through 165; Building Regulations, Chapter 173; or the approved grading plan, whichever is greatest.
- (b) *Setbacks from property lines.* The required setback of retaining walls, cut slopes, and fill slopes from property lines shall be as given in the illustrations. Property lines may be filled over or cut if a grading plan for the cut or fill is submitted jointly by the owner of both properties or with written permission from the adjacent property owner and if no utility easements are involved. If utility easements are involved, approval is required as given in (c) below in addition to the joint submittal requirement.
- (c) *Setbacks from the edge of an easement.* The required setback of retaining wall, cut slopes, and fill slopes from the edge of easements shall be as given in the illustrations. Where no utilities are present in an easement, or where utilities are planned to be relocated, and where such action is approved by all utilities, in writing, then easements may fall within a cut or fill section.
- (d) *Setbacks from structures.* The required setback of retaining walls, cut slopes, and fill slopes from structures shall be as given in the illustrations. If a structure forms an integral part of the retaining wall, then the setbacks do not apply to that structure.
- (e) *Calculating setbacks.* For the purpose of calculating setbacks, any cut or fill section which is on a slope of one to one or greater shall be considered a retaining wall.
- (f) *Administrative variance.* Setbacks from easement lines and structures may be varied administratively by the City Engineer if geotechnical and/or structural information is provided that in the opinion of the City Engineer justifies the variance.

Deleted: Grading plan evaluation

Deleted: Grading plans shall be evaluated by the City Engineer for conformance with the minimal erosion control requirements of §169.04 and the following requirements

(g) *Additional information required.* The City Engineer may require further geotechnical and/or structural information to show that setbacks greater than those given are not needed to protect property, utilities, or the integrity of property lines.

(5) *Terraces.* Terraces shall be required for fills greater than 10 feet in height. It is recommended that terracing be at a maximum ratio of one foot of horizontal terrace for every foot of vertical surface.

(F) *Erosion and sedimentation control.*

(D) *Cuts.*

- (1) *Vertical height.* Cuts shall be limited to 10 feet in vertical height unless information demonstrating slope stability, erosion control, and drainage control is provided together with a re-vegetation plan. For nonsolid rock cuts, terraces shall be required for cuts greater than 10 feet in height. It is recommended that terracing be at a maximum ratio of one foot of horizontal terrace for every foot of vertical surface.
- (2) *Maximum vertical cut.* In solid rock, as determined by geotechnical and engineering data approved by the City Engineer, the maximum vertical cut shall be 30 feet.
- (3) *Fill material.* In no case shall a cut be allowed primarily for the purpose of obtaining fill material to a different site, unless the exporting site is located within an extraction district.

(E) *Fills.*

- (1) *Rocks/fill.* All imported fill shall be free of rocks greater than 12 inches in diameter and any detrimental organic material or refuse debris.
- (2) *Compaction.* Fill shall be placed and compacted as to minimize sliding or erosion of soil. Fill compaction shall equal the compaction of undisturbed, adjacent soil, except fills covered by Building Regulations, Chapter 173, or other structural fills. The City Engineer may require soil tests during compaction work or upon its completion at the expense of the permittee.
- (3) *Grade.* Fill shall not be placed on existing slope with a grade steeper than 15% (6.67 horizontal to 1 vertical) unless keyed into steps in the existing grade and thoroughly stabilized by mechanical compaction.
- (4) *Vertical height.* Fills shall be limited to 10 feet in vertical height unless information demonstrating slope stability, erosion control, and drainage control is provided together with a re-vegetation plan.

(1) *Permanent improvements.* Permanent improvements such as streets, storm sewers, curb and gutters, and other features for control of runoff shall be scheduled coincidental to removing vegetative cover from the area so that large areas are not left exposed beyond the capacity of temporary control measures.

(2) *Phased Construction.* The area of disturbance onsite at any one time shall be limited to 20 acres. An additional 20 acres (a maximum of 40 acres of disturbance at any one time) may be stripped with the permission of the City Engineer in order to balance cut and fill onsite. No additional area may be open without the permission of the City Engineer until the previously disturbed areas have been temporarily or permanently stabilized.

(3) *Stockpiling of top soil.* Top soil ~~may be~~ stockpiled and protected for later use on areas requiring landscaping. All storage piles of soil, dirt or other building materials (e.g. sand) shall be located more than 25 feet from a roadway, drainage channel or stream (from top of bank), wetland, and stormwater facility. The City Engineer may also require top soil stockpiles to be located up to fifty (50) feet from a drainage channel or stream, as measured from the top of the bank to the stockpile, for established TMDL water bodies; streams listed on the State 303(d) list; an Extraordinary Resource Water, Ecologically Sensitive Waterbody, and/or Natural and Scenic Waterbody, as defined by Arkansas Pollution Control and Ecology Commission Regulation No. 2; and/or any other uses at the discretion of the City Engineer.

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Topsoil piles surfaces must be immediately stabilized with appropriate stabilization measures. Stabilization practices may include: temporary seeding (i.e. annual rye or other suitable grass), mulching, and other appropriate measures. Sediment control measures such as buffer strips, wattles, or silt fence shall be provided immediately for stockpiles and remain in place until other stabilization is in place. Storm drain inlets must be protected from potential

sedimentation from storage piles by silt fence or other appropriate barriers.

Properly stabilized topsoil stockpiles may be used for sedimentation control.

- (4) *Existing vegetation.* Every means shall be taken to conserve and protect existing vegetation.
- (5) *Re-vegetation.* Re-vegetation shall be required to meet the following performance standards (sediment controls shall remain in place until re-vegetation is established) unless otherwise allowed by the City Engineer:
 - (a) *Topsoil.* A minimum of 4 inches of topsoil shall be required to be either existing or installed in areas to be re-vegetated. Any application of topsoil and seeding under the drip line of a tree should be minimized to 3 inches so as not to damage the trees root system.
 - (b) *Zero to 10% grade:* Re-vegetation shall be a minimum of seeding and mulching. Said seeding shall provide complete and uniform coverage that minimizes erosion and runoff in no more than two growing seasons.
 - (c) *10:1 up to 4:1 grade:* Re-vegetation shall be a minimum of hydro-seeding with mulch and fertilizer, sod, or groundcover. Said planting shall provide complete and uniform coverage in no more than two growing seasons.
 - (d) *4:1 to 3:1 grade:* The slope shall be covered with landscape fabric and hydro-seeded with mulch and fertilizer, or staked sod, or groundcover. Said planting shall provide complete and uniform coverage in no more than two growing seasons.
 - (e) *More than 3:1 grade:* Any finish grade over 3:1 shall be stabilized with one or more of the following:
 - 1) Retaining walls;
 - 2) Cribbing with landscape fabric;
 - 3) Terracing with groundcover;
 - 4) Riprap;
 - 5) Staked Sod (up to 2:1 slope)
 If Cribbing, Terracing, or Riprap is used, the slope's stability and erodibility must be equivalent to or better than its predevelopment state.
 - (f) *Hillside/Hilltop Overlay District.* Re-vegetation of lands within the

Hillside/Hilltop Overlay District shall be planted immediately after the physical alteration of the land with complete and uniform ground cover. Sod, erosion fabric, herbaceous groundcover (in wooded areas), and/or a hydroseed with warm season grasses is required. Re-vegetation requirements shall be met prior to the issuance of a certificate of occupancy. Cut and Fill tie-back slopes shall be re-vegetated with appropriate tree species to achieve a minimum of 25% tree canopy at maturity.

- (6) *Plant/water.* Plant materials shall be watered or irrigated and tended. Where irrigation or regular watering is not available, only native or acclimated plant species shall be used. If the soil cannot properly sustain vegetation, it must be appropriately amended. If re-vegetation is not firmly established and healthy after one year, the urban forester shall require that it be redone in part or total.
- (7) *Plant/terrace bench.* Plant materials shall be planted along terrace benches. Said plantings shall be spaced as necessary to thoroughly stabilize the terrace bench. The remainder of the terraced slope shall be re-vegetated and stabilized according to §169.06(F)(5) above.
- (8) *Permanent erosion control.* The developer shall incorporate permanent erosion control features at the earliest practical time. Temporary erosion control measures will be used to correct conditions that develop during construction that were unforeseen during the design stage, that are needed prior to installation of permanent erosion control features, or that are needed temporarily to control erosion that develops during normal construction projects, but are not associated with permanent control features on the project.
- (G) *Undisturbed land requirements.* In the development of residential subdivisions, allowable grading of slopes shall be in accordance with this table.

Average Grade	Minimum Undisturbed Area
10 to 15 percent	40 percent
15 to 20 percent	50 percent
> 20 percent	60 percent

In the development of Large Scale Developments, Large Site Improvement Plans, and lots within the Hillside Overlay District, the minimum amount of undisturbed land shall equal the percent minimum

tree canopy pursuant to §167.04 (C). Planned Zoning Districts shall show undisturbed areas, but may be approved by the City Council with lesser percentages of undisturbed area than required above.

(H) *Required retaining wall and rock cut design.*

- (1) *Design/inspection.* Any retaining wall more than four feet in height shall be designed by a registered professional engineer, and shall be field inspected by the design engineer. The design engineer shall provide proof of inspection and certify that the wall was constructed in conformance with the design. The City Engineer may require retaining walls less than four feet in height to be designed by a professional engineer.
- (2) *Investigation/report.* All proposed rock cuts and any cut or fill 10 feet or greater will require a geotechnical investigation and a formal report submitted by a registered professional engineer qualified to make such investigations.
- (3) *Safety railings.* Safety railings may be required on any retaining wall 2.5 feet or higher. The decision as to whether to require safety railing shall be based on potential pedestrian and public access to the retaining wall and applicable building codes. This requirement for safety rails shall also apply to vertical or near vertical rock cuts and to steep (greater than 3:1) cut or fill slopes.

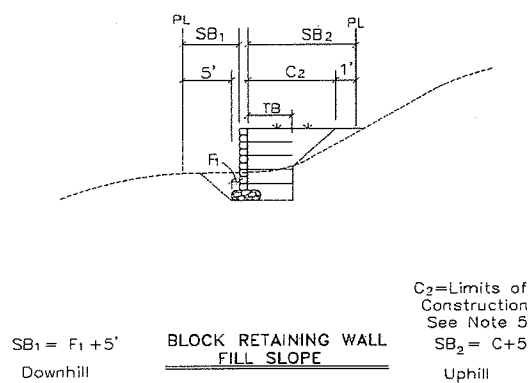
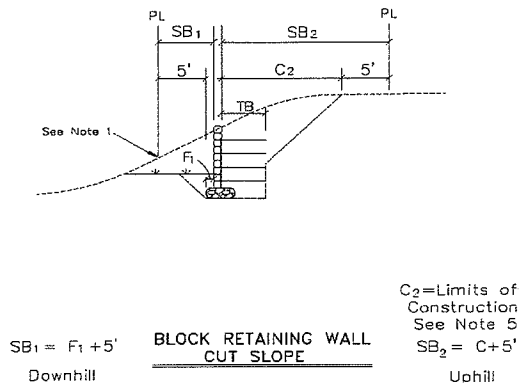
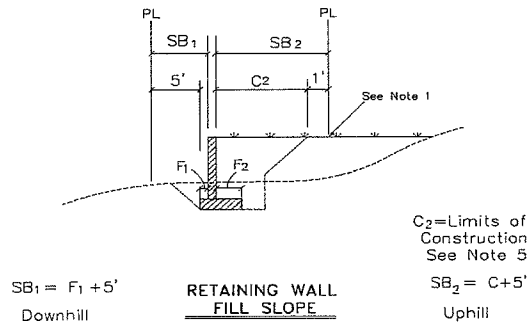
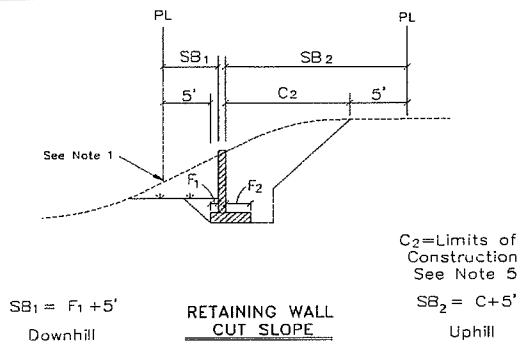
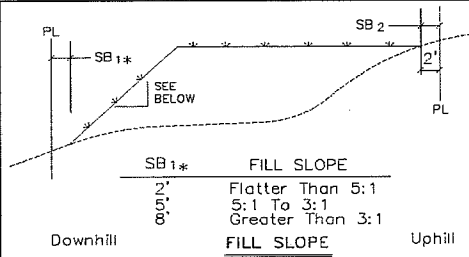
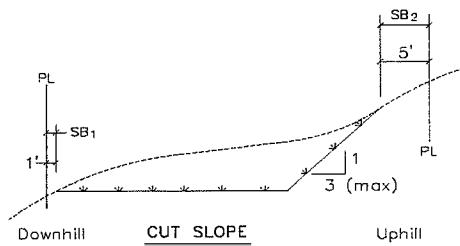
(Code 1991, §161.07; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. No. 4855, 4-18-06; Ord. 5336, 8-3-10)

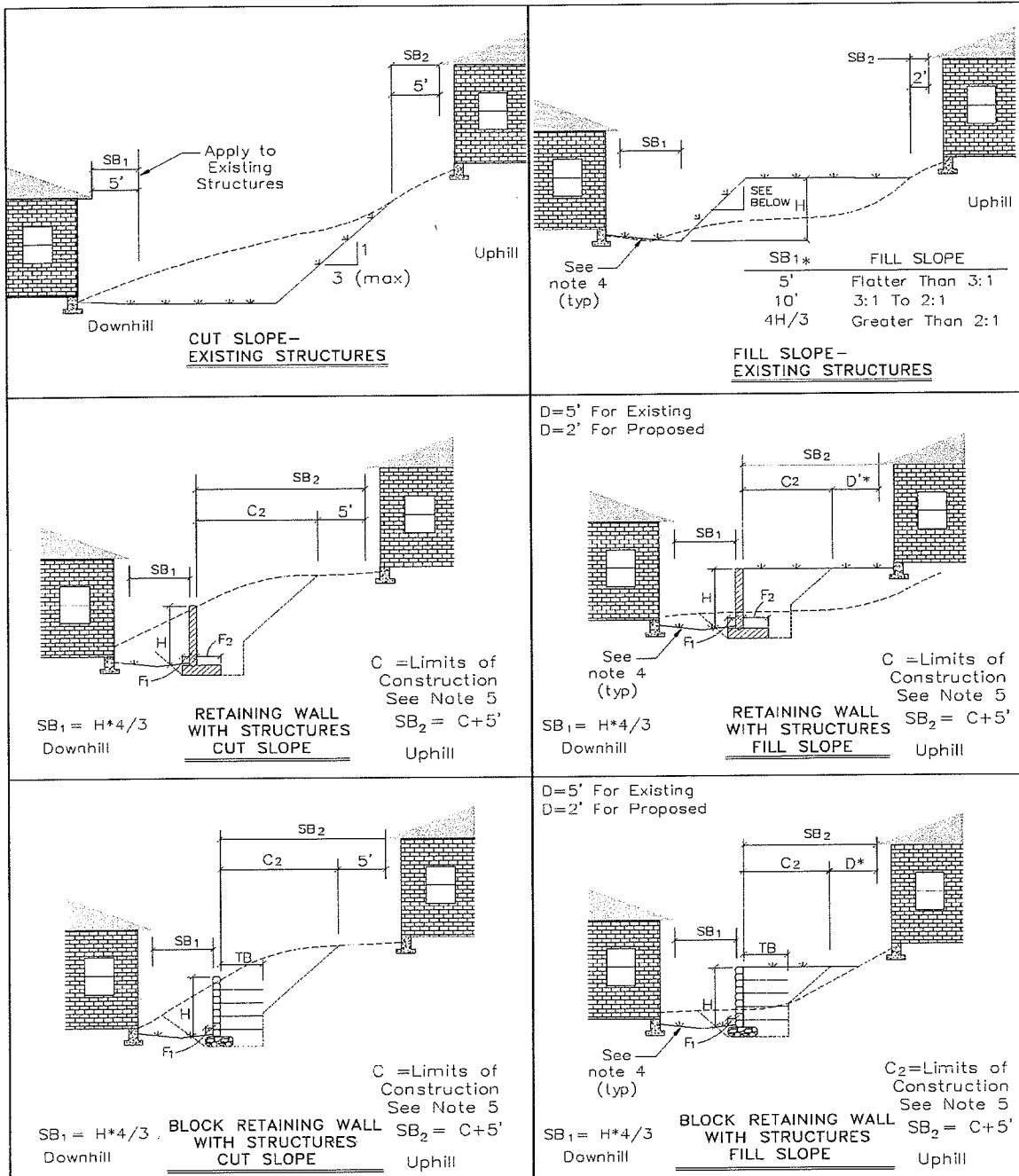
LEGEND

---	EXISTING GROUND
---	PROPERTY OR EASEMENT LINE
---	PROPOSED GROUND
---	CONSTRUCTION LIMITS
SB ₁	MINIMUM SETBACK FROM PROPERTY LINE DOWNHILL
SB ₂	MINIMUM SETBACK FROM PROPERTY LINE UPHILL
TB	TIE BACK
S	SLOPE
F ₁	FOUNDATION DOWNHILL
F ₂	FOUNDATION UPHILL
C ₁	LIMITS OF CONSTRUCTION-DOWNHILL
C ₂	LIMITS OF CONSTRUCTION-UPHILL

NOTES

1. WRITTEN PERMISSION FROM ADJACENT PROPERTY OWNER IS REQUIRED TO FILL OR EXCAVATE OVER EXISTING PROPERTY LINES.
2. CONSTRUCTION LIMITS INDICATED ARE FOR INITIAL CONSTRUCTION; RECONSTRUCTION; OR MAINTENANCE OF THE STRUCTURE IN THE FUTURE.
3. REVIEW ZONING & BUILDING SETBACK REQUIREMENTS, DEFER TO WHICHEVER MAY BE GREATER.
4. MINIMUM SLOPE AND DISTANCE FROM THE STRUCTURE PER STATE BUILDING CODE MUST NOT BE VIOLATED.
5. REFER TO THE OSHA TECHNICAL MANUAL SECTION 5 CHAPTER 2 FOR SOIL TYPES AND SLOPE EXCAVATION TO DETERMINE THE LIMITS OF CONSTRUCTION.





169.07 Grading Plan Specifications

(A) *Grading plan.* The applicant shall prepare a grading plan as follows:

- (1) *Site plan.* Site plan at a scale no smaller than one inch equals 50 feet, showing property lines; vicinity map; name of owner, developer and adjacent property owners.
- (2) *Existing grades.* Existing grades shall be shown with dashed line contours and proposed grades with solid line contours. Grading plans shall be required to show both the proposed grade and the undisturbed area. Contour intervals shall be a maximum of two feet. Spot elevations shall be indicated.
- (3) *Designation of grade.* Areas with 0 to 10%, 10 to 15%, 15 to 20% and more than 20% grade shall each be identified in a distinguishing manner.
- (4) *Identify land to be disturbed.* Land areas to be disturbed shall be clearly identified.
- (5) *Engineer/architect.* Seal of a registered engineer, architect, or landscape architect certifying that the plan complies with this chapter.
- (6) *Cuts and fills.* All cuts and fills, including height and slope, shall be clearly shown on the plan.
- (7) *Streets and rights-of-way.* Location and names of all existing or platted streets or rights-of-way within or adjacent to tract and location of all utilities and easements within or adjacent to the property shall all be indicated.
- (8) *Lot/building, etc. identification.* The proposed location of lots, buildings, streets, parking lots and parks, playgrounds or green space shall be indicated. Also to be indicated is any existing or proposed building within 100 feet of the site.
- (9) *Soil type.* Soil types shall be identified according to the Unified Soil Classification System.
- (10) *Natural features.* Location of natural features such as drainage ways, ponds, rock outcroppings, and tree cover. Indication of 100 year floodplains as defined by FEMA.
- (11) *Streets and drainage ways.* Profiles and cross sections for proposed streets and drainage ways.
- (12) *Acreage/zoning.* Total acreage and zoning classification.
- (13) *Surface water.* Provisions for collecting and discharging surface water.
- (14) *Underground utilities.* Profiles and cross sections of streets, drainage systems, and underground utilities, if they are necessary to clarify the grading plan in terms of potential erosion or runoff, or if the grading on site has the potential of disturbing the utility line.
- (15) *Treatment of slopes and benches.* The method of treatment for all slopes and benches shall be indicated.
- (16) *Natural vegetation preservation.* Proposals for preserving natural vegetation and description of re-vegetation or other permanent erosion control strategy.
- (17) *Runoff/sedimentation.* Specification of measures to control runoff and sedimentation during construction indicating what will be used such as straw bales, silt dams, brush check dams, lateral hillside ditches, catch basins, and the like.
- (18) *Preliminary plat master build-out grading plan.* The applicant shall prepare a master grading plan to be followed during individual lot development to convey runoff to a public drainage easement or right of way. In addition to the requirements of 169.07 A, the following shall be required for individual lot drainage design:
 - (a) Identify lot lines and conceptual foot print of residence.
 - (b) Establish the minimum finish floor and grading adjacent to the residential structure in accordance with Chapter 173 Building Regulations and the Arkansas Fire Prevention Code.
 - (c) Indicate individual lot drainage with the use of spot elevations and flow arrows.
 - (i) The minimum slope of the flow path from the top of curb, top bank, or approved drainage inlet to the high point of the final graded lot shall be at a minimum of 2% for grassed surfaces.
 - (ii) In general, drainage should be routed on the shortest practicable flow path to the public right of way or drainage easement.

(d) Non structural grassed swales for rear lot drainage concentration is discouraged and shall not be installed in combination with a utility easement.

(e) Utility Easements shall be graded and shaped in accordance with the master build-out grading plan during preliminary plat construction.

(i) Provisions will be considered to accommodate positive drainage until build-out occurs.

(B) *Preliminary grade plan.* The preliminary grading plan shall include all the above items except (5), (7), (11), (13), and (14) above. In addition to the above items, the city may require a cross section through the property showing existing and proposed grades as part of the preliminary submission.

The following additional required information may be reported in text rather than shown on the grading plan.

(1) *Time schedule.* A time schedule indicating the anticipated starting and completion dates of the development sequence and time of exposure of each area prior to stabilization measures.

(2) *Description / fill material / compaction.* Description of quantity (in cubic yards), source, and composition of imported fill material and compaction specifications. Also, note the quantity (in cubic yards) and destination of excavation materials to be removed from the site.

(3) *Dust.* Where excessive dust may become a problem, a plan for spraying water on heavily traveled dirt areas shall be addressed.

(4) *Soils engineering study.* The City Engineer may require a soil engineering study, or soil loss calculations if site conditions so warrant.

(Code 1991, §161.08; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, 8-18-98; Ord. No. 4855, 4-18-06; Ord. 5336, 8-3-10)

169.08 Grading Plan Submittal

(A) *Preliminary grading plan.* A preliminary grading plan shall be submitted at the time of preliminary plat submission for subdivisions or plat submission for large scale development, whichever is applicable.

(B) *Final grading plan.* No subdivision may be finalized, nor large scale development plat approved before a final grading plan has been submitted to the City Engineer and approved. The final grading plan and the final plat of land located within the Hillside/Hilltop Overlay District shall have the following plat note stating: 'Property and lot owners of lands located within the Hillside/Hilltop Overlay District shall have foundation plans designed, approved and sealed by a professional architect or engineer.'

(C) A copy of the Stormwater Pollution Prevention Plan (SWPPP) is required to be submitted with the grading plan for sites one acre or larger.

(D) In cases where neither subdivision plat, nor LSD plat is applicable, proof of notification of adjacent property owners and grading plan must be submitted simultaneously with the application for a grading permit.

(Code 1991, §161.09; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4855, 4-18-06; Ord. 5308, 3-16-10; Ord. 5336, 8-3-10)

Cross reference(s)—Notification and Public Hearings, Ch. 157.

169.09 Minor Modifications

Finish grades shall be allowed no more than a 0.50 foot tolerance from the grading plan. However, the City Engineer may authorize in writing minor modifications so long as they do no alter the direction of run-off and otherwise comply with the intent of this chapter. When applicable, major modifications must be brought before the Subdivision Committee for their approval.

(Ord. 5336, 8-3-10)

169.10 Approval

Approval of a grading plan is contingent on meeting all the requirements of this ordinance plus any set of varied requirements approved by the Planning Commission.

(Code 1991, §161.10; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, 8-18-98; Ord. 5336, 8-3-10)

169.11 Discovery Of Historic Resources

Whenever, during the conduct of grading any historical, pre-historical, or paleontological materials are discovered, grading shall cease and the City Engineer shall be notified.

(Code 1991, §161.21; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5336, 8-3-10)

169.12 Certificate Of Occupancy

All re-vegetation and grading plan improvements shall be in place before a certificate of occupancy shall be

issued, including cleanup and restoration/revegetation of adjacent and nearby property affected by construction activities. When a property owner has finished building construction but has yet to install plant material, said owner may apply for a temporary certificate of occupancy. In evaluating whether or not to grant a temporary certificate of occupancy, the City Engineer shall consider weather conditions and temporary stabilization measures.

(Code 1991, §161.15; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5336, 8-3-10)

169.13 Owner Responsibility

The property owner shall be responsible both for his or her employees and for all contractors and subcontractors from the onset of development until the property is fully stabilized. If property is transferred anytime between the onset of development and at the time it is fully stabilized, all responsibility and liability for meeting the terms of the chapter shall be likewise transferred to the new property owner.

(Code 1991, §161.16; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5336, 8-3-10)

169.14-169.99 Reserved

EXHIBIT B

**TITLE XV UNIFIED DEVELOPMENT CODE
CHAPTER 170: STORMWATER MANAGEMENT, DRAINAGE AND
EROSION CONTROL**

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CHAPTER 170: STORMWATER MANAGEMENT, DRAINAGE AND EROSION CONTROL

170.01 Intent

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

- (1) Preventing increases in the magnitude and frequency of stormwater runoff to prevent increases in flood flows and associated hazards and costs.
- (2) Controlling soil erosion and sedimentation to minimize soil deposition in streams and other receiving water bodies and storm drainage systems.
- (3) Requiring surface and stormwater management practices that comply with requirements of this chapter.
- (4) Promoting the development of stormwater facilities that are aesthetically desirable.

(B) *Findings of fact.* The City Council finds that uncontrolled stormwater runoff from developed land adversely affects the public health, safety, and welfare because:

- (1) *Impervious surfaces / runoff.* Impervious surfaces increase the quantity and velocity of surface runoff, which reduces percolation of water through soil and increases erosion and flooding.
- (2) *Collection and conveyance of stormwater.* Improper stormwater collection and conveyance adversely affects property and increases the incidence and severity of flooding, which can endanger property and human life.
- (3) *Erosion.* Increased erosion leads to sedimentation in stormwater management systems, which decreases the system's capacity
- (4) *Future problems.* Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.

(Code 1991, §163.03; Ord. No. 3895, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4855, 4-18-06; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.02 Adoption Of Drainage Criteria Manual

The City Council hereby adopts by reference the *Drainage Criteria Manual*, prepared for the City of Fayetteville, and adopted by Ordinance No. 3895 of the City of Fayetteville, and as may be amended from time to time. All technical procedures and design standards contained therein shall have the same force and effect as if printed word for word in this chapter.

(Code 1991, §163.03; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 09-05-06; Ord. 5336, 8-3-10)

170.03 Permits Required

(A) *Applicability.* This chapter shall apply to all land within the corporate limits of the City of Fayetteville. No person may subdivide and develop, change to a more intensive land use, construct or reconstruct a structure, or change the size of a structure, or conduct grading, clearing, or filling activities without first obtaining a stormwater management, drainage and erosion control permit (hereinafter referred to as a "drainage permit") from the city, except as specified in §170.03(C) and §170.03 (D) below.

(B) *Permit application.* Any application for a drainage permit shall be submitted according to §170.05 below, and shall be submitted concurrently with the application for a grading permit, if such grading permit is required by § 169.03. The drainage permit applications shall include at the time of submission the calculations required by §170.05(B)(7). The application also shall state whether or not detention is required, and shall provide the basis for that conclusion, utilizing the performance criteria set forth in §170.07 below. The City Engineer shall make the final determination regarding detention.

(C) *Project not requiring detention.* Any project that requires a drainage permit that does not require detention may receive, with the approval of the City Engineer, a grading permit prior to issuance of the drainage permit. Any grading permit issued prior to the issuance of a required drainage permit shall be subject to the following:

- (1) *Insufficient or incomplete drainage permit application.* If the drainage permit application, including the required calculations, is determined by the City Engineer to be insufficient or incomplete, it shall be revised and resubmitted by the applicant within four (4) weeks of receipt of written notice of insufficiency or incompleteness.

- (2) *Deadline for the revised application.* A stop work order for all grading on the project shall be issued by the City Engineer if a revised application is not submitted within four (4) weeks of receipt by applicant of the written notice of insufficiency or incompleteness. However, the City Engineer may delay issuance of the stop work order if the City Engineer determines that the applicant has demonstrated prior to the deadline that circumstances not reasonably foreseeable and beyond the applicant's reasonable control prevented his timely resubmission of a sufficient and complete revised drainage permit application.
- (3) *Insufficient or incomplete revised application.* A stop work order for all grading on the project shall be issued by the City Engineer if the revised application is determined by the City Engineer to be still insufficient or incomplete.
- (4) *Stabilization and revegetation after stop work order.* If a stop work order is issued pursuant to §170.03 (C) (3), the applicant shall stabilize and revegetate all graded and otherwise disturbed areas as set forth in §169.06(F)(6) and §169.04(B).
- (5) *Termination of stop work order.* Any stop work order issued pursuant to §170.03 (C) (2) or §170.03 (C) (3), shall expire upon the issuance of a drainage permit and compliance with any conditions contained in the drainage permit.
- (D) *Exceptions where no drainage permit is required.* Drainage permits are not required for the following:
- (1) *Single-family/duplex.* One single-family residence or duplex. A drainage permit is not required. See Section 170.12 for building permit submittal requirements.
- (2) *Commercial/industrial.* One commercial or industrial project built on an individual lot that is part of a larger subdivision that has been issued an approved drainage control permit when the proposed project is demonstrated to be in compliance with the overall subdivision drainage permit.
- (3) *Existing commercial/industrial.* Existing commercial and industrial structure where additional structural improvements are less than 2,000 square feet.
- (4) *Maintenance.* Maintenance or clearing activity that does not change or affect the quality, rate, volume, or location of

stormwater flows on the site, or runoff from the site.

- (5) *Agriculture.* Bona fide agricultural pursuits, for which a soil conservation plan has been approved by the local Soil and Water Conservation District.
- (6) *Emergency.* Action 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.

- (E) *Compliance with chapter provisions.* Although a specific permit is not required for these particular circumstances, this exception does not exempt the owner/developer/builder from complying with the pollution prevention and erosion and sediment control provisions of this chapter.

(Code 1991, §163.04; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4314, 5-15-01; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.04 Drainage Permit Conditions

Each permit issued shall be subject to the following conditions.

- (A) *Area.* The development, including associated construction, shall be conducted only within the area specified in the approved permit.
- (B) *Execution.* Activities requiring a stormwater management, drainage, and erosion control permit shall not commence until the drainage permit is approved. The approved drainage permit shall be on file with the city and a copy on file with the contractor for review and inspection upon request.
- (C) *Inspections.* A schedule of inspections to be carried out during the construction phase of permitting shall be established as conditions to the permit.
- (D) *Duration.*
- (1) Unless revoked or otherwise modified, the duration of a drainage permit issued pursuant to this chapter shall be one year.
- (2) If the permitted project discharge structure is not completed prior to expiration, the drainage permit duration can be extended to cover the project duration, subject to approval of the City Engineer.
- (E) *Maintenance.* Maintenance activities, as specified in the approved maintenance plan, shall be executed routinely, with scheduled reporting to the City Engineer.

- (F) *Modifications.* If the activity authorized by the permit is not completed according to the approved schedule and permit conditions, the City Engineer shall be notified. For revisions resulting in a schedule extension of more than 30 days, or if deviations from the permit conditions are expected to occur, approval of a permit modification is required by the City Engineer.
- (G) *Transfer.* No transfer, assignment, or sale of the rights granted by virtue of an approved permit shall be made without prior written approval from the City Engineer.
- (H) *Special.* Any additional special conditions, as deemed appropriate by the City Engineer, shall be established to address specific project needs or circumstances.

(Code 1991, §163.05; Ord. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.05 Drainage Permit Application

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

- (A) *Applicant identification.* Applicant information, including the name, address, email, and telephone number of the owner and developer, and proof of ownership of the property to be permitted. In addition, the legal description of the property shall be provided, and its location with reference to such landmarks as major water bodies.
- (B) *Plan.* Stormwater management, drainage and erosion control plan, shall include, but not be limited to the following:
 - (1) *Aerial photograph.* Aerial photograph of the project vicinity, covering the project area and the total lands that contribute runoff.
 - (2) *Topographic map.* Topographic map of the project area showing the location and elevation of benchmarks, including at least one benchmark for each control structure.

- (3) *Land use map.* Land use map showing both current and proposed conditions for the drainage area that contributes runoff.
- (4) *Soils and vegetation map.* Soils and vegetation map displaying the most recent U.S. Soil Conservation Service information and encompassing both the project area and the drainage area that contributes runoff.
- (5) *Grading, drainage, paving, building drawings.* Proposed grading, drainage, paving, and building drawing(s) showing details of proposed grading, drainage, paving, and buildings.
- (6) *Erosion and sediment drawings.* Erosion and sediment control drawing(s) and specifications identifying the type, location, and schedule for implementing erosion and sediment control measures, including appropriate provisions for maintenance and disposition of temporary measures.
- (7) *Technical report.* Technical report, prepared by a registered professional engineer, describing the assumptions, calculations, and procedures used for determining compliance with the performance criteria established by this chapter.
- (8) *Maintenance report.* Maintenance report (text and drawings), prepared by a registered professional engineer, describing the activities and schedule required to operate and maintain the permitted facilities until accepted by the city.

(Code 1991, §163.06; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4855, 4-18-06; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.06 Submission, Review, And Approval Of Plans

- (A) *General.* The stormwater management, drainage, and erosion control plans shall be prepared by the engineer of record, who is a licensed professional engineer of the State of Arkansas.
- (B) *Pre-preliminary drainage plan and review.* A pre-preliminary stormwater management, drainage, and erosion control plan review with the engineering staff is suggested before platting, replats, lot splits, building permits, and/or development improvements begin for the purpose of overall general drainage concept review.
- (C) *Preliminary stormwater and drainage plan.* Preliminary stormwater management, drainage, and erosion control plans and accompanying

information as described in the *Drainage Criteria Manual* shall be submitted at the time of the preliminary plat, replat, lot split, building permit, site improvement plan, large scale development, and/or development improvements are submitted. If needed, a review meeting will be scheduled by the City Engineer with a representative of the developer, including the engineer, to review the overall concepts included in the preliminary stormwater management, drainage, and erosion control plan. The purpose of this review shall be to jointly agree upon an overall stormwater management concept for the proposed development and to review criteria and design parameters that shall apply to final design of the project.

- (D) *Final stormwater management, drainage, and erosion control plan.* Following the preliminary stormwater management, drainage, and erosion control plan review, the final stormwater management drainage, and erosion control plan shall be prepared for each phase of the proposed project as each phase is developed. The final plan shall constitute a refinement of the concepts approved in the preliminary stormwater, drainage, and erosion control plan, with preparation and submittal of detailed information as required in the *Drainage Criteria Manual*. This plan shall be submitted at the time construction drawings are submitted for approval.
- (E) *Review and approval of final stormwater management, drainage, and erosion control plans.* Final stormwater management, drainage, and erosion control plans shall be reviewed by the City Engineer. If it is determined according to present engineering practice that the proposed development will provide control of stormwater runoff in accordance with the purposes, design criteria, and performance standards of these regulations and will not be detrimental to the public health, safety, and general welfare, the City Engineer shall approve the plan or conditionally approve the plan, setting forth the conditions thereof.
- (F) *Off-site improvements.* If it is determined that offsite drainage improvements are required, and that such specific off-site drainage improvements are consistent with the city's current and established priorities, then cost sharing will be in accordance with "Required Off-site Improvements." If the city is unable, or unwilling, to contribute its share of the off-site costs, the developer shall have the option of:
 - (1) *Developer's expense.* Building the off-site improvements at his/her own expense;
 - (2) *Detention.* Providing detention so as to match downstream capacities; or

- (3) *Delay project.* Delaying the project until the city is able, or willing, to share in the off-site costs.

(Code 1991, §163.07; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.07 Performance Criteria

- (A) *Storm water management, drainage, and erosion control plan.* Stormwater management, drainage, and erosion control plans shall be prepared in accordance with performance standards that have been structured to achieve the purposes and objectives of this chapter as well as to ensure that the quality and quantity of runoff after development is not substantially altered from predevelopment conditions.
- (B) *Performance criteria.* Except as otherwise provided in this chapter, a development must be designed, constructed, operated, and maintained to comply with the following performance criteria:
 - (1) *Flood Damage Prevention Code.* Provisions for floodplain management criteria shall be consistent with those contained in Chapter 168, the Flood Damage Prevention Code.
 - (2) *Peak discharge.* The post-development peak rate of surface discharge must not exceed the existing discharge for the 100 year, 24 hour storm, the 10 year, 24 hour storm, and the 2 year, 24 hour storm, unless other discharge limits are deemed applicable for a specific site by the City Engineer.
 - (3) *Low Impact Development.* Use of Low Impact Development design strategies, as described in Chapter 179, to attenuate lesser storms and more closely mimic predevelopment hydrology is encouraged.
 - (4) *Direct Discharge.* Direct Discharge of a pipe into streams and/or floodways is not allowed. A stilling basin or other structure that will collect sediment, trash, etc and that will reduce the likelihood of erosion in the receiving stream due to discharge from the pipe shall be installed at pipe discharges into streams and/or floodways.
 - (5) *Erosion and channel stability.* All stormwater management systems shall be evaluated based on their ability to prevent erosion and sedimentation of the receiving waters and adverse impacts on the site's natural systems. The design engineer shall consider the on-site and downstream effects of the peak discharges and shall design both the

permanent and the construction phase of the stormwater management system in a manner that will not increase flooding, channel instability, or erosion downstream when considered in aggregate with other developed properties and downstream drainage capacities.

- (6) *Drainage into wetlands and floodways.* Areas defined as "wetlands" and "floodways" by the appropriate federal agencies shall be protected from adverse changes in runoff quantity and quality from associated land development.

- (7) *Drainage Criteria Manual.* The technical procedures and design standards contained in the *Drainage Criteria Manual*, prepared for the City of Fayetteville, and adopted by this chapter and as may be amended from time to time, shall be used for guidance to determine compliance with the performance criteria established by this chapter.

(Code 1991, §163.08; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.08 Maintenance Responsibility

- (A) *Dedication.* Those stormwater management systems approved in compliance with this chapter that will function as a part of the stormwater management conveyance system shall be dedicated to the city. All areas and/or structures to be dedicated to the city must be dedicated by plat or separate instrument and accepted by the City Engineer.

- (B) *Agreement to Maintain Stormwater Systems and Structures.* The owner of the property on which stormwater systems and structures have been installed shall agree to maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices.

- (C) *Maintenance Inspections.* All privately owned stormwater management facilities shall be inspected near the end of the first year of operation by the owner of the facilities. A subsequent inspection shall be performed at the end of the fourth year to ensure functionality and compliance. Inspection reports shall be submitted to and maintained by the City Engineer for all stormwater systems and structures. Inspection reports for stormwater systems and structures shall include:

- (1) The date of the inspection;

- (2) The name of the inspector;

- (3) The condition of:

- (a) Pretreatment devices.

- (b) Vegetation or filter media

- (c) Spillways, valves, or other control structures.

- (d) Embankments, slopes or safety benches.

- (e) Inlet and outlet channels and structures.

- (f) Sediment and debris accumulation in storage and forebay areas.

- (g) Underground drainage.

- (h) Provide cross sectional data showing the existing capacity of the detention pond for comparison to the minimum designed capacity in the approved final drainage report. Cross sectional data shall be at the end of the fourth year. If the designed capacity is not available the owner shall reestablish the original approved volume in the final drainage report.

- (i) Any other item that could affect the proper function of the stormwater structures or systems.

- (4) Description of the needed maintenance.

- (5) Description of maintenance activities undertaken.

After the 2nd Inspection Report is received, the City Engineer will make a determination whether subsequent Inspection Reports will be required to be submitted based upon the stabilization of the site and the condition of the stormwater systems.

- (D) *Right-of-Entry for Inspection.* The owner shall provide for the City Engineer or designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspecting stormwater systems and structures.

- (E) *Failure to Maintain.* If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement the City shall give written notice requesting corrective action. If the conditions described in the Failure to Maintain notice are not corrected within 10 days after such notice is given, the mayor, or his duly authorized representative, is hereby

authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described, in the notice. The costs of correcting said conditions shall be charged to the owner or owners of the property and the city shall have a lien against such property for such costs.

(1) *Enforcement of the Lien.* The lien herein provided for may be enforced and collected in either one of the following manners:

- (a) The lien may be enforced at any time within 18 months after work has been done, by an action in circuit court; or
- (b) The amount of the lien herein provided may be determined at a hearing before the City Council held after 30 days written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known, and if the name of the owner or owners cannot be determined, then only after publication of notice of such hearing in a newspaper having a bona fide circulation in Washington County for one insertion per week for four consecutive weeks; the determination of the City Council shall be subject to appeal by the property owner in circuit court; and the amount so determined at said hearing, plus ten percent penalty for collection, shall be by the City Council certified to the tax collector of the county, and by him placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less three percent thereof, when so collected shall be paid to the city by the county tax collector.
- (c) In case the owner of any lot or other real property is unknown or his whereabouts is not known or he is a nonresident of this state, then a copy of the written notice hereinabove referred to shall be posted upon the premises and before any action to enforce such lien shall be had, the City Clerk shall make an affidavit setting out the facts as to unknown address or whereabouts or non-residence, and thereupon service of the publication as now provided for by law against nonresident defendants may be had, and an attorney ad litem may be appointed to notify the defendant by registered letter addressed to his last known place of residence if same can be found.

(F) Removal and modification of Stormwater Systems and Structures. Stormwater systems

and structures may only be modified or removed with the approval of the City Engineer, who shall determine the whether the stormwater system or structure does not function as a part of the stormwater management system. The applicant may be required to provide supporting data and calculations that justify the removal of the stormwater systems or structures.

(Code 1991, §163.09; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

Cross reference(s)—Enforcement, Ch., 153; Appeals, Ch. 155, Variances, Ch. 156; Bonds and Guarantees, Ch. 158; Fees, Ch. 159.

170.09 Drainage Permit Processing

- (A) *Application.* Stormwater management, drainage, and erosion control permit applications shall be submitted to the city for review, processing, and approval. Applicants may schedule a pre-application conference with the city to discuss a proposed project before submitting the application.
- (B) *Fee.* A nonrefundable permit application fee shall be paid when the application is submitted to help cover the cost of the plan review, administration and management of the permitting process and inspection of project implementation and operation.
- (C) *Issuance.* If the City Engineer determines that the permit application submittal is in compliance with all provisions of this chapter, a permit may be issued. If the City Engineer determines that the permit submittal does not conform with all provisions of this chapter, permit issuance shall be denied and a written statement as to the reasons for the denial shall be provided to the applicant.

(Code 1991, §163.10; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.10 Stormwater Discharges From Construction Activities

(A) *General Requirements for Construction Sites.*

- (1) *Construction Site.* A construction site is a site with activity that would result in the creation of a new stormwater management system, including the building, assembling, expansion, modification, or alteration of the existing contours of the property; the erection of buildings or other structures, any part thereof; or land clearing.

- (2) *Owner Responsibility.* The owner of a site of construction activity shall be responsible for compliance with the requirements of this chapter.
- (3) *Erosion And Sediment Control.* Best Management Practices (BMPs) shall be implemented to prevent the release of airborne dust and waterborne sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances/exits shall be managed to prevent sediment tracking. Streets and storm inlets must be kept clean at all times and free of loose rock, mud, debris and trash. Specific inlet protection measures may be necessary, as long as they do not interfere with vehicular traffic. Mud on streets must be physically removed and not washed into inlets.
- (4) *Construction Sites Requiring Storm Water Pollution Prevention Plans.* Erosion and sediment control systems must be installed and maintained per a state approved Storm Water Pollution Prevention Plan before the beginning of construction and until slope stabilization and/or vegetation is established. For sites between 1 and 5 acres, the SWPPP must be onsite at all times. For sites over 5 acres, the NOI and the SWPPP must be onsite at all times.
- (6) *Concrete Truck Wash Areas.* No washing of concrete trucks or chutes is allowed except in properly located and constructed concrete wash pits. Proper runoff and erosion controls must be in place to retain all concrete wash water.
- (7) *Dewatering.* All rainwater pumped out of sumps and depressions on construction sites should be clear and free of sediment, and must discharge to a sedimentation pond, sediment bag, or settling tank in such a manner as to not cause additional erosion problems.
- (8) *Storage of Materials.* Public streets and sidewalks shall not be used for temporary storage of any containers or construction materials, especially loose gravel and topsoil. In addition to on-street storage being a violation of this chapter, all liability for any accidents and/or damages due to such storage will be the responsibility of the owner of the stored materials.
- (9) *Dirt and Topsoil Storage.* All storage piles of soil, dirt or other building materials (e.g. sand) shall be located more than 25 feet from a roadway, drainage channel or stream (from top of bank), wetland, and stormwater facility. The City Engineer may also require storage piles to be located up to fifty (50) feet from a drainage channel or stream, as measured from the top of the bank to the stockpile, for established TMDL water bodies; streams listed on the State 303(d) list; an Extraordinary Resource Water, Ecologically Sensitive Waterbody, and/or Natural and Scenic Waterbody, as defined by Arkansas Pollution Control and Ecology Commission Regulation No. 2; and/or any other uses at the discretion of the City Engineer.
- Topsoil piles surfaces must be immediately stabilized with appropriate stabilization measures. Stabilization practices may include: temporary seeding (i.e. annual rye or other suitable grass), mulching, and other appropriate measures. Sediment control measures such as silt fence shall be provided immediately for stockpiles and remain in place until other stabilization is in place. Storm drain inlets must be protected from potential sedimentation from storage piles by silt fence or other appropriate barriers.
- (10) *Franchise and Private Utilities.* The property owner or main contractor onsite will be responsible for restoring all erosion and sediment control systems and public infrastructure damaged or disturbed by underground private or franchise utility construction such as water and sewer service leads, telephone, gas, cable, etc. Erosion and sediment control systems must be immediately restored after each utility construction.
- (11) *Post-Construction Compliance.* Upon completion of permitted construction activity on any site, the property owner and subsequent property owners will be responsible for continued compliance with the requirements of this chapter in the course of maintenance, reconstruction or any other construction activity on the site.
- (B) *Construction Sites Requiring an Approved Stormwater Pollution Prevention Plan (SWPPP).* For all construction sites where construction on a site will disturb soil or remove vegetation on one (1) or more acres of land during the life of the construction project, a Stormwater Pollution Prevention Plan (SWPPP) for the project must be implemented by the construction site owner as follows:
- (1) The site owner bears the responsibility for implementation of the SWPPP and

notification of all contractors and utility agencies on the site.

- (C) *Stormwater Pollution Prevention Plans.* Preparation and implementation of Stormwater Pollution Prevention Plans for construction activity shall comply with the following:

(1) Implementation

- (a) *Installation and Maintenance.* BMPs shall be installed and maintained by qualified persons. The owner or their representative shall provide upon the City Engineer's request a copy of the SWPPP on site and shall be prepared to respond to unforeseen maintenance requirements of specific BMPs.
- (b) A qualified inspector (provided by the owner/developer/builder) shall inspect disturbed areas of the construction site and areas used for storage of materials that are exposed to precipitation that have been finally stabilized, and locations where vehicles enter or exit the site. BMPs must be observed to ensure proper operation. Inspectors must inspect for evidence of, or the potential for, pollutants entering the stormwater conveyance system. Discharge locations must be inspected to determine whether BMPs are effective in preventing significant impacts to waters of the State, where accessible. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. The inspections must be conducted at least once every seven (7) calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater as measured at the site or generally reported in the vicinity of the site. A rain gauge must be maintained on-site.

A report shall be prepared for each inspection summarizing the scope of the inspection; name(s), title(s) and qualifications of personnel making the inspection; the date of the inspection; amount of rainfall and days since last rain event, BMPs on-site; observations relating to whether BMPs are in working order and whether maintenance is required (when scheduled and completed); the locations and dates when major construction activities begin, occur, or cease; and the signature of the inspector. The reports shall be retained

as part of the stormwater pollution prevention plan for at least three (3) years from the date the site is finally stabilized and shall be made available upon request to the City.

- (c) *Modifications.* Based on inspections performed by the owner or by authorized City personnel, modifications to the SWPPP will be necessary if at any time the specified BMPs do not meet the objectives of this chapter. In this case, the owner/developer/builder or authorized representative shall meet with authorized City personnel to determine the appropriate modifications. All modifications shall be completed within seven (7) days of the referenced inspection, except in circumstances necessitating more timely attention, and shall be recorded on the owner's copy of the SWPPP.

(D) *Requirements for Utility Construction*

- (1) Utility agencies shall be responsible for compliance with the requirements this chapter.
- (2) Utility agencies shall develop and implement Best Management Practices (BMPs) to prevent the discharge of pollutants on any site of utility construction within the City. In addition, the City may adopt and impose BMPs on utility construction activity.
- (3) Utility agencies shall implement BMPs to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately.
- (4) Prior to entering a construction site or subdivision development, utility agencies shall have obtained from the owner a copy of any SWPPPs for the project. Any disturbance to BMPs resulting from utility construction shall be repaired immediately by the utility company in compliance with the SWPPP.

(Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.11 Preliminary Plat, Lot Requirements

- (A) *Preliminary Plats.* Preliminary Plats shall include a master drainage plan for each lot related to the proposed infrastructure and adjacent lots.
- (B) *Preliminary Plats for Residential Subdivisions.* Preliminary Plats for residential subdivisions shall provide detailed drainage information including flow arrows and design spot elevations including the proposed finish floor elevation meeting the Arkansas Fire Prevention Code for building safety regulations for positive drainage of each lot.
- (C) *Rear lot drainage easements.* Rear lot drainage easements for nonstructural grassed swales shall not overlap utility easements with above ground structures, ie, electric transformers, gas meters, communication junctions, etc.
- (D) *Final Plat.* The Final Plat shall include the approved master drainage plan to be filed as a supplemental document. The scale shall be legible and approved by the City Engineer.

(Ord. 5336, 8-3-10)

170.12 1 & 2 Family Residential Requirements

- (A) *1&2 Family Residential and Sites under One Acre.* All residential lots must maintain properly installed erosion and sediment control measures from the beginning of construction until slope stabilization and/or vegetation is established in order to prevent silt and sediment from going offsite or into the street.
- (B) A building permit application shall contain sufficient site drainage and grading information to determine whether the project complies with the requirements of this chapter and Chapter 169, including, but not limited to:
 - (1) locations and types of proposed stormwater and erosion control BMP,s.
 - (2) Lot lines and conceptual foot print of building.
 - (3) Minimum finish floor and grading adjacent to the residential structure in accordance with Chapter 173 Building Regulations and the Arkansas Fire Prevention Code.
 - (4) Individual lot drainage features, using spot elevations and flow arrows.
- (C) If the Final Plat of the Subdivision, in which the proposed building is located, includes an

approved master drainage plan, this plan shall be included in the building permit application and the individual lot drainage plan shall follow the master drainage plan.

(Ord. 5336, 8-3-10)

170.13 Stormwater Pollution Prevention

(A) Prohibitions

- (1) Illicit discharges are prohibited. An illicit discharge is a storm drain that has measurable flow containing pollutants and/or pathogens. No person shall discharge anything but uncontaminated stormwater, into the storm drainage system. Common stormwater contaminants include trash, yard waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
- (2) Illicit connections are prohibited. Illicit connections are any drain or conveyance which allows an illicit discharge to enter the storm drainage system. This prohibition includes illicit connections made in the past, regardless of whether the connection was permissible at the time of connection.
- (3) No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.

(B) Exemptions. The following non-stormwater discharges are acceptable and not a violation of this chapter:

- (1) A discharge authorized by an NPDES permit other than the NPDES permit for discharges from the MS4;
- (2) Uncontaminated waterline flushing and other infrequent discharges from potable water sources;
- (3) Infrequent uncontaminated discharge from landscape irrigation or lawn watering;
- (4) Discharge from the occasional non-commercial washing of vehicles within zoned residential areas;
- (5) Uncontaminated discharge from foundation, footing or crawl space drains, sump pumps and air conditioning condensation drains;
- (6) Uncontaminated groundwater;

- (7) Diverted stream flows and natural riparian habitat or wetland flows;
- (8) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials.
- (9) Any other non-stormwater discharge determined by the City Engineer to meet the standards and objectives of this chapter.

(C) *Requirements Applicable to Certain Discharges*

- (1) *Private Drainage System Maintenance.* The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
- (2) *Minimization of Irrigation Runoff.* Concentrated flow of irrigation water to the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
- (3) *Cleaning of Paved Surfaces Required.* The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this chapter. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Code. Material shall not be swept or washed into the storm drainage system. This section does not apply to pollutants discharged from construction activities.
- (4) *Maintenance of Equipment.* Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.
- (5) *Materials Storage.* In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
- (6) *Pesticides, Herbicides and Fertilizers.* Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer

recommendations and applicable laws. Excessive application shall be avoided.

- (7) *Open Drainage Channel Maintenance.* Every person owning or occupying property through which an open drainage channel passes shall prevent trash, debris, excessive vegetation, and other obstacles from their property from entering the drainage channel.

- (D) *Release Reporting and Cleanup.* Any person responsible for a release of materials which are or may result in illicit discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.

- (E) *Authorization to Adopt and Impose Best Management Practices.* The City may adopt and impose a Best Management Practices Manual and requirements identifying Best Management Practices for any activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.

(Ord. No. 4855, 4-18-06; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.14-170.99 Reserved

(EXHIBIT "B" MARK-UP)

**TITLE XV UNIFIED DEVELOPMENT CODE
CHAPTER 170: STORMWATER MANAGEMENT, DRAINAGE AND
EROSION CONTROL**

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CHAPTER 170: STORMWATER MANAGEMENT, DRAINAGE AND EROSION CONTROL

170.01 Intent

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

- (1) Preventing increases in the magnitude and frequency of stormwater runoff to prevent increases in flood flows and associated hazards and costs.
- (2) Controlling soil erosion and sedimentation to minimize soil deposition in streams and other receiving water bodies and storm drainage systems.
- (3) Requiring surface and stormwater management practices that comply with requirements of this chapter.
- (4) Promoting the development of stormwater facilities that are aesthetically desirable.

(B) *Findings of fact.* The City Council finds that uncontrolled stormwater runoff from developed land adversely affects the public health, safety, and welfare because:

- (1) *Impervious surfaces / runoff.* Impervious surfaces increase the quantity and velocity of surface runoff, which reduces percolation of water through soil and increases erosion and flooding.
- (2) *Collection and conveyance of stormwater.* Improper stormwater collection and conveyance adversely affects property and increases the incidence and severity of flooding, which can endanger property and human life.
- (3) *Erosion.* Increased erosion leads to sedimentation in stormwater management systems, which decreases the system's capacity.
- (4) *Future problems.* Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.

(Code 1991, §163.03; Ord. No. 3895, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4855, 4-18-06; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.02 Adoption Of Drainage Criteria Manual

The City Council hereby adopts by reference the *Drainage Criteria Manual*, prepared for the City of Fayetteville, and adopted by Ordinance No. 3895 of the City of Fayetteville, and as may be amended from time to time. All technical procedures and design standards contained therein shall have the same force and effect as if printed word for word in this chapter.

(Code 1991, §163.03; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 09-05-06; Ord. 5336, 8-3-10)

170.03 Permits Required

(A) *Applicability.* This chapter shall apply to all land within the corporate limits of the City of Fayetteville. No person may subdivide and develop, change to a more intensive land use, construct or reconstruct a structure, or change the size of a structure, or conduct grading, clearing, or filling activities without first obtaining a stormwater management, drainage and erosion control permit (hereinafter referred to as a "drainage permit") from the city, except as specified in §170.03(C) and §170.03 (D) below.

(B) *Permit application.* Any application for a drainage permit shall be submitted according to §170.05 below, and shall be submitted concurrently with the application for a grading permit, if such grading permit is required by § 169.03. The drainage permit applications shall include at the time of submission the calculations required by §170.05(B)(7). The application also shall state whether or not detention is required, and shall provide the basis for that conclusion, utilizing the performance criteria set forth in §170.07 below. The City Engineer shall make the final determination regarding detention.

(C) *Project not requiring detention.* Any project that requires a drainage permit that does not require detention may receive, with the approval of the City Engineer, a grading permit prior to issuance of the drainage permit. Any grading permit issued prior to the issuance of a required drainage permit shall be subject to the following:

- (1) *Insufficient or incomplete drainage permit application.* If the drainage permit application, including the required calculations, is determined by the City Engineer to be insufficient or incomplete, it shall be revised and resubmitted by the applicant within four (4) weeks of receipt of written notice of insufficiency or incompleteness.

- (2) *Deadline for the revised application.* A stop work order for all grading on the project shall be issued by the City Engineer if a revised application is not submitted within four (4) weeks of receipt by applicant of the written notice of insufficiency or incompleteness. However, the City Engineer may delay issuance of the stop work order if the City Engineer determines that the applicant has demonstrated prior to the deadline that circumstances not reasonably foreseeable and beyond the applicant's reasonable control prevented his timely resubmission of a sufficient and complete revised drainage permit application.
- (3) *Insufficient or incomplete revised application.* A stop work order for all grading on the project shall be issued by the City Engineer if the revised application is determined by the City Engineer to be still insufficient or incomplete.
- (4) *Stabilization and revegetation after stop work order.* If a stop work order is issued pursuant to §170.03 (C) (3), the applicant shall stabilize and revegetate all graded and otherwise disturbed areas as set forth in §169.06(F)(6) and §169.04(B).
- (5) *Termination of stop work order.* Any stop work order issued pursuant to §170.03 (C) (2) or §170.03 (C) (3), shall expire upon the issuance of a drainage permit and compliance with any conditions contained in the drainage permit.
- (D) *Exceptions where no drainage permit is required.* Drainage permits are not required for the following:
- (1) *Single-family/duplex.* One single-family residence or duplex. A drainage permit is not required. See Section 170.12 for building permit submittal requirements.
 - (2) *Commercial/industrial.* One commercial or industrial project built on an individual lot that is part of a larger subdivision that has been issued an approved drainage control permit when the proposed project is demonstrated to be in compliance with the overall subdivision drainage permit.
 - (3) *Existing commercial/industrial.* Existing commercial and industrial structure where additional structural improvements are less than 2,000 square feet.
 - (4) *Maintenance.* Maintenance or clearing activity that does not change or affect the quality, rate, volume, or location of stormwater flows on the site, or runoff from the site.
 - (5) *Agriculture.* Bona fide agricultural pursuits, for which a soil conservation plan has been approved by the local Soil and Water Conservation District.
 - (6) *Emergency.* Action 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.
- (E) *Compliance with chapter provisions.* Although a specific permit is not required for these particular circumstances, this exception does not exempt the owner/developer/builder from complying with the pollution prevention and erosion and sediment control provisions of this chapter.
- (Code 1991, §163.04; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4314, 5-15-01; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.04 Drainage Permit Conditions

Each permit issued shall be subject to the following conditions.

- (A) *Area.* The development, including associated construction, shall be conducted only within the area specified in the approved permit.
- (B) *Execution.* Activities requiring a stormwater management, drainage, and erosion control permit shall not commence until the drainage permit is approved. The approved drainage permit shall be on file with the city and a copy on file with the contractor for review and inspection upon request.
- (C) *Inspections.* A schedule of inspections to be carried out during the construction phase of permitting shall be established as conditions to the permit.
- (D) *Duration.*
 - (1) Unless revoked or otherwise modified, the duration of a drainage permit issued pursuant to this chapter shall be one year.
 - (2) If the permitted project discharge structure is not completed prior to expiration, the drainage permit duration can be extended to cover the project duration, subject to approval of the City Engineer.
- (E) *Maintenance.* Maintenance activities, as specified in the approved maintenance plan, shall be executed routinely, with scheduled reporting to the City Engineer.

(F) *Modifications.* If the activity authorized by the permit is not completed according to the approved schedule and permit conditions, the City Engineer shall be notified. For revisions resulting in a schedule extension of more than 30 days, or if deviations from the permit conditions are expected to occur, approval of a permit modification is required by the City Engineer.

(G) *Transfer.* No transfer, assignment, or sale of the rights granted by virtue of an approved permit shall be made without prior written approval from the City Engineer.

(H) *Special.* Any additional special conditions, as deemed appropriate by the City Engineer, shall be established to address specific project needs or circumstances.

(Code 1991, §163.05; Ord. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.05 Drainage Permit Application

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

(A) *Applicant identification.* Applicant information, including the name, address, email, and telephone number of the owner and developer, and proof of ownership of the property to be permitted. In addition, the legal description of the property shall be provided, and its location with reference to such landmarks as major water bodies.

(B) *Plan.* Stormwater management, drainage and erosion control plan, shall include, but not be limited to the following:

(1) *Aerial photograph.* Aerial photograph of the project vicinity, covering the project area and the total lands that contribute runoff.

(2) *Topographic map.* Topographic map of the project area showing the location and elevation of benchmarks, including at least one benchmark for each control structure.

(3) *Land use map.* Land use map showing both current and proposed conditions for the drainage area that contributes runoff.

(4) *Soils and vegetation map.* Soils and vegetation map displaying the most recent U.S. Soil Conservation Service information and encompassing both the project area and the drainage area that contributes runoff.

(5) *Grading, drainage, paving, building drawings.* Proposed grading, drainage, paving, and building drawing(s) showing details of proposed grading, drainage, paving, and buildings.

(6) *Erosion and sediment drawings.* Erosion and sediment control drawing(s) and specifications identifying the type, location, and schedule for implementing erosion and sediment control measures, including appropriate provisions for maintenance and disposition of temporary measures.

(7) *Technical report.* Technical report, prepared by a registered professional engineer, describing the assumptions, calculations, and procedures used for determining compliance with the performance criteria established by this chapter.

(8) *Maintenance report.* Maintenance report (text and drawings), prepared by a registered professional engineer, describing the activities and schedule required to operate and maintain the permitted facilities until accepted by the city.

(Code 1991, §163.06; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4855, 4-18-06; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.06 Submission, Review, And Approval Of Plans

(A) *General.* The stormwater management, drainage, and erosion control plans shall be prepared by the engineer of record, who is a licensed professional engineer of the State of Arkansas.

(B) *Pre-preliminary drainage plan and review.* A pre-preliminary stormwater management, drainage, and erosion control plan review with the engineering staff is suggested before platting, replats, lot splits, building permits, and/or development improvements begin for the purpose of overall general drainage concept review.

(C) *Preliminary stormwater and drainage plan.* Preliminary stormwater management, drainage, and erosion control plans and accompanying

information as described in the *Drainage Criteria Manual* shall be submitted at the time of the preliminary plat, replat, lot split, building permit, site improvement plan, large scale development, and/or development improvements are submitted. If needed, a review meeting will be scheduled by the City Engineer with a representative of the developer, including the engineer, to review the overall concepts included in the preliminary stormwater management, drainage, and erosion control plan. The purpose of this review shall be to jointly agree upon an overall stormwater management concept for the proposed development and to review criteria and design parameters that shall apply to final design of the project.

- (D) *Final stormwater management, drainage, and erosion control plan.* Following the preliminary stormwater management, drainage, and erosion control plan review, the final stormwater management drainage, and erosion control plan shall be prepared for each phase of the proposed project as each phase is developed. The final plan shall constitute a refinement of the concepts approved in the preliminary stormwater, drainage, and erosion control plan, with preparation and submittal of detailed information as required in the *Drainage Criteria Manual*. This plan shall be submitted at the time construction drawings are submitted for approval.
- (E) *Review and approval of final stormwater management, drainage, and erosion control plans.* Final stormwater management, drainage, and erosion control plans shall be reviewed by the City Engineer. If it is determined according to present engineering practice that the proposed development will provide control of stormwater runoff in accordance with the purposes, design criteria, and performance standards of these regulations and will not be detrimental to the public health, safety, and general welfare, the City Engineer shall approve the plan or conditionally approve the plan, setting forth the conditions thereof.
- (F) *Off-site improvements.* If it is determined that offsite drainage improvements are required, and that such specific off-site drainage improvements are consistent with the city's current and established priorities, then cost sharing will be in accordance with "Required Off-site Improvements." If the city is unable, or unwilling, to contribute its share of the off-site costs, the developer shall have the option of:
 - (1) *Developer's expense.* Building the off-site improvements at his/her own expense;
 - (2) *Detention.* Providing detention so as to match downstream capacities; or

- (3) *Delay project.* Delaying the project until the city is able, or willing, to share in the off-site costs.

(Code 1991, §163.07; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.07 Performance Criteria

- (A) *Storm water management, drainage, and erosion control plan.* Stormwater management, drainage, and erosion control plans shall be prepared in accordance with performance standards that have been structured to achieve the purposes and objectives of this chapter as well as to ensure that the quality and quantity of runoff after development is not substantially altered from predevelopment conditions.
- (B) *Performance criteria.* Except as otherwise provided in this chapter, a development must be designed, constructed, operated, and maintained to comply with the following performance criteria:
 - (1) *Flood Damage Prevention Code.* Provisions for floodplain management criteria shall be consistent with those contained in Chapter 168, the Flood Damage Prevention Code.
 - (2) *Peak discharge.* The post-development peak rate of surface discharge must not exceed the existing discharge for the 100 year, 24 hour storm, the 10 year, 24 hour storm, and the 2 year, 24 hour storm, unless other discharge limits are deemed applicable for a specific site by the City Engineer.
 - (3) *Low Impact Development.* Use of Low Impact Development design strategies, as described in Chapter 179, to attenuate lesser storms and more closely mimic predevelopment hydrology is encouraged.
 - (4) *Direct Discharge.* Direct Discharge of a pipe into streams and/or floodways is not allowed. A stilling basin or other structure that will collect sediment, trash, etc and that will reduce the likelihood of erosion in the receiving stream due to discharge from the pipe shall be installed at pipe discharges into streams and/or floodways.
 - (5) *Erosion and channel stability.* All stormwater management systems shall be evaluated based on their ability to prevent erosion and sedimentation of the receiving waters and adverse impacts on the site's natural systems. The design engineer shall consider the on-site and downstream effects of the peak discharges and shall design both the

permanent and the construction phase of the stormwater management system in a manner that will not increase flooding, channel instability, or erosion downstream when considered in aggregate with other developed properties and downstream drainage capacities.

- (6) *Drainage into wetlands and floodways.* Areas defined as "wetlands" and "floodways" by the appropriate federal agencies shall be protected from adverse changes in runoff quantity and quality from associated land development.

- (7) *Drainage Criteria Manual.* The technical procedures and design standards contained in the *Drainage Criteria Manual*, prepared for the City of Fayetteville, and adopted by this chapter and as may be amended from time to time, shall be used for guidance to determine compliance with the performance criteria established by this chapter.

(Code 1991, §163.08; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.08 Maintenance Responsibility

- (A) *Dedication.* Those stormwater management systems approved in compliance with this chapter that will function as a part of the stormwater management conveyance system shall be dedicated to the city. All areas and/or structures to be dedicated to the city must be dedicated by plat or separate instrument and accepted by the City Engineer.

- (B) *Agreement to Maintain Stormwater Systems and Structures.* The owner of the property on which stormwater systems and structures have been installed shall agree to maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices.

- (C) *Maintenance Inspections.* All privately owned stormwater management facilities shall be inspected near the end of the first year of operation by the owner of the facilities. A subsequent inspection shall be performed at the end of the fourth year to ensure functionality and compliance. Inspection reports shall be submitted to and maintained by the City Engineer for all stormwater systems and structures. Inspection reports for stormwater systems and structures shall include:

- (1) The date of the inspection;

- (2) The name of the inspector;

- (3) The condition of:

- (a) Pretreatment devices.

- (b) Vegetation or filter media

- (c) Spillways, valves, or other control structures.

- (d) Embankments, slopes or safety benches.

- (e) Inlet and outlet channels and structures.

- (f) Sediment and debris accumulation in storage and forebay areas.

- (g) Underground drainage.

- (h) Provide cross sectional data showing the existing capacity of the detention pond for comparison to the minimum designed capacity in the approved final drainage report. Cross sectional data shall be at the end of the fourth year. If the designed capacity is not available the owner shall reestablish the original approved volume in the final drainage report.

- (i) Any other item that could affect the proper function of the stormwater structures or systems.

- (4) Description of the needed maintenance.

- (5) Description of maintenance activities undertaken.

After the 2nd Inspection Report is received, the City Engineer will make a determination whether subsequent Inspection Reports will be required to be submitted based upon the stabilization of the site and the condition of the stormwater systems.

- (D) *Right-of-Entry for Inspection.* The owner shall provide for the City Engineer or designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspecting stormwater systems and structures.

- (E) *Failure to Maintain.* If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement the City shall give written notice requesting corrective action. If the conditions described in the Failure to Maintain notice are not corrected within 10 days after such notice is given, the mayor, or his duly authorized representative, is hereby

Deleted: ¶
(B)

Deleted: Perpetual Inspections and Maintenance Agreements. The City shall require a Stormwater Management Practices Maintenance Agreement, for systems not dedicated to the City, of all entities for stormwater management conveyance systems and structures in the stormwater management plan for their proposed development. The City shall require the following set of documents and agreements prior to stormwater systems and structures approval:¶

¶
(1) *Agreement of Maintenance Responsibility.* The owner of the property on which the stormwater systems structures have been installed shall agree to undergo ongoing inspections, and document maintenance and repair needs.¶

¶
(2) *Agreement to Maintain Stormwater Systems and Structures.* The owner of the property on which stormwater systems and structures have been installed shall agree to maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices.¶

¶
(C) *Approved Entities for Perpetual Maintenance Agreements.* All stormwater management structures or systems approved in compliance with this chapter but not dedicated to the City shall have adequate easements to permit the city to inspect and, if necessary to take corrective action should the responsible entity fail to properly maintain the system. Maintenance of all other stormwater management structures and systems approved in compliance with this chapter and not dedicated to the City shall be accomplished by the legal entity responsible for maintenance, which may include an approved entity as identified in the following:¶

¶
(1) *Special districts and public entities.* An active water control district, drainage district, public utility, or a special assessment district.¶

¶
(2) *Developer or property owner* ... [1]

Deleted: Stormwater Management Maintenance Agreement

Deleted: party designated in the Stormwater Management Practices Agreement

authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described, in the notice. The costs of correcting said conditions shall be charged to the owner or owners of the property and the city shall have a lien against such property for such costs.

- (1) *Enforcement of the Lien.* The lien herein provided for may be enforced and collected in either one of the following manners:

- (a) The lien may be enforced at any time within 18 months after work has been done, by an action in circuit court; or
- (b) The amount of the lien herein provided may be determined at a hearing before the City Council held after 30 days written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known, and if the name of the owner or owners cannot be determined, then only after publication of notice of such hearing in a newspaper having a bona fide circulation in Washington County for one insertion per week for four consecutive weeks; the determination of the City Council shall be subject to appeal by the property owner in circuit court; and the amount so determined at said hearing, plus ten percent penalty for collection, shall be by the City Council certified to the tax collector of the county, and by him placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less three percent thereof, when so collected shall be paid to the city by the county tax collector.
- (c) In case the owner of any lot or other real property is unknown or his whereabouts is not known or he is a nonresident of this state, then a copy of the written notice hereinabove referred to shall be posted upon the premises and before any action to enforce such lien shall be had, the City Clerk shall make an affidavit setting out the facts as to unknown address or whereabouts or non-residence, and thereupon service of the publication as now provided for by law against nonresident defendants may be had, and an attorney ad litem may be appointed to notify the defendant by registered letter addressed to his last known place of residence if same can be found.

- (F) Removal and modification of Stormwater Systems and Structures. Stormwater systems

and structures may only be modified or removed with the approval of the City Engineer, who shall determine the whether the stormwater system or structure does not function as a part of the stormwater management system. The applicant may be required to provide supporting data and calculations that justify the removal of the stormwater systems or structures.

(Code 1991, §163.09; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

Cross reference(s)--Enforcement, Ch., 153; Appeals, Ch. 155, Variances, Ch. 156; Bonds and Guarantees, Ch. 158; Fees, Ch. 159.

170.09 Drainage Permit Processing

- (A) *Application.* Stormwater management, drainage, and erosion control permit applications shall be submitted to the city for review, processing, and approval. Applicants may schedule a pre-application conference with the city to discuss a proposed project before submitting the application.
- (B) *Fee.* A nonrefundable permit application fee shall be paid when the application is submitted to help cover the cost of the plan review, administration and management of the permitting process and inspection of project implementation and operation.
- (C) *Issuance.* If the City Engineer determines that the permit application submittal is in compliance with all provisions of this chapter, a permit may be issued. If the City Engineer determines that the permit submittal does not conform with all provisions of this chapter, permit issuance shall be denied and a written statement as to the reasons for the denial shall be provided to the applicant.

(Code 1991, §163.10; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.10 Stormwater Discharges From Construction Activities

- (A) *General Requirements for Construction Sites.*

- (1) *Construction Site.* A construction site is a site with activity that would result in the creation of a new stormwater management system, including the building, assembling, expansion, modification, or alteration of the existing contours of the property; the erection of buildings or other structures, any part thereof; or land clearing.

- (2) *Owner Responsibility.* The owner of a site of construction activity shall be responsible for compliance with the requirements of this chapter.
- (3) *Erosion And Sediment Control.* Best Management Practices (BMPs) shall be implemented to prevent the release of airborne dust and waterborne sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances/exits shall be managed to prevent sediment tracking. Streets and storm inlets must be kept clean at all times and free of loose rock, mud, debris and trash. Specific inlet protection measures may be necessary, as long as they do not interfere with vehicular traffic. Mud on streets must be physically removed and not washed into inlets.
- (4) *Construction Sites Requiring Storm Water Pollution Prevention Plans.* Erosion and sediment control systems must be installed and maintained per a state approved Storm Water Pollution Prevention Plan before the beginning of construction and until slope stabilization and/or vegetation is established. For sites between 1 and 5 acres, the SWPPP must be onsite at all times. For sites over 5 acres, the NOI and the SWPPP must be onsite at all times.
- ~~(6) *Concrete Truck Wash Areas.* No washing of concrete trucks or chutes is allowed except in properly located and constructed concrete wash pits. Proper runoff and erosion controls must be in place to retain all concrete wash water.~~
- (7) *Dewatering.* All rainwater pumped out of sumps and depressions on construction sites should be clear and free of sediment, and must discharge to a sedimentation pond, sediment bag, or settling tank in such a manner as to not cause additional erosion problems.
- (8) *Storage of Materials.* Public streets and sidewalks shall not be used for temporary storage of any containers or construction materials, especially loose gravel and topsoil. In addition to on-street storage being a violation of this chapter, all liability for any accidents and/or damages due to such storage will be the responsibility of the owner of the stored materials.
- (9) *Dirt and Topsoil Storage.* All storage piles of soil, dirt or other building materials (e.g. sand) shall be located more than 25 feet from a roadway, drainage channel or stream

(from top of bank), wetland, and stormwater facility. The City Engineer may also require storage piles to be located up to fifty (50) feet from a drainage channel or stream, as measured from the top of the bank to the stockpile, for established TMDL water bodies; streams listed on the State 303(d) list; an Extraordinary Resource Water, Ecologically Sensitive Waterbody, and/or Natural and Scenic Waterbody, as defined by Arkansas Pollution Control and Ecology Commission Regulation No. 2; and/or any other uses at the discretion of the City Engineer.

Topsoil piles surfaces must be immediately stabilized with appropriate stabilization measures. Stabilization practices may include: temporary seeding (i.e. annual rye or other suitable grass), mulching, and other appropriate measures. Sediment control measures such as silt fence shall be provided immediately for stockpiles and remain in place until other stabilization is in place. Storm drain inlets must be protected from potential sedimentation from storage piles by silt fence or other appropriate barriers.

- (10) *Franchise and Private Utilities.* The property owner or main contractor onsite will be responsible for restoring all erosion and sediment control systems and public infrastructure damaged or disturbed by underground private or franchise utility construction such as water and sewer service leads, telephone, gas, cable, etc. Erosion and sediment control systems must be immediately restored after each utility construction.

- (11) *Post-Construction Compliance.* Upon completion of permitted construction activity on any site, the property owner and subsequent property owners will be responsible for continued compliance with the requirements of this chapter in the course of maintenance, reconstruction or any other construction activity on the site.

- (B) *Construction Sites Requiring an Approved Stormwater Pollution Prevention Plan (SWPPP).* For all construction sites where construction on a site will disturb soil or remove vegetation on one (1) or more acres of land during the life of the construction project, a Stormwater Pollution Prevention Plan (SWPPP) for the project must be implemented by the construction site owner as follows:

- (1) The site owner bears the responsibility for implementation of the SWPPP and

Deleted: (5) . *Construction Exits.* A stabilized rock exit is required on construction sites. Rock exits must be at least 20' wide by 20' long (1 & 2 family residential) or 50' long (all other construction sites) by 6" thick stabilized rock having a minimum average diameter of 3". If there is an existing curb, loose material such as fill dirt or gravel shall not be used to ramp up to it from the street. Temporary wooden ramps in front of curbs are acceptable.¶

Deleted: specific

Deleted: located onsite.

notification of all contractors and utility agencies on the site.

- (C) *Stormwater Pollution Prevention Plans.* Preparation and implementation of Stormwater Pollution Prevention Plans for construction activity shall comply with the following:

(1) Implementation

- (a) *Installation and Maintenance.* BMPs shall be installed and maintained by qualified persons. The owner or their representative shall provide upon the City Engineer's request a copy of the SWPPP on site and shall be prepared to respond to unforeseen maintenance requirements of specific BMPs.
- (b) A qualified inspector (provided by the owner/developer/builder) shall inspect disturbed areas of the construction site and areas used for storage of materials that are exposed to precipitation that have been finally stabilized, and locations where vehicles enter or exit the site. BMPs must be observed to ensure proper operation. Inspectors must inspect for evidence of, or the potential for, pollutants entering the stormwater conveyance system. Discharge locations must be inspected to determine whether BMPs are effective in preventing significant impacts to waters of the State, where accessible. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. The inspections must be conducted at least once every seven (7) calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater as measured at the site or generally reported in the vicinity of the site. A rain gauge must be maintained on-site.

A report shall be prepared for each inspection summarizing the scope of the inspection; name(s), title(s) and qualifications of personnel making the inspection; the date of the inspection; amount of rainfall and days since last rain event, BMPs on-site; observations relating to whether BMPs are in working order and whether maintenance is required (when scheduled and completed); the locations and dates when major construction activities begin, occur, or cease; and the signature of the inspector. The reports shall be retained

as part of the stormwater pollution prevention plan for at least three (3) years from the date the site is finally stabilized and shall be made available upon request to the City.

- (c) *Modifications.* Based on inspections performed by the owner or by authorized City personnel, modifications to the SWPPP will be necessary if at any time the specified BMPs do not meet the objectives of this chapter. In this case, the owner/developer/builder or authorized representative shall meet with authorized City personnel to determine the appropriate modifications. All modifications shall be completed within seven (7) days of the referenced inspection, except in circumstances necessitating more timely attention, and shall be recorded on the owner's copy of the SWPPP.

(D) *Requirements for Utility Construction*

- (1) Utility agencies shall be responsible for compliance with the requirements this chapter.
- (2) Utility agencies shall develop and implement Best Management Practices (BMPs) to prevent the discharge of pollutants on any site of utility construction within the City. In addition, the City may adopt and impose BMPs on utility construction activity.
- (3) Utility agencies shall implement BMPs to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately.
- (4) Prior to entering a construction site or subdivision development, utility agencies shall have obtained from the owner a copy of any SWPPPs for the project. Any disturbance to BMPs resulting from utility construction shall be repaired immediately by the utility company in compliance with the SWPPP.

(Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.11 Preliminary Plat, Lot Requirements

- (A) *Preliminary Plats.* Preliminary Plats shall include a master drainage plan for each lot related to the proposed infrastructure and adjacent lots.
- (B) *Preliminary Plats for Residential Subdivisions.* Preliminary Plats for residential subdivisions shall provide detailed drainage information including flow arrows and design spot elevations including the proposed finish floor elevation meeting the Arkansas Fire Prevention Code for building safety regulations for positive drainage of each lot.
- (C) *Rear lot drainage easements.* Rear lot drainage easements for nonstructural grassed swales shall not overlap utility easements with above ground structures, ie, electric transformers, gas meters, communication junctions, etc.
- (D) *Final Plat.* The Final Plat shall include the approved master drainage plan to be filed as a supplemental document. The scale shall be legible and approved by the City Engineer.

(Ord. 5336, 8-3-10)

170.12 1 & 2 Family Residential Requirements

- (A) *1&2 Family Residential and Sites under One Acre.* All residential lots must maintain properly installed erosion and sediment control measures from the beginning of construction until slope stabilization and/or vegetation is established in order to prevent silt and sediment from going offsite or into the street.
- (B) A building permit application shall contain sufficient site drainage and grading information to determine whether the project complies with the requirements of this chapter and Chapter 169, including, but not limited to:
- (1) locations and types of proposed stormwater and erosion control BMP.s.
 - (2) Lot lines and conceptual foot print of building.
 - (3) Minimum finish floor and grading adjacent to the residential structure in accordance with Chapter 173 Building Regulations and the Arkansas Fire Prevention Code.
 - (4) Individual lot drainage features, using spot elevations and flow arrows.
- (C) If the Final Plat of the Subdivision, in which the proposed building is located, includes an

approved master drainage plan, this plan shall be included in the building permit application and the individual lot drainage plan shall follow the master drainage plan.

(Ord. 5336, 8-3-10)

170.13 Stormwater Pollution Prevention

(A) Prohibitions

- (1) Illicit discharges are prohibited. An illicit discharge is a storm drain that has measurable flow containing pollutants and/or pathogens. No person shall discharge anything but uncontaminated stormwater, into the storm drainage system. Common stormwater contaminants include trash, yard waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
- (2) Illicit connections are prohibited. Illicit connections are any drain or conveyance which allows an illicit discharge to enter the storm drainage system. This prohibition includes illicit connections made in the past, regardless of whether the connection was permissible at the time of connection.
- (3) No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.

(B) Exemptions. The following non-stormwater discharges are acceptable and not a violation of this chapter:

- (1) A discharge authorized by an NPDES permit other than the NPDES permit for discharges from the MS4;
- (2) Uncontaminated waterline flushing and other infrequent discharges from potable water sources;
- (3) Infrequent uncontaminated discharge from landscape irrigation or lawn watering;
- (4) Discharge from the occasional non-commercial washing of vehicles within zoned residential areas;
- (5) Uncontaminated discharge from foundation, footing or crawl space drains, sump pumps and air conditioning condensation drains;
- (6) Uncontaminated groundwater;

- (7) Diverted stream flows and natural riparian habitat or wetland flows;
- (8) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials.
- (9) Any other non-stormwater discharge determined by the City Engineer to meet the standards and objectives of this chapter.

(C) *Requirements Applicable to Certain Discharges*

- (1) *Private Drainage System Maintenance.* The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
- (2) *Minimization of Irrigation Runoff.* Concentrated flow of irrigation water to the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
- (3) *Cleaning of Paved Surfaces Required.* The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this chapter. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Code. Material shall not be swept or washed into the storm drainage system. This section does not apply to pollutants discharged from construction activities.
- (4) *Maintenance of Equipment.* Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.
- (5) *Materials Storage.* In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
- (6) *Pesticides, Herbicides and Fertilizers.* Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer

recommendations and applicable laws. Excessive application shall be avoided.

- (7) *Open Drainage Channel Maintenance.* Every person owning or occupying property through which an open drainage channel passes shall prevent trash, debris, excessive vegetation, and other obstacles from their property from entering the drainage channel.
- (D) *Release Reporting and Cleanup.* Any person responsible for a release of materials which are or may result in illicit discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.
- (E) *Authorization to Adopt and Impose Best Management Practices.* The City may adopt and impose a Best Management Practices Manual and requirements identifying Best Management Practices for any activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.

(Ord. No. 4855, 4-18-06; Ord. 4920, 9-05-06; Ord. 5336, 8-3-10)

170.14-170.99 Reserved

C. 4
RZN 11-3880
(736 North Garland Avenue)
Page 1 of 18

8/16/2011

City Council Meeting Date
Agenda Items Only

Development Services
Department

Action Required:

RZN 11-3880: (736 N. Garland Ave./Stephenson, 444): Submitted by Brittany Stephenson for property located at 736 North Garland Avenue. The property is zoned RMF-40, Residential Multi-Family, 40 Units per acre and contains approximately 0.10 acres. The request is to rezone the subject property to CS, Community Services.

Program Category / Project Name

Program / Project Category Name

Fund Name

Budget Adjustment Attached

Date _____

Previous Ordinance or Resolution #

City Attorney

Date _____

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Date _____

Received in City
Clerk's Office

Chief of Staff

Date _____

Received in
Mayor's Office

Comments:



www.accessfayetteville.org

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: July 28, 2011

Subject: RZN 11-3880 (736 Garland Avenue)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to rezone the subject property from RMF-40, Residential Multi-family, 40 du/acre, to CS, Community Services.

BACKGROUND

The subject property is located at the intersection of Garland Avenue and Eagle Street, adjacent to the University of Arkansas campus. Surrounding land uses and developments include Leverett Elementary, the new University of Arkansas Garland Center shops and parking garage, and the "Maple Hill" University residence hall. The 0.1-acre tract is zoned RMF-40, Residential Multi-family, 40 du/acre and is currently developed for a small single family home constructed in 1956.

Staff finds that the proposed zoning is needed in order to allow for the continued use of the property for a single-family dwelling and the future redevelopment of property. The subject property contains approximately 4,250 square feet, which does not meet the minimum lot size requirements for any use in the underlying RMF-40 zoning district; as a result, even the existing single-family home is considered "nonconforming". The CS district would allow for the maintenance of the existing single-family home and for the future redevelopment of the property. Even under the CS zoning district, the future redevelopment of the subject property would be limited in residential density and/or nonresidential intensity due to the size of the lot and the requirement of the Unified Development Code (parking, greenspace, landscaping, etc).

DISCUSSION

On July 25, 2011, the Planning Commission forwarded this item to the City Council with a recommendation of approval for the CS, Community Services zoning district with a vote of 7-0-0.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 11-3880, FOR APPROXIMATELY 0.10 ACRES, LOCATED AT 736 NORTH GARLAND AVENUE FROM RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE, TO CS, COMMUNITY SERVICES

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 changes the zone classification of the following described property from RMF-40, Residential Multi-Family, 40 units per acre to CS, Community Services, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and APPROVED this day of , 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

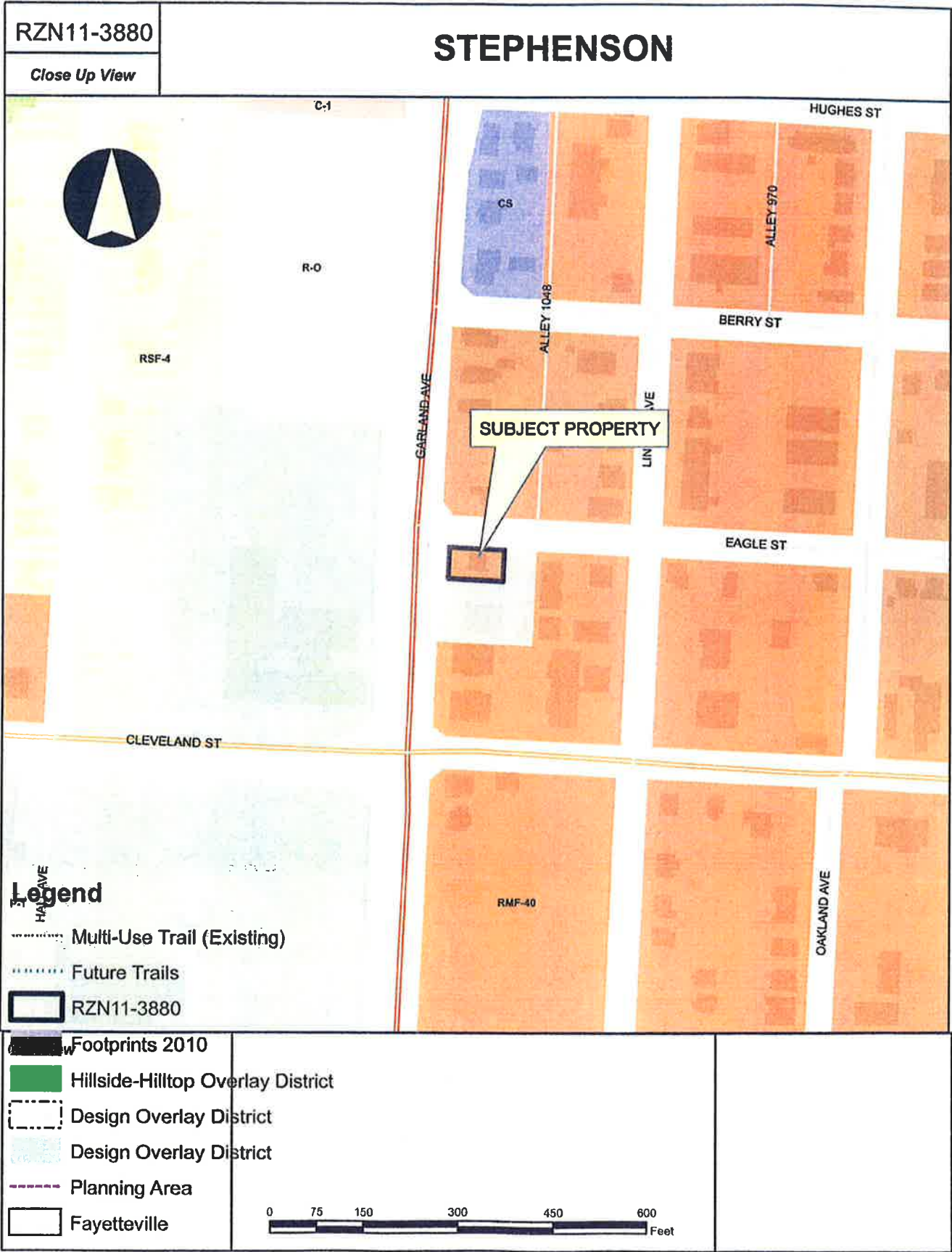


EXHIBIT "B"
RZN 11-3880

PART OF LOT 12, BLOCK 13 OF THE ROSE HILL ADDITION, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS AS SHOWN ON PLAT RECORD BOOK 4 AT PAGE 7 ON FILE IN THE WASHINGTON COUNTY CIRCUIT CLERK'S OFFICE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NW COMER OF LOT 12, BLOCK 13 AS SHOWN ON SAID PLAT RECORD BOOK 4 PAGE 7, THENCE S89°18'44"E 14.04 FEET TO A SET IRON PIN AND THE POINT OF BEGINNING, THENCE S89°18'44"E 85.96 FEET TO A SET IRON PIN, THENCE S 00°02'00" W 50.00 FEET TO A SET IRON PIN, THENCE N89°18'44"W 86.53 FEET TO A SET IRON PN, THENCE NOO°40'56" E 50.00 FEET TO THE POINT OF BEGINNING.



PC Meeting of July 25, 2011

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: July 19, 2011

RZN 11-3880: Rezone (736 N. GARLAND AVE./STEPHENSON, 444): Submitted by BRITTANY STEPHENSON for property located at 736 NORTH GARLAND AVENUE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS/ACRE and contains approximately 0.10 acre. The request is to rezone the subject property to CS, COMMUNITY SERVICES.
Planner: Dara Sanders

BACKGROUND:

Property Description and History: The subject property is located at the intersection of Garland Avenue and Eagle Street, adjacent to the University of Arkansas campus. Surrounding land uses and developments include Leverett Elementary, the new University of Arkansas Garland Center shops and parking garage, and the "Maple Hill" University residence hall. The 0.1-acre tract is zoned RMF-40, Residential Multi-family, 40 du/acre and is currently developed for a small single family home constructed in 1956.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Multi-family dwellings	RMF-40, Residential Multi-family, 40 du/acre; CS, Community Services
South	City of Fayetteville Fire Station #2	P-1, Institutional
East	City of Fayetteville Fire Station #2	P-1, Institutional
West	Leverett Elementary	P-1, Institutional

Proposal: The applicant has submitted an application to rezone the property from RMF-40, Residential Multi-family, 40 du/acre, to CS, Community Services. In her letter, the applicant explains that the reason for this request is to allow for the redevelopment of the property for a use other than a single-family home.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Based on the findings herein, staff recommends that the Planning Commission forward **RZN 11-3880** to the City Council with a recommendation for approval.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date:	<u>July 25, 2011</u>	☐ Tabled	☐ Forwarded	☐ Denied	
Motion:					
Second:					
Vote:					
CITY COUNCIL ACTION:				Required	<u>YES</u>
					☐
		Approved	☐ Denied		
Date:					

INFRASTRUCTURE:

- Streets:** The site has access to Garland Avenue. Garland Avenue is a fully improved divided four lane state highway in this location.
- Water:** Public water is available to the property. There is an 8" water main along the north side of Eagle Street. Public water main improvements may need to be extended onto the property to provide domestic and fire flow for any proposed development.
- Sewer:** Sanitary sewer is available near the site. There is an 8" public main located 50' east of this property. Public mains will need to be extended to 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 any development. This property is not affected by the 100-year floodplain and the Streamside Protection Zones.
- Police:** The Fayetteville Police Department does not believe this development will affect calls for service.
- Fire:** The Fayetteville Fire Department does not believe this development will affect calls for service or response times.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **City Neighborhood Area**. These areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses.*

FINDINGS OF THE STAFF

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

Finding: The subject property is surrounded by uses associated with or supported by the University of Arkansas, which include a Fayetteville public elementary school, University housing, privately owned single- and multi-family structures, retail, and public services. Several of the surrounding properties have been redeveloped recently in an urban form to include multiple story buildings that are located close to the street and are designed to primarily accommodate the needs of the pedestrian.

Staff finds that the applicant's request to rezone the property from a form-based, residential zoning district (RMF-40) to a form-based, mixed use zoning district (CS) is consistent with the City's planning objectives and principles, and Future Land Use Plan. The CS district would allow for a variety of residential and nonresidential uses on the property, which is consistent with the City Neighborhood Area land use designation. Staff finds that the uses, urban form, and design regulations associated with the CS district would be consistent with and contribute to the uses and redevelopment trend in the immediately surrounding area.

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

Finding: Staff finds that the proposed zoning is justified and needed in order to allow for the continued use of the property for a single-family dwelling and the future redevelopment of property. The subject property contains approximately 4,250 square feet, which does not meet the minimum lot size requirements for any use in the underlying RMF-40 zoning district; as a result, even the existing single-family home is considered "nonconforming".

The CS district specifies a minimum lot width of 18 feet for a dwelling, does not require a lot area minimum for any use, and allows for 4-story buildings; therefore, the existing single-family dwelling would be considered "conforming" if the property is rezoned to CS, which would allow for the continued use and maintenance of the single-family dwelling and for the redevelopment of the property for additional dwelling units or nonresidential services.

3. A determination as to whether the proposed zoning would create or appreciably increase

traffic danger and congestion.

Finding: **Redevelopment of the subject property for a use greater than a single-family dwelling would likely result in an increase in traffic to and from the property; however, staff does not find that the request would create or increase traffic danger and congestion due to the size of the property. While there are no density limitations or minimum lot/land area requirements in the CS district, the parking, design, development, and access regulations of the Unified Development Code would significantly limit the use of the property to small scale multi-family, retail, or office uses.**

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: **As discussed in the above finding, the size of the subject property and the regulations of the Unified Development code significantly limit the use and redevelopment possibilities; therefore, staff does not find that the request would result in an increase in demand for public services. Comments from the Fayetteville Engineering Division, Police Department, and Fire Department are included on pages two and three of this report. Adverse impacts to public services are not anticipated.**

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

Finding: **Not applicable. Staff recommends approval of the applicant's request.**

161.15 District RMF-40, Residential Multi-Family – Forty Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

Unit 2	City-wide uses by CUP
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 24	Home occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	40 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.

Townhouses: Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

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

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.	8 ft.	20 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60 ft.
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Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of the lot width.

161.19 Community Services

(A) *Purpose.* The *Community Services* district is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood Shopping goods
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 24	Home occupations
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval

when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation, trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling	18 ft.
All others	None

(2) *Lot area minimum.* None

(E) *Setback regulations.*

Front:	The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the
--------	--

	front property line.
Side and rear:	None
Side or rear, when contiguous to a residential district:	15 feet

(F) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

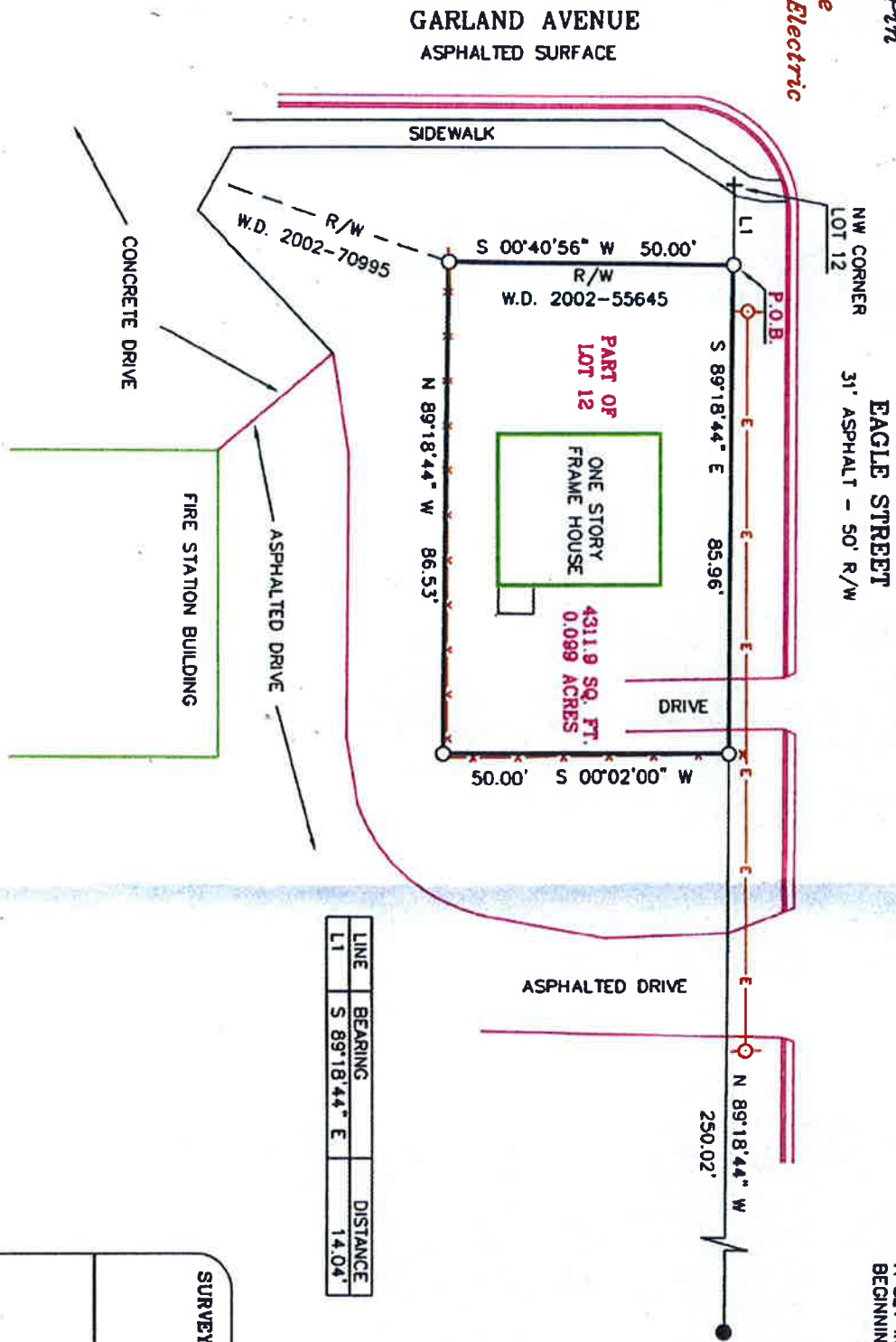
(G) *Minimum buildable street frontage.* 65% of the lot width.

Written description of rezoning request:

- a. Current ownership of the property is under Brittany Stephenson, Kerry Workman, and Robin Workman. There are proposed or pending property sales.
- b. The reason for requesting the zoning change is that the owners feel the existing building does not efficiently use the land space.
- c. The proposed rezoning will allow for a new building that conforms- in terms of land use, traffic, and appearance-- to most other properties in the area. If approved, the new building will allow for a more efficient usage of the land (i.e. greater population density). We do not anticipate utilizing signage on the property, aside from temporary "rent signs". If approved, the new building will be built to modern standards of "high efficiency", as well as built with the hope of bringing aesthetic appeal to north Garland Ave.
- d. The size of the available state sewer line is 8 inches. Please see enclosed map labeled "D" for more detail.
- e. The proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans. 736 N. Garland is currently a single family unit nestled in the middle of 2 apartment complexes, fire station 2, and Leverett Elementary School. The house is half a century old. If approved, the rezoning will allow the property to better conform to the community service facilities in the area.
- f. The proposed zoning is justified by the predicted increase in enrollment at the University of Arkansas. Our goal is to create more housing opportunities for students.
- g. There will be a slight population increase but not enough to impede traffic or cause congestion.
- h. There will be a slight population increase but not enough to undesirably alter the load on public services. We do not anticipate families with school-aged children occupying the living space. We do not believe that the increase in population density will be sufficient to appreciably increase the load on water and sewer facilities.
- i. The single-family unit is not the most efficient usage of the land; therefore, it is impractical to continue under existing zoning classifications. The existing building, despite recent improvements, is not practical or efficient according to today's standards. While we intend to bring aesthetics, efficiency, and a conforming community service to the neighborhood, under the current zoning, we are unable to build anything. The current zoning is RMF-40. The current house is non-conforming.



- Legend:**
- Found Iron Pin
 - Set Iron Pin
 - x Fence
 - ⊕ Power Pole
 - ⊖ Overhead Electric



LINE	BEARING	DISTANCE
L1	S 89°18'44" E	14.04'

SURVEY
PART OF LOT 12, BLOCK 13 OF
FAYETTEVILLE, WASHINGTON CO
RECORD BOOK 4 PAGE 7 ON F
CLERK'S OFFICE, BEING MORE F
COMMENCING AT THE NW CORN
SAID PLAT RECORD BOOK 4 P
FEET TO A SET IRON PIN AND
S 89°18'44" E 85.96 FEET TO
50.00 FEET TO A SET IRON PI
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BEGINNING.

THIS PROPERTY IS
ACCORDING TO F.E
16, 2008.

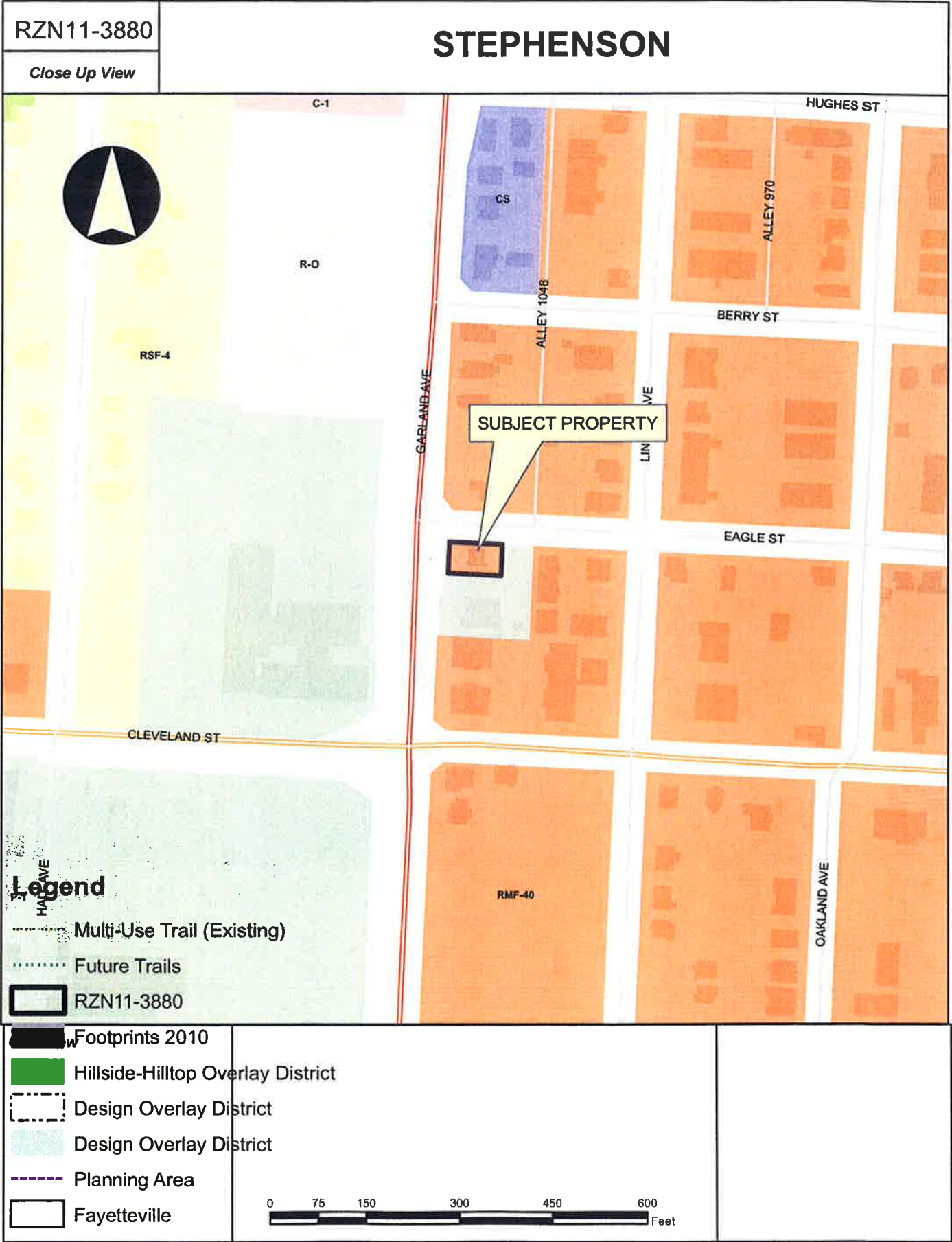
THIS SURVEY WAS
IS FOR THE SOLE

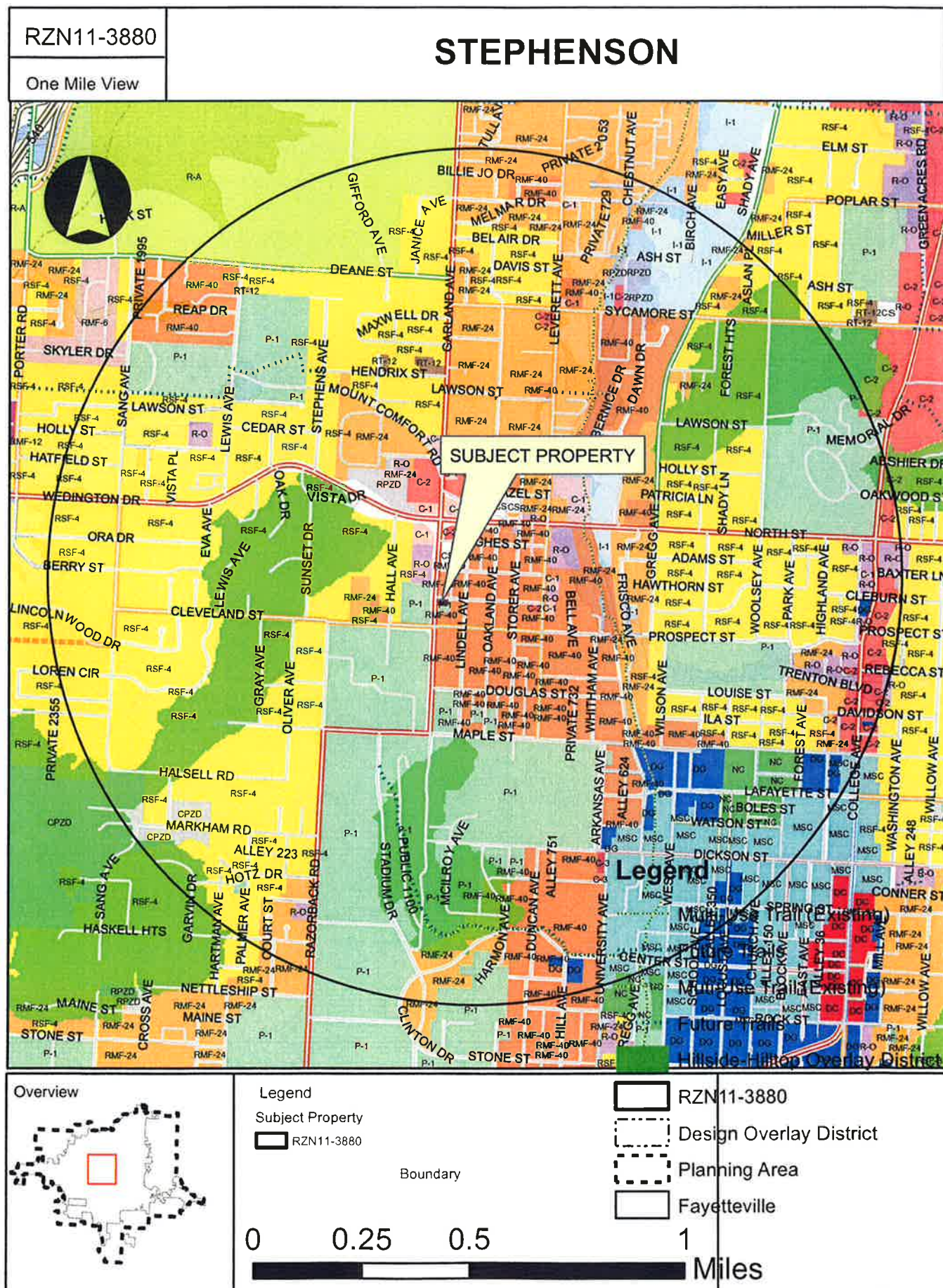


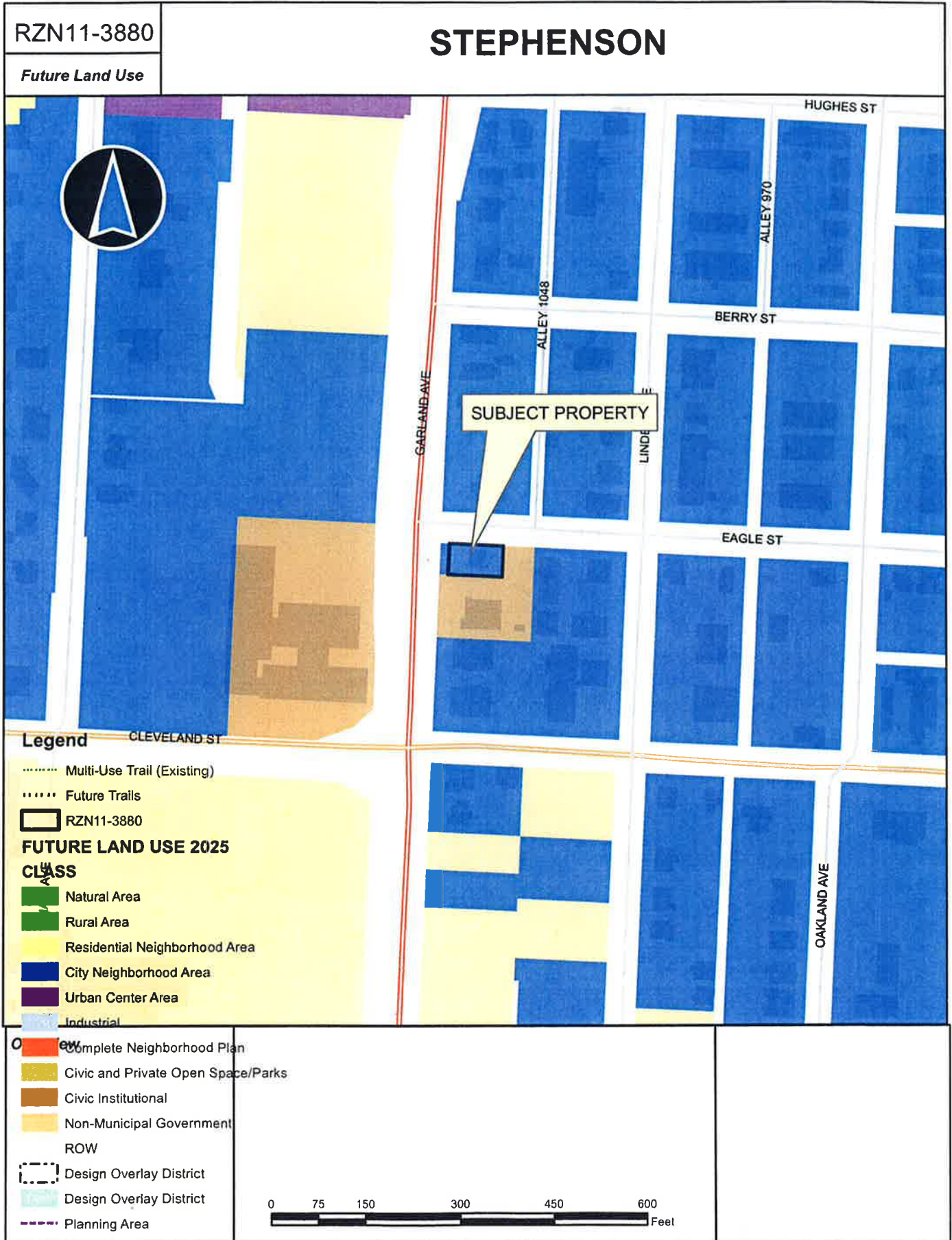
SURVEY FOR:

BRITTA

2620 Melody Lane
TEL 478-75
Gene E.
Arthur
W.O. 9011
F.B. D.C.









City of Fayetteville Staff Review Form

C. 5
RZN 11-3883
(636 South Foster Lane)
Page 1 of 24

City Council Agenda Items
and
Contracts, Leases or Agreements

8/16/2011

City Council Meeting Date
Agenda Items Only

Dara Sanders

Submitted By

Planning

Division

Development Services

Department

Action Required:

RZN 11-3883: (636 S. Foster Ln./Foster, 513): Submitted by Glenn Foster for property located at 636 South Foster Lane. The property is zoned RSF-1, Residential Single-Family, 1 unit per acre and contains approximately 1.29 acres. The request is to rezone the subject property to R-A, Residential Agricultural.

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

☐

Glenn C. Bate
Department Director

07-29-2011
Date

Previous Ordinance or Resolution #

Krahn
City Attorney

7-24-2011
Date

Original Contract Date:

Original Contract Number:

Paul A. Behm
Finance and Internal Services Director

7-29-2011
Date

Received in City
Clerk's Office



7/29/11

Jim Ma
Chief of Staff

7-28-11
Date

Received in
Mayor's Office



Lionel J. Jordan
Mayor

8/1/11
Date

Comments:



www.accessfayetteville.org

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: July 28, 2011
Subject: RZN 11-3883 (636 Foster Lane)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to rezone the subject property from RSF-1, Residential Single-Family, 1 dwelling unit per acre, to R-A, Residential Agricultural.

BACKGROUND

The subject property is located at the intersection of Foster Lane and Double Springs Road adjacent to the edge of the City limits. The 1.31-acre tract is zoned RSF-1, Residential Single-family, 1 du/acre and is currently undeveloped. The property to the northwest, west, and south is located in the Farmington city limits and is zoned A-1, which is identical to Fayetteville's R-A zoning district.

The applicant has submitted an application to rezone the property from RSF-1, Residential Single-Family, 1 dwelling unit per acre, to R-A, Residential Agricultural. In his letter, the applicant explains that the reason for this request is to allow for his horse, a registered Arabian gelding to be kept on the property, which is only permitted for properties regulated by the R-A zoning district.

Three neighbors spoke in opposition to the proposal at the Planning Commission meeting on July 25th, discussing concerns with the size of the property, potential for odor, and Foster Lane, a private, unimproved road. The meeting minutes are included in this staff report.

The proposed zoning is consistent with land use planning objectives and the City's future land use plan for the surrounding area. The subject property is located at the southwest edge of the Fayetteville city limits and is surrounded by pasture and woodlands to the north, west, and south and by rural residential to the east. The Future Land Use plan designates this area as "Rural Residential Area", which encourages the conservation and preservation of woodlands, grasslands, and agricultural lands. Staff finds that the property is of sufficient size to keep a horse for personal use. Due to the separation requirements for commercial farming uses from a residential district, it would not be possible to use the subject property for a commercial farming business.

DISCUSSION

On July 25, 2011, the Planning Commission forwarded this item to the City Council with a recommendation of approval for the R-A, Residential Agricultural zoning district with a vote of 6-1-0 (Commissioner Bunch voted "no").

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 11-3883, FOR APPROXIMATELY 1.29 ACRES, LOCATED AT 636 SOUTH FOSTER LANE FROM RSF-1, RESIDENTIAL SINGLE-FAMILY, 1 UNIT PER ACRE TO R-A, RESIDENTIAL AGRICULTURAL.

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 changes the zone classification of the following described property from RSF-1, Residential Single-Family, 1 unit per acre to R-A, Residential Agricultural, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and APPROVED this day of , 2011.

APPROVED:

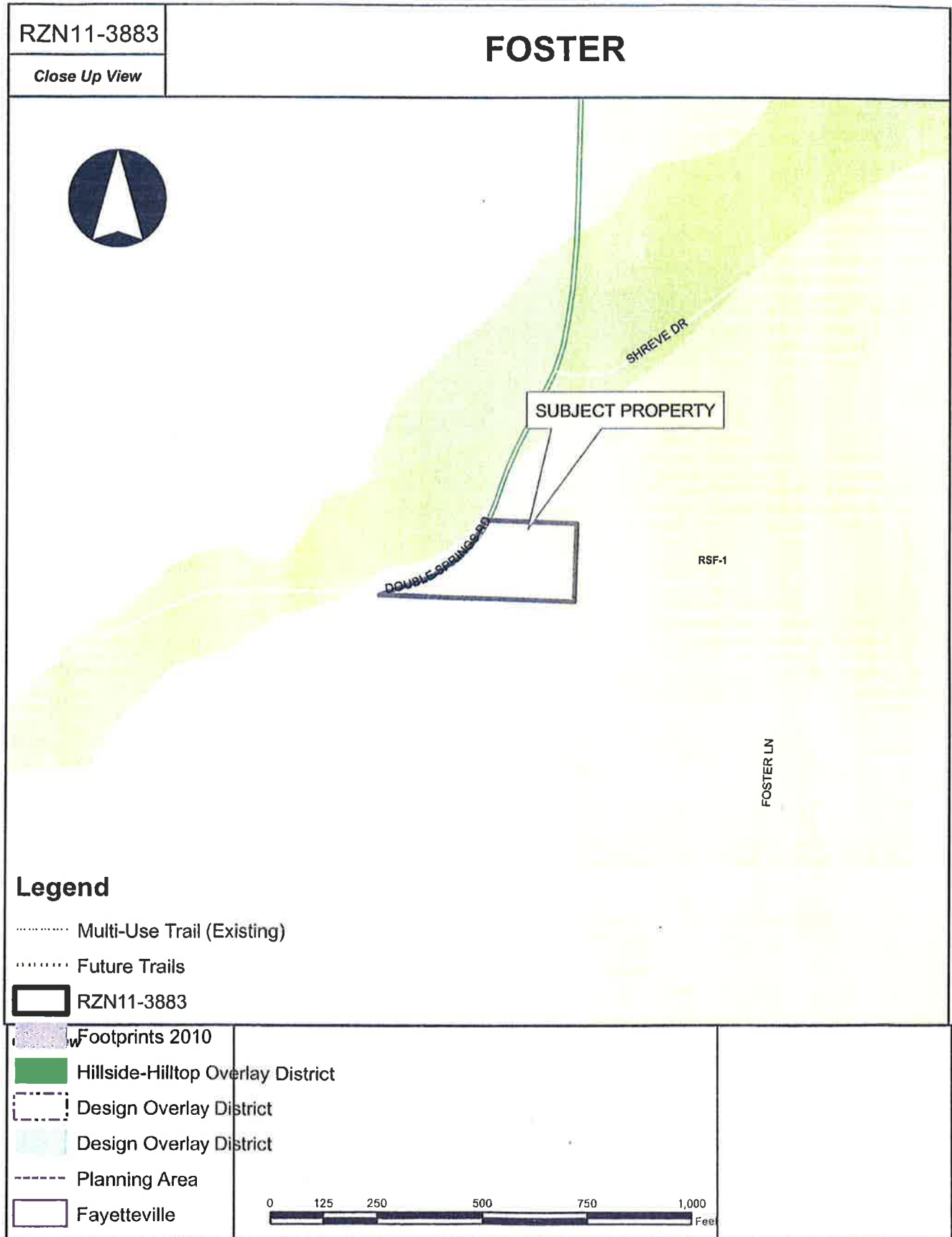
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

C. 5
RZN 11-3883
(636 South Foster Lane)
Page 4 of 24



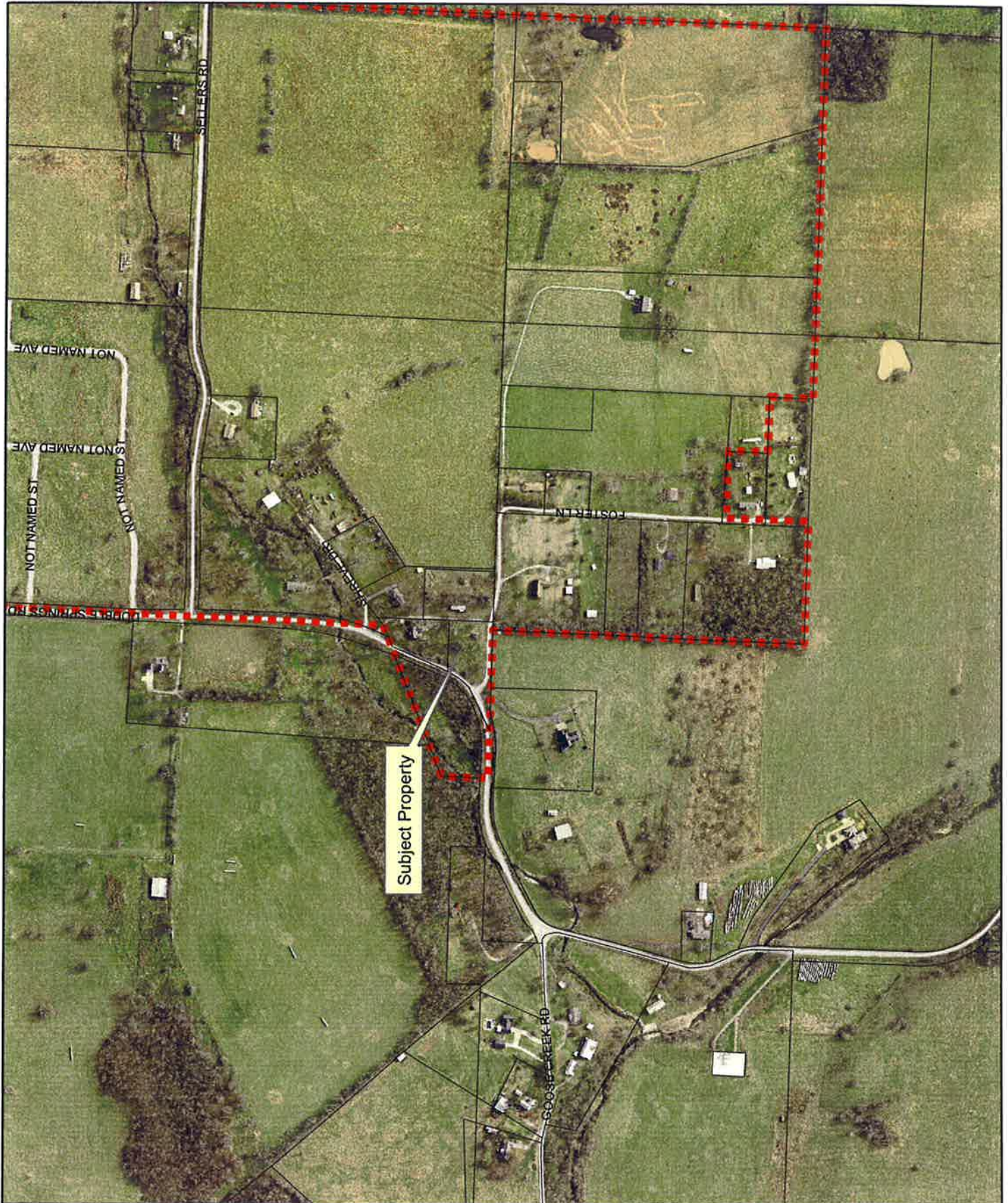


EXHIBIT "B"
RZN 11-3883

A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER AND A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, ALL IN SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 15 AND RUNNING THENCE WEST 430.42 FEET TO THE CENTERLINE OF DOUBLE SPRINGS ROAD, THENCE ALONG SAID CENTERLINE N68 DEGREES 21'01"E 135.21 FEET, N53 DEGREES 33'07"E 73.14 FEET, N39 DEGREES 41'07"E 59.47 FEET, THENCE N27 DEGREES 27'27"E 53.55 FEET, THENCE LEAVING SAID CENTERLINE EAST 219.12 FEET TO A FOUND IRON PIN, THENCE S00 DEGREES 03'45"E 186.62 FEET TO A SET IRON PIN; THENCE WEST 36.07 FEET TO THE POINT OF BEGINNING, CONTAINING 1.30 ACRES, MORE OR LESS.

Glenn & Lynnette Foster
1653 N. Saddlehorn Ave.
Fayetteville, AR 72703
479-466-1634
Email: gafis1@cox.net

Re: RZN 11-3883; 636 S. Foster Lane

It was seventeen years ago that we decided to make a change in our lives; we were no longer satisfied living in Florida and felt the need for change. Glenn made the decision to purchase a franchise known as Furniture Medic and it was through this process that we ended up in Northwest Arkansas. This is a small business with Glenn as sole proprietor. I am a former school librarian now working as an administrative assistant at Fellowship Bible Church in Rogers.

We love Northwest Arkansas and especially, Fayetteville. About a year and a half - two years ago, we decided to downsize from a 4-bedroom home to a 2-bedroom home. The neighborhood we were living in is a great place to live, but we wanted to be out more in a country atmosphere. After looking at different properties we settled in on the property at the corner of Double Springs Road and Foster Lane. Along with the peace and tranquility, there is a quaint country atmosphere about this particular area with its fence-lined winding roads, pastureland and woodlands. When we were looking for property, we had a horse or two in mind. Because of the topography of this piece of land, the trees are positioned so that they give plenty of shade in the warm months with a large open area which gives full sun for the cool months. We bought this property thinking we would be in the country zoning of Farmington since there is a "Farmington city limits" sign posted on Double Springs Road about a ½ mile before our property. At the time of closing, and after all the last minute title research was complete, we discovered that about 3 years earlier Fayetteville had annexed that area of land from the county and Farmington. We were surprised to discover that the one small area where our property is located was zoned RSF-1 instead of RA like most of the surrounding area. So from that point on we worked closely with the recommendation of the Fayetteville building and planning department to be able to approach our needed zoning in the best way. It was suggested that we complete most of the construction before we applied for the rezoning to RA so that there would be no question as how the land would be used in a residential/agricultural way.

We own an 8-year-old purebred Arabian gelding; his pedigree/bloodline is on register with the Arabian Horse Association and his registered name is Ka Jumanji. Because he is so special to us, we are taking every precaution to ensure a healthy pasture, watering system, and shelter to accommodate his needs. Referencing Horsekeeping on a Small Acreage by Cherry Hill, we knew that we would have enough space to accommodate everything needed to ensure a continued healthy environment for two horses easily, plus us and surrounding neighbors. This particular reference outlines ½ acre lots with main house and out buildings to accommodate a maximum of 1 horse and 1-acre lots with main house and out buildings to accommodate a maximum of 2 horses. Please note that this book describes land use up to 20 acres, but we are only concerned with the smallest acreage possible to accommodate equine. Besides the book

referred to previously, we have also talked with horse owners/experts; all are in agreement that our property will handle a maximum of two horses. I schedule farrier visits every 6- 8 weeks, provide protein supplements for good coat, mane and tail with added supplements for hoof health. Exercising Jumanji is our concern, not the concern of our neighbors – but since it was brought up at the planning commission meeting of July 25th, I will address it briefly - we don't need a pasture that will also accommodate exercise, although I will use it as a place for warm up and schooling - high performance horses shown on a national or an international level are usually never pastured, but stabled, usually in a 10'x10' or 12'x12' stall and exercised in accordance to the discipline they were trained for. Since Jumanji was purchased for our pleasure and for trail riding, most of the time he will be ridden close to home, but at times trailered to trails in and around Arkansas that have designed for horses. He is our horse and we love him – he belongs with us on our property where I can care for him properly day by day. Right now we are boarding him with friends, but we can't see him on a daily basis as is needed.

We believe that we have good design and landscaping ability, so our home site has been a matter of much planning. We retained the help of a local architect/designer for good working plans; we have been using local recommended banks and established trade services to be sure that all is done properly. We have built a run-in shelter that will accommodate up to 2 horses, a dry feed bay, and a tack room. The fencing will be a wood post and rail. To say the least, this will be a home that we are going to be proud of and believe it will have the look of a “mini-style” horse farm that will be a beautiful addition to the meandering drive along Double Springs Road and Foster Lane.

As a matter of reference to Foster Lane: this is an access easement road recorded with the city/county that allows 33 feet in width and the full length of our property from Double Springs Road to the S.E. corner along the south edge of our land. This is not a county road but an access road on our property. As far as we know, it remains a community responsibility to keep it maintained. Apparently, there was a concern brought up at the planning commission meeting that because of the rezoning, it would deny public access or change the road in some fashion that would deny access to those property owners living to the east of our property. This is simply not the case. As for driving Foster Lane, it will be the same as always except for a bordering fence with solar light caps on the posts – in no way do we plan to obscure or change the public access of this road. Although this road is on our property we have little to do with it other than our share of the maintenance.

As to other concerns brought up during our rezoning meeting: Mrs. Inman and Mrs. McChristian both expressed concern that they didn't receive notification of this rezoning proposal; our property was too small for a horse, our property would stink with a horse on it, our property would turn into a “mud and manure pit”, and mainly that we just don't know what we're doing. It seemed that these two ladies were bringing up anything they could think of to have the rezoning denied. Also, Matt Caldwell, our neighbor to the north, expressed concern for possible rain water runoff into his yard.

To answer the above concerns: 1) As for notification, the planning department has all the proper documentation showing that we were compliant to all the properties adjacent to us. We received 2 letters back as not deliverable, but we were told that many people don't update their address with the county and this is the reason for posted signage. As for Mrs. Inman who lives

on another street, her property is not adjacent to us, so we weren't required to send her a letter; Mrs. McChristian lives on the other side of Foster Lane and has about 5 feet of their NW corner border along our property and the planning dept stated that we were also compliant as to her notification. 2) Our property is not too small for horses. The planning dept confirmed that we were compliant with the amount of area required, setbacks, and codes for that location. 3) Our property will not smell (certainly not like the cattle farms surrounding our homes). With proper maintenance of cleaning the pasture and composting, horse manure has little smell and is a great natural fertilizer. 4) We believe that we have already said enough in that we will not allow our investment in this property become a "mud and manure pit." 5) The topography of our property hasn't changed significantly to cause excess run-off onto Mr. Caldwell's yard. Any run-off would appear to be contained to one small area of his yard as in the past. Although a portion of our property that could produce run-off onto his will be fenced and restricted from the horse, it is unlikely that contaminated run-off will occur with our pasture maintenance schedule. 6) We are at a loss as to why these 2 ladies are objecting to a horse on our property since they both live along side and/or in front of cattle farms. Mrs. Inman stated in the meeting that the property she and her family own is leased for cattle and this is the property to our east which lies just beyond the trailer site. Mrs. McChristian's home has a front view of that same cattle pasture across Foster Lane with her west boundary line bordering the William's cattle ranch/farm.

The project information is available for public review at the City of Fayetteville Planning Division, 125 West Mountain Street, Fayetteville, AR 72701 Monday – Friday 8AM-5PM; 479-575-8267

We appreciate your review and consideration of our request. Please feel free to contact us about any questions that may arise.

Sincerely,
Glenn A. and Lynnette Foster

*Planning Commission
July 25, 2011
Page 9 of 9*

RZN 11-3883: Rezone (636 S. FOSTER LN./FOSTER, 513): Submitted by GLENN FOSTER for property located at 636 SOUTH FOSTER LANE. The property is zoned RSF-1, RESIDENTIAL SINGLE-FAMILY, 1 UNIT/ACRE and contains approximately 1.29 acres. The request is to rezone the subject property to R-A, RESIDENTIAL AGRICULTURAL.

Dara Sanders, Current Planner, presented the staff report and recommendation.

Glenn Foster, property owner, explained that he and his wife mistakenly thought that the property was located within the Farmington city limits, due to the Farmington city limits sign located on Double Springs Road just north of his property. He later learned that he would not be permitted to keep his horse on the subject property due to the regulations of the underlying RSF-1 (Residential Single-family, 1 dwelling per acre) zoning district. He discussed the surrounding properties, which include farmland, pasture, cattle, and horses.

Public Comment:

Mat Caldwell, neighbor, lives to the south within the Farmington city limits and expressed concerns with waste.

Jan McChristian, neighbor, lives in the Fayetteville city limits and accesses her property from Foster Lane, which is located within an access easement along the southern portion of the applicant's property. She feels that the size of the property is not sufficient for a horse to exercise and is concerned with the potential for odor. She also discussed not being notified of the applicant's request.

Ms. Ingram, neighbor, rents the property to the east. She stated that the applicant wants too small of an area for a horse and discussed not being notified of the applicant's request.

Commissioners Hoskins and Griffin asked Ms. McChristian and Ms. Ingram to clarify the location of their homes.

Planning staff discussed the separation requirements for commercial farms adjacent to residential districts and explained that the size and shape of the property would preclude the applicant from operating a farm on the subject property. Staff also discussed the City's notification requirements, which include written notification and posting a public notice sign on the property, and information verifying that the applicant met these requirements.

Motion:

Commissioner Hoskins made a motion to forward RZN 11-3883 to the City Council with a recommendation for approval. **Commissioner Griffin** seconded the motion. **Upon roll call the motion passed with a vote of 8-1-0 (Commissioner Bunch voting 'no').**

There being no further business, the meeting was adjourned at 6:17 PM.



PC Meeting of July 25, 2011

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: July 14, 2011

RZN 11-3883: Rezone (636 S. FOSTER LN./FOSTER, 513): Submitted by GLENN FOSTER for property located at 636 SOUTH FOSTER LANE. The property is zoned RSF-1, RESIDENTIAL SINGLE-FAMILY, 1 UNIT/ACRE and contains approximately 1.29 acres. The request is to rezone the subject property to R-A, RESIDENTIAL AGRICULTURAL.
Planner: Dara Sanders

BACKGROUND:

Property Description and History: The subject property is located at the intersection of Foster Lane and Double Springs Road adjacent to the edge of the City limits. The 1.31-acre tract is zoned RSF-1, Residential Single-family, 1 du/acre and is currently undeveloped.

On November 8, 2010, the Planning Commission approved the property owner's request (CUP 10-3687) for conditional use approval to allow for the construction of a residential accessory structure prior to the construction of the house (primary structure). The construction of the accessory structure is complete, and the construction of the house began in February 2011 and is near completion.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
East	Single-family residences	RSF-1, Residential Single-family, 1 du/acre
North, West, South	Single-family residences, Farmland	RSF-1, Residential Single-family, 1 du/acre, Planning Area

Proposal: The applicant has submitted an application to rezone the property from RSF-1, Residential Single-Family, 1 dwelling unit per acre, to R-A, Residential Agricultural. In his letter, the applicant explains that the reason for this request is to allow for a horse to be kept on the property, which is only permitted for properties regulated by the R-A zoning district.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Based on the findings herein, staff recommends that the Planning Commission forward **RZN 11-3883** to the City Council with a recommendation for approval.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>July 25, 2011</u>	☐ Tabled	☐ Forwarded	☐ Denied		
Motion:					
Second:					
Vote:					
CITY COUNCIL ACTION:				Required	<u>YES</u>
					☐
				Approved	☐ Denied
Date:					

INFRASTRUCTURE:

Streets: The site has access to Double Springs Road and Foster Lane. Double Springs Road is an unimproved two lane public street in this location. Foster Lane is a private gravel drive in this location. Street improvements will be evaluated at the time of development submittal.

Water: Public water is available to the property. There is a 2" water main along Foster Lane and Double Springs Road. Public water main improvements will need to be extended onto the property to provide domestic and fire flow for any proposed development.

Sewer: Sanitary sewer is not available to the site. The nearest sanitary sewer main is 1500' southwest along Double Springs Road. Public mains will need to be extended to the property to serve any proposed development.

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

Police: The Fayetteville Police Department does not believe this development will affect calls for service.

Fire: The Fayetteville Fire Department does not believe this development will affect calls for service or response times.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **Rural Residential Area**. These areas recognize existing low-density, large lot residential development, but are identified to encourage the conservation and preservation of woodlands, grasslands, or agricultural lands that are sparsely settled. They may or may not have adequate street and water infrastructure or public services, such as police and fire, to support urban or suburban densities and development patterns nor should these services be expanded to accommodate further growth.*

FINDINGS OF THE STAFF

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

Finding: The proposed zoning is consistent with land use planning objectives and the City's future land use plan for the surrounding area. The subject property is located at the southwest edge of the Fayetteville city limits and is surrounded by pasture and woodlands to the north, west, and south and by rural residential to the east. The Future Land Use plan designates this area as "Rural Residential Area", which encourages the conservation and preservation of woodlands, grasslands, and agricultural lands.

The applicant proposes to "down zone" the property from RSF-1 to R-A. Staff finds that the R-A zoning district, one of the two lowest density zoning designations available inside the city limits, is consistent with the future land use designation of "Rural Residential Area". Further, the applicant's proposal to decrease the permitted density on the property is consistent with the City's policy to discourage a development pattern that would require services to be expanded to accommodate further growth.

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

Finding: While staff recognizes that the current underlying zoning designation of RSF-1 is consistent with the Future Land Use designation of "Rural Residential Area" and compatible with the surrounding properties, staff finds that the request is justified. The subject property is located in a rural and agricultural setting at the edge of the Fayetteville city limits. It is reasonable for the property owner to accommodate a horse on the subject property in an area described as "the country", which can only be permitted through a rezoning to the R-A zoning district.

The applicant is aware that the minimum lot area for a single-family property in the R-A zoning district is two acres. Because the subject property contains only 1.3 acres, approval of this rezoning request would result in a

nonconforming lot, which would require Board of Adjustment approval to further improve the property or expand the single-family home.

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

Finding: Staff does not find that the request would create or increase traffic danger and congestion due to the size of the property due to its size. The permitted uses in the R-A zoning include single-family dwellings, two-family dwellings, and agricultural and animal husbandry uses. Because of the setbacks, the two-acre lot area requirements of the R-A zoning district, the locations of the home and accessory structure, and the existing access and utility easements on the 1.3-acre lot, the reasonable use of the property is limited to a single-family home.

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: As discussed in the above finding, the request would result in a significant decrease in the maximum density for the 1.3-acre tract; therefore, staff does not find that the request would result in an increase in demand for public services. Comments from the Fayetteville Engineering Division, Police Department, and Fire Department are included on pages two and three of this report.

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

Finding: Not applicable. Staff recommends approval of the applicant's request.

61.05 District RSF-1, Residential Single-Family – One Unit Per Acre

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of one unit per acre. The district is designed to permit and encourage the development of very low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(D) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(E) *Density.*

Units per acre	1
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(F) *Bulk and area regulations.*

Lot width minimum	150 ft.
Lot area minimum	35,720 Sq. Ft.
Land area per dwelling unit	35,720 Sq. Ft.

(G) *Setback requirements.*

Front	Side	Rear
-------	------	------

35 ft.	20 ft.	35 ft.
--------	--------	--------

(H) *Building height regulations.*

Building Height Maximum	45 ft.
-------------------------	--------

Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(I) *Building area.* None.

161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.*

Units per acre One-half

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres

Lot area per dwelling unit	2 acres
----------------------------	---------

E) *Setback requirements.*

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

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701
Phone (479) 575-8365 Fax (479) 575-0471

Zoning Review

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
From: Terry Lawson, Fire Marshal
Date: July 6, 2011
Re: RZN 11-3883: Rezone (636 S. FOSTER LN./FOSTER, 513): Submitted by GLENN FOSTER for property located at 636 SOUTH FOSTER LANE. The property is zoned RSF-1, RESIDENTIAL SINGLE-FAMILY, 1 UNIT/ACRE and contains approximately 1.29 acres. The request is to rezone the subject property to R-A, RESIDENTIAL AGRICULTURAL.
Planner: Dara Sanders

This development will be protected by Engine 7 located at 835 N. Ruppel Road. It is 5 miles from the station with an anticipated response time of 6 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.

Terry Lawson

Fayetteville Fire Department



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS



C. 5
RZN 11-3883
(636 South Foster Lane)
Page 18 of 24

POLICE DEPARTMENT
100-A West Rock Street
Fayetteville, AR 72701
P (479) 587-3555 F (479) 587-3522

June 30, 2011

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

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed RZN 11-3883: (636 S. Foster Lane/Foster, 513): Submitted by Glenn Foster for property located at 636 S. Foster Lane would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 1.29 acres.

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

Sincerely,

Lieutenant Rob Turberville
Fayetteville Police Department

RZN 11-3883: Rezone (636 J. FOSTER LN./FOSTER, 513): Submitted by GLENN FOSTER for property located at 636 SOUTH FOSTER LANE. The property is zoned RSF-1, RESIDENTIAL SINGLE-FAMILY, 1 UNIT/ACRE and contains approximately 1.29 acres. The request is to rezone the subject property to R-A, RESIDENTIAL AGRICULTURAL. Planner: Dara Sanders

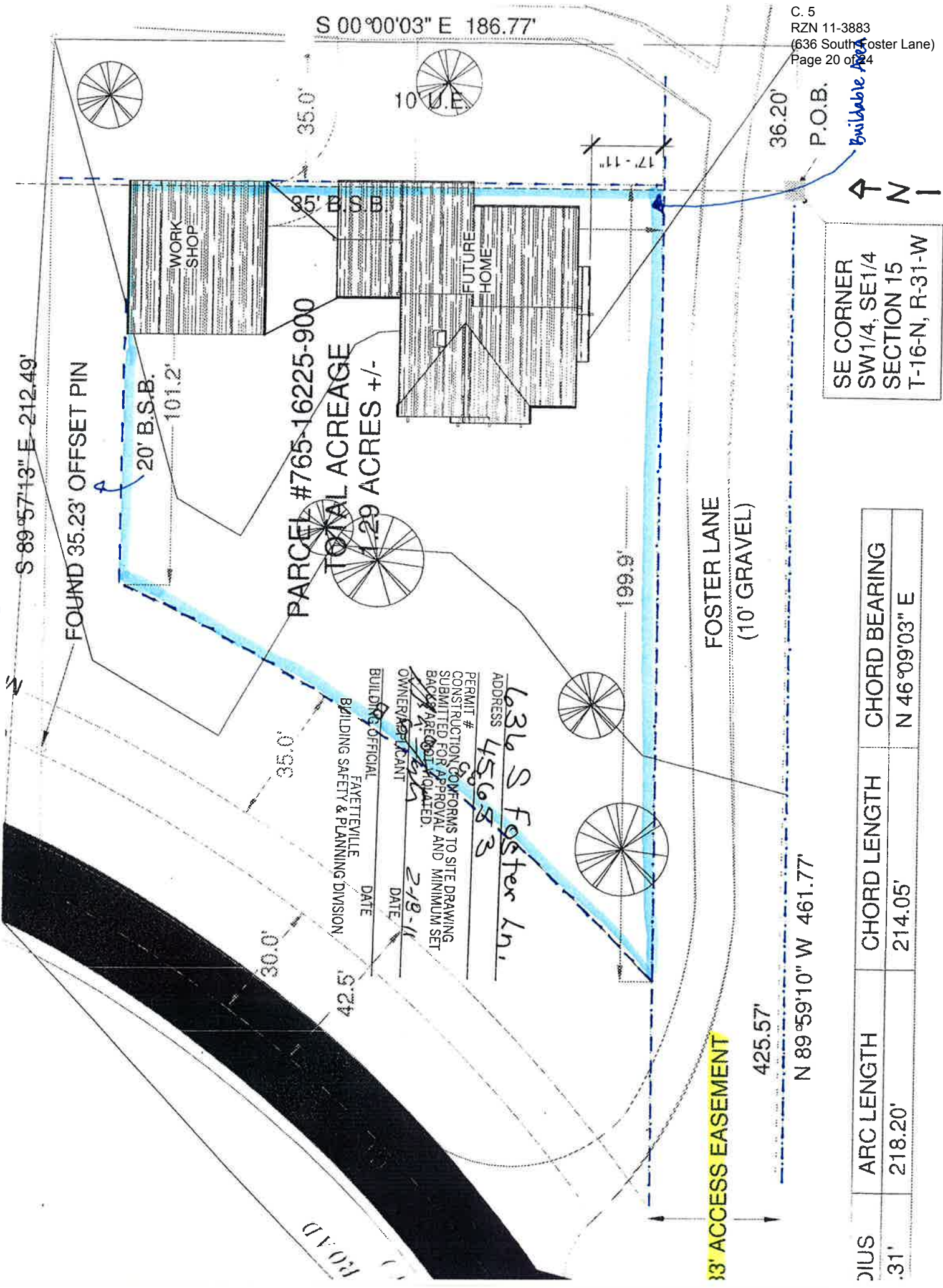
Public water is available to the property. There is a 2" water main along Foster Lane and Double Springs Road. Public water main improvements will need to be extended onto the property to provide domestic and fire flow for any proposed development.

Sanitary sewer is not available to the site. The nearest sanitary sewer main is 1500' southwest along Double Springs Road. Public mains will need to be extended to the property to serve any proposed development.

The site has access to Double Springs Road and Foster Lane. Double Springs Road is an unimproved two lane public street in this location. Foster Lane is a private gravel drive in this location. Street improvements will be evaluated at the time of development submittal.

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

Approved site plan for the single-family building permit issued for 636 South Foster Lane.



Glenn & Lynnette Foster
1653 N. Saddlehorn Ave.
Fayetteville, AR 72703
479-466-1634
Email: gafis1@cox.net

June 15, 2011

City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

Ref: Rezoning of 636 S. Foster Lane

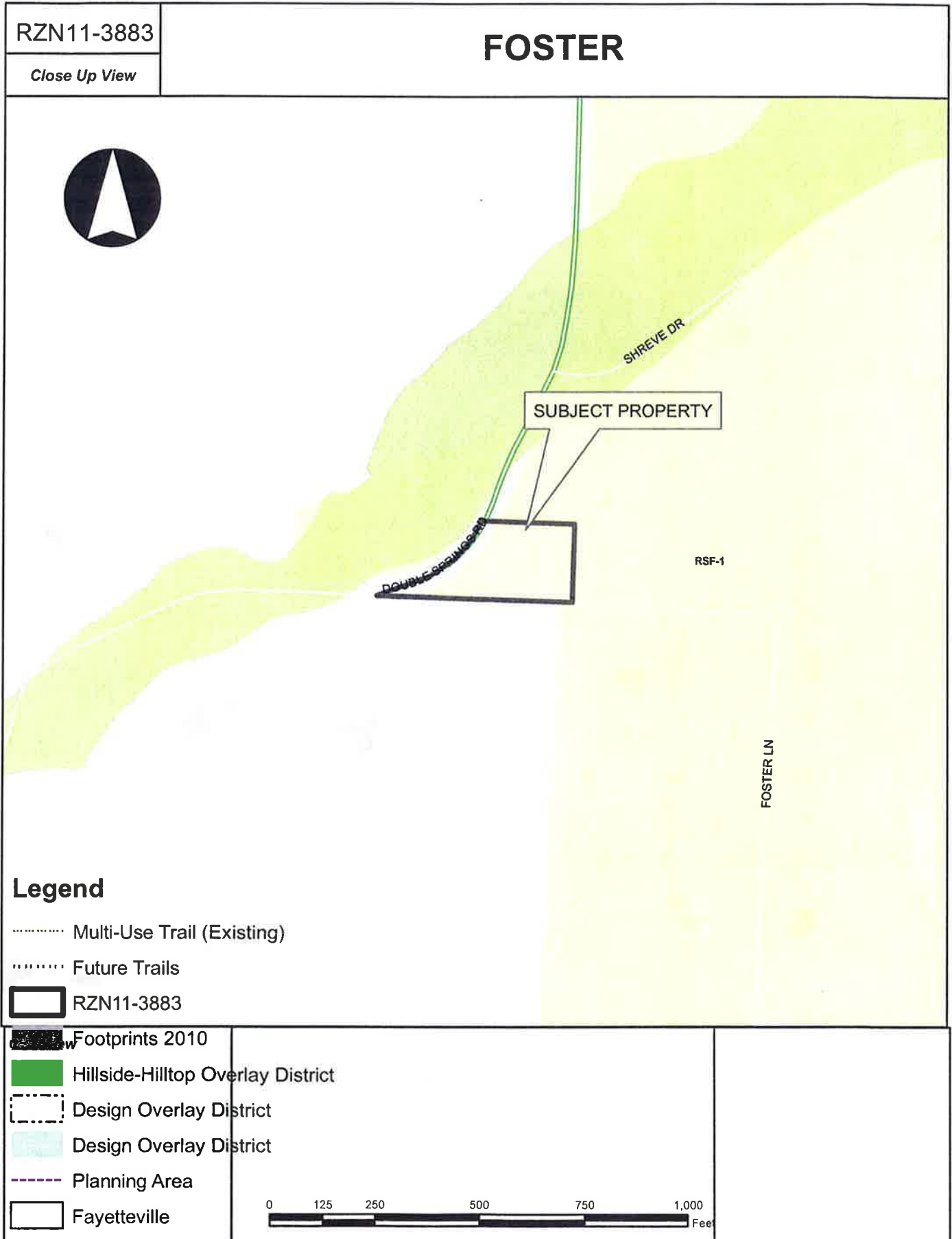
Gentlemen,

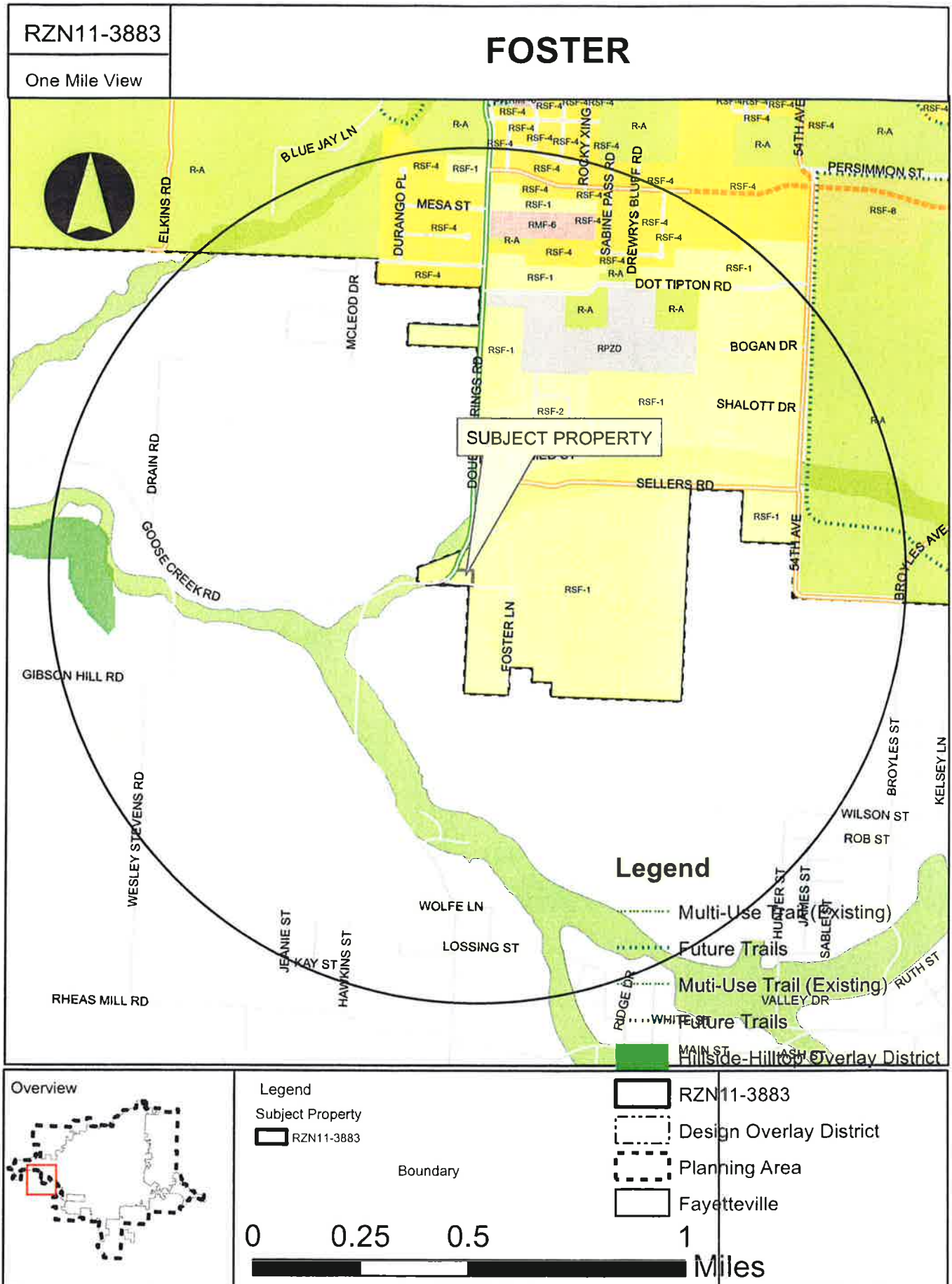
In answer to your request for a written description addressing the questions about the rezoning of 636 S. Foster Lane, please see our reply to each item in sequence as they were presented to us:

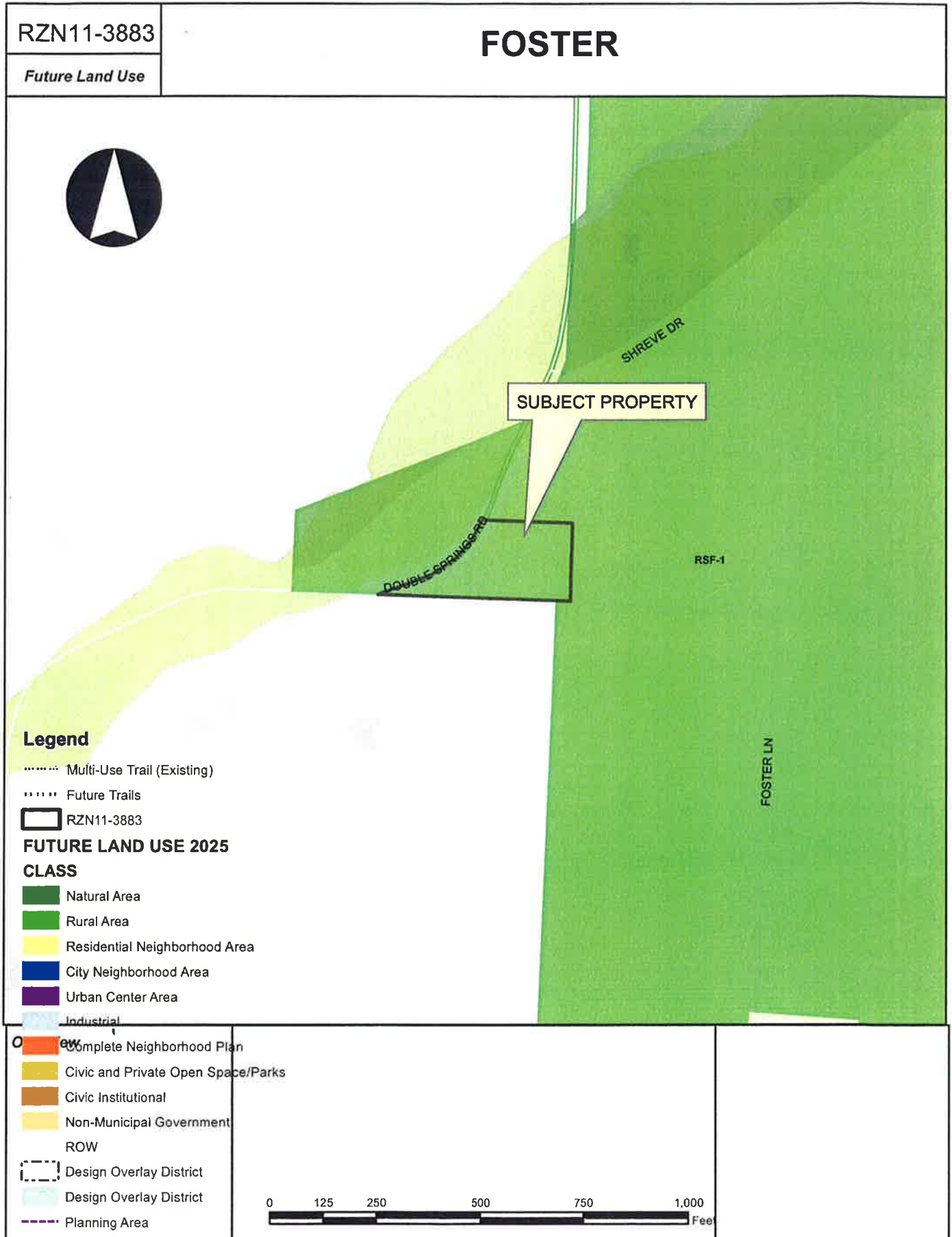
- Residence for Glenn and Lynnette Foster with no proposed or pending property sales.
- We are moving out to the country to benefit from the rural setting like the surrounding properties and thought our property was zoned for such a lifestyle. We want to be able to keep our horse on this property, and have already made architectural allowances to accommodate him. There are cattle and horses on the properties to the east, west and south of us.
- This zoning change for our purpose will have no impact on the neighboring properties, traffic, appearance and/or signage.
- This rezoning will have no impact concerning any issues with water and sewer.
- We understand that this area or part of Fayetteville is proposed to remain as a rural setting.
- This proposed rezoning is justified and needed to allow us to keep our horse on this property.
- This proposed rezoning will have no effect on the traffic and/or congestion.
- This proposed rezoning will not alter the population density or services needed such as schools, water and sewer facilities.
- It isn't necessarily impractical, but simply, the current zoning ordinance does not allow rural and/or agricultural use for this property as it exists at this time.

If there is other information required, or questions regarding our request please contact us.
Thank you!

Sincerely
Glenn A. and Lynnette L. Foster







City of Fayetteville Staff Review Form

C. 6
 RZN 11-3877
 (130 South Hill Ave./Eco Modern Flats)
 Page 1 of 22

City Council Agenda Items
 and
 Contracts, Leases or Agreements

8/16/2011

City Council Meeting Date
 Agenda Items Only

Jesse Fulcher
 Submitted By

Planning
 Division

Development Services
 Department

Action Required:

RZN 11-3877: (130 S. Hill Ave./Eco Modern Flats, 522): Submitted by Seth Mims for property located at 130 South Hill Avenue. The property is zoned RMF-40, Residential Multi-Family, 40 Units per acre and contains approximately 2.92 acres. The request is to rezone the subject property to DG, Downtown General.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Jerry C. Baker
 Department Director

07-18-2011
 Date

Previous Ordinance or Resolution #

K. Mims
 City Attorney

7-29-2011
 Date

Original Contract Date:

Original Contract Number:

Paul A. Baker
 Finance and Internal Services Director

8-1-2011
 Date

Don Man
 Chief of Staff

8-1-11
 Date

Frederick Jordan
 Mayor

8/1/11
 Date

Received in City
 Clerk's Office



CITY OF FAYETTEVILLE
 CITY CLERK'S OFFICE

Received in
 Mayor's Office



Comments:



www.accessfayetteville.org

C. 6

RZN 11-3877

(130 South Hill Ave./Eco Modern Flats)

Page 2 of 22

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: Jesse Fulcher, Current Planner

Date: July 28, 2011

Subject: RZN 11-3877 (Eco Modern Flats)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to rezone the subject property from RMF-40, Residential Multi-family, 40 units per acre to DG, Downtown General.

BACKGROUND

The subject property contains approximately 2.92 acres that is bounded by Hill Avenue to the west, Putman Street to the south and University Avenue to the east. The property is developed with four apartment buildings that were constructed in the 1960's/1970's. Significant renovations to the buildings and grounds are in progress.

The applicant has submitted an application to rezone the property from RMF-40, Residential Multi-family, 40 units per acre to DG, Downtown General.

DISCUSSION

On July 25, 2011, the Planning Commission forwarded this item to the City Council with a recommendation of approval for the DG, Downtown General zoning district with a vote of 8-0-0.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 11-3877, FOR APPROXIMATELY 2.92 ACRES, LOCATED AT 130 SOUTH HILL AVENUE FROM RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE, TO DG, DOWNTOWN GENERAL

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from RMF-40, Residential Multi-Family, 40 units per acre to DG, Downtown General, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and APPROVED this day of , 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

C. 6
RZN 11-3877
(130 South Hill Ave./Eco Modern Flats)
Page 4 of 22

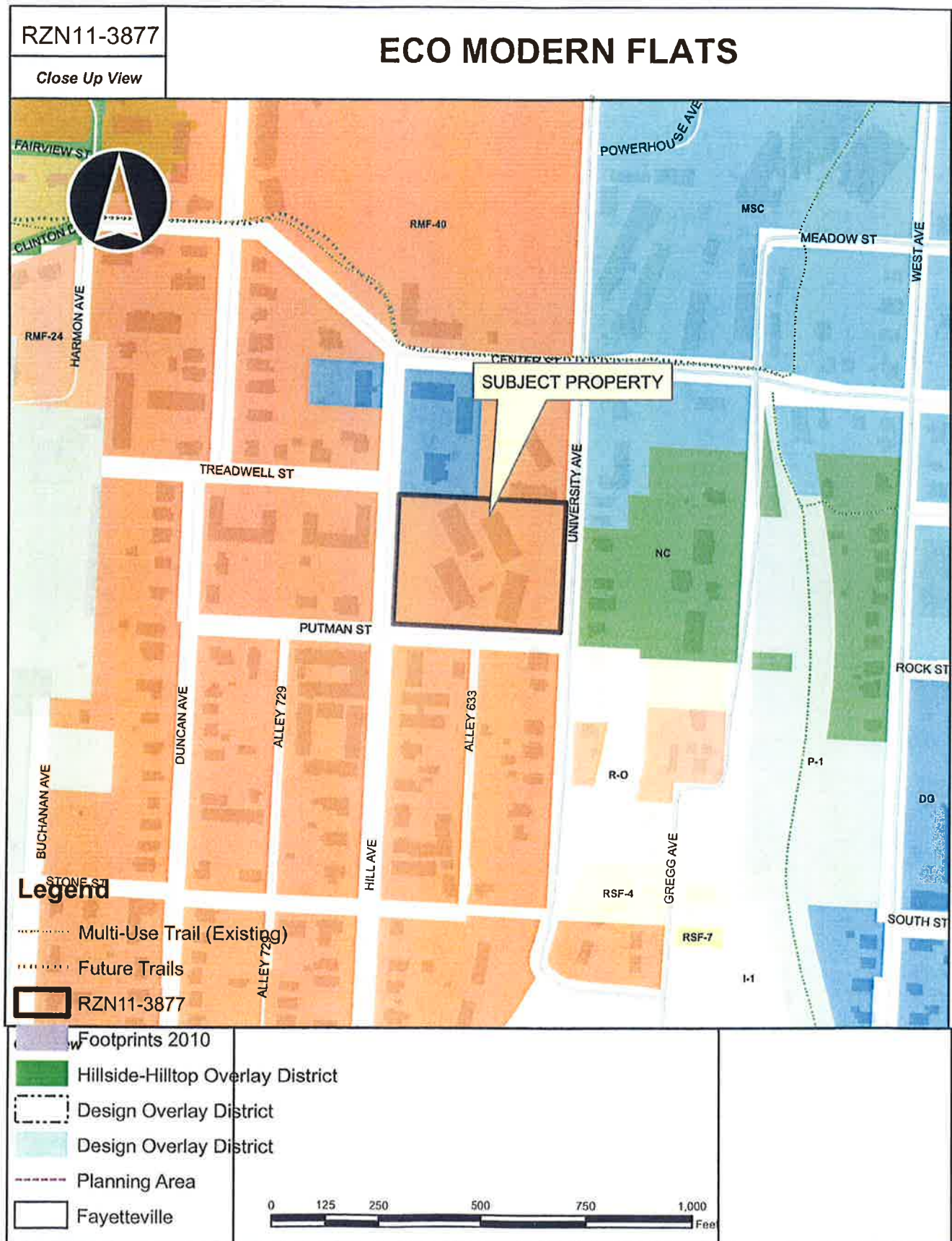


EXHIBIT "B"
RZN 11-3877

EXISTING DEED DESCRIPTION (BOOK 2010, PAGE 13372):
LOTS 7,8,9,10,11,12,13,14,15,16,17, AND 18, BLOCK 1, PUTMAN'S
ADDITION, TO THE CITY OF FAYETTEVILLE, WASHINGTON
COUNTY, ARKANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT
BOOK 4 AT PAGE 6, PLAT RECORDS OF WASHINGTON COUNTY,
ARKANSAS. TOGETHER WITH THAT PORTION OF THE ALLEY IN
SAID BLOCK 1, LYING ADJACENT TO AND IN BETWEEN LOTS
7, 8, 9, 10, 11, 12, BLOCK 1 AND LOTS 13, 14, 15, 16, 17, 18, BLOCK 1,
PUTMAN'S ADDITION, AS CLOSED BY FAYETTEVILLE CITY
ORDINANCE. SUBJECT TO EASEMENTS, RIGHTS-OF-WAY, AND
PROTECTIVE COVENANTS OF RECORD, IF ANY. SUBJECT TO
ALL PRIOR MINERAL RESERVATIONS AND OIL AND GAS
LEASES.



PC Meeting of July 25, 2011

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: July 20, 2011 Updated July 28, 2011

RZN 11-3877: Rezone (130 S. HILL AVE./ECO MODERN FLATS, 522): Submitted by SETH MIMS for property located at 130 SOUTH HILL AVENUE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS/ACRE and contains approximately 2.92 acres. The request is to rezone the subject property to DG, DOWNTOWN GENERAL.

Planner: Jesse Fulcher

BACKGROUND:

Property Description: The subject property contains approximately 2.92 acres that is bounded by Hill Avenue to the west, Putman Street to the south and University Avenue to the east. The property is developed with four apartment buildings that were constructed in the 1960's/1970's. Significant renovations to the buildings and grounds are in progress.

SURROUNDING LAND USE AND ZONING:

Direction from Site	Land Use	Zoning
North	Single-family/Multi-family	DG, Downtown General
South	Single-family/Multi-family	RMF-40, Residential Multi-family 40 units/acre
East	Single-family/Multi-family	Neighborhood Conservation/Main Street Center
West	Multi-family	RMF-40, Residential Multi-family 40 units/acre

Proposal: The applicant is requesting to rezone the property to DG, Downtown General.

Public Comment: No public comment has been received.

RECOMMENDATION:

Finding that the proposed rezoning is consistent with City Plan 2030 and based on the additional findings stated herein, staff recommends forwarding RZN 11-3877 (Eco Modern Flats) to the City Council with a recommendation for approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>July 25, 2011</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <u>Chesser</u>			
Second: <u>Cook</u>			
Vote: <u>8-0-0</u>			
CITY COUNCIL ACTION: Required <u>YES</u>			
☐ Approved		☐ Denied	
Date: <u>August 16, 2011</u>			

INFRASTRUCTURE:

- Streets:** The site has access to Hill Avenue, Putman Street, and University Avenue. Hill Avenue is an older improved two lane public street in this location. University and Putman Street are both unimproved two lane paved city streets in this location. Street improvements will be evaluated at the time of development submittal.
- Water:** Public water is available to the property. There is a 4" water main along Hill Avenue and a 6" water main along Putman Street. Public water main improvements may need to be extended onto the property to provide domestic and fire flow for any proposed development.
- Sewer:** Sanitary sewer is available to the site. There is an 8" public main along University Avenue on the east side of this property. Public mains may need to be extended to the property to serve any new 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 any development. This property is not affected by the 100-year floodplain and the Streamside Protection Zones.
- Police:** The Fayetteville Police Department does not believe this rezoning will substantially alter the population density or create an appreciable or undesirable load on police services.
- Fire:** The Fayetteville Fire Department anticipates 12 calls for service each year after build-out. Response time is estimated to be 3 minutes from Station No. 1.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **City Neighborhood Area**, which includes the widest spectrum of uses and housing types. These areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses.*

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning is consistent with land use objectives and policies. This area is densely developed and contains a wide variety of residential and nonresidential land uses. The Downtown General zoning district will support similar residential densities as the RMF-40 zoning district, and allow for property owner to include low intensity nonresidential uses that can serve residents of this property, or from surrounding neighborhoods.

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

Finding: The applicant has stated that the intent is to construct a new residential building on the property that would also contain a small number of units that would be available for rent or lease for periods less than one week. This short-term unit type is not permitted in the RMF-40 zoning district and therefore it is necessary for the property owner to rezone the property to allow some nonresidential uses. The Downtown General zoning district will not allow this use by right, but will provide the owner an opportunity to request a conditional use permit for short-term lease/rental units.

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

Finding: The subject property is currently zoned for 40 units per acre, the densest residential district available. And at this time the property is nearly completely developed. The request to rezone the property will allow for some nonresidential uses to be included on the property, but should not generally create or appreciably increase traffic danger or congestion.

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

Finding: As noted in finding #3 above, the proposed zoning should not appreciably alter the population density over the existing RMF-40 zoning designation. Increased load on public services were taken into consideration and

recommendations from the Engineering, Fire, and Police Departments and are included in this report. Adverse impacts to public services are not anticipated as a result of the rezoning request. Improvements to existing public infrastructure may be required with any new development, regardless of the zoning designation of the property.

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 recommends approval of the applicant's request.

161.15 District RMF-40, Residential Multi-Family – Forty Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

Unit 2	City-wide uses by CUP
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 24	Home occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	40 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

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

(3) *Land area per dwelling unit.*

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

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.	8 ft.	20 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60 ft.
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Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of the lot width.

161.25 Downtown General

(A) *Purpose.* *Downtown General* is a flexible zone, and it is not limited to the concentrated mix of uses found in the *Downtown Core* or *Main Street / Center*. *Downtown General* includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than *Neighborhood Conservation*. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the Downtown General district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit	Commercial recreation, small

19	sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes

(C) *Density. None*

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
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(2) *Lot area minimum. None.*

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	None
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Minimum buildable street frontage. 50% of lot width.*

(G) *Height regulations. Maximum height is 4 stories or 56 feet which ever is less.*



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701
Phone (479) 575-8365 Fax (479) 575-0471

Zoning Review

To: Jesse Fulcher
From: Terry Lawson, Fire Marshal
Date: July 6, 2011
Re: RZN 11-3877: Rezone (130 S. HILL AVE./ECO MODERN FLATS, 522): Submitted by SETH MIMS for property located at 130 SOUTH HILL AVENUE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS/ACRE and contains approximately 2.92 acres. The request is to rezone the subject property to MSC, MAIN STREET/CENTER.

Planner: Jesse Fulcher

This development will be protected by Engine 1 located at 303 W. Center Street. It is 2 miles from the station with an anticipated response time of 3 minutes to the beginning of the development. The Fire Department anticipates 12 (5 EMS - 7 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 - 18 months, after the development is started, before maximum build-out and the service impact to occur. 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.

A handwritten signature in cursive script that reads "Terry Lawson".

Terry Lawson, Fire Marshal
Fayetteville Fire Department

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



www.accessfayetteville.org

C. 6
RZN 11-3877
(130 South Hill Ave./Eco Modern Flats)
THE CITY OF FAYETTEVILLE, ARKANSAS
POLICE DEPARTMENT
100-A West Rock Street
Fayetteville, AR 72701
P (479) 587-3555 F (479) 587-3522

June 30, 2011

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

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed RZN 11-3877: (130 S. Hill Ave./Eco Modern Flats, 522), submitted by Seth Mims for property located at 130 S. Hill Avenue would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 2.92 acres.

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

Sincerely,

Lieutenant Rob Turberville
Fayetteville Police Department

(6/30/2011) Cindy Monreal - Fwd: Re: 130 S Hill st

Seite 1

From: Jesse Fulcher
To: Garner, Andrew; Monreal, Cindy; Pate, Jeremy
Date: 6/30/2011 9:44 AM
Subject: Fwd: Re: 130 S Hill st

Cindy,

→ The applicant for 11-3877 Eco Flats is requesting to change his request from MSC, Main Street Center to DG, Downtown General.

Thanks, Jesse

>>> "seth" <seth@micasa-usa.com> 6/30/2011 9:41 AM >>>

Mr. Fulcher, please consider this email our official request to modify our pending rezoning application for 130 S Hill st. Please change our requested zone from 'main street center' to 'downtown general'. If you have any questions please let me know.

Thank you, Mr. Fulcher.

-Seth Mims

-----Original Message-----

From: Jesse Fulcher

To: Seth Mims

Subject: Re: 130 S Hill st

Sent: Jun 30, 2011 9:35 AM

We just need a written request to change the application. Just e-mail me a formal request today or tomorrow and I will add it to the file.

Thanks, Jesse

Date: June 16, 2011
To: City of Fayetteville Planning Department
From: Seth Mims, Specialized Real Estate Group
Subject: Request for Rezoning for Eco Modern Flats Property from RMF-40 to ~~Main Street/Center~~

C. 6
RZN 11-3877
(130 South Hill Ave./Eco Modern Flats)
Page 17 of 22

Item (a) - Current Ownership

Eco Flats, LLC is the current property owner and there are no pending changes to ownership

Item (b) - Reason for Request

There is a desire to provide new city amenities with the addition of a boutique hotel. ~~Main Street/Center~~ lends itself well to the mix of multifamily residential and commercial. Main Street/Center zoning will eliminate any density regulations, allowing the density to be outlined similar to adjacent properties to the north and east and part of the greater City of Fayetteville Master Plan.

Item (c) - Relation of Proposed Rezoning

The proposed rezoning will relate to the surrounding properties in essentially the same way as the current zoning, minus the density cap. Land use, traffic, appearance, and signage will remain virtually the same given the mature nature of the streetscape.

Item (d) - Availability of Water and Sewer

The available city infrastructure for Water is currently a 4" line. Sewer appears to be adequate at its current state.

Item (e) - Land Use Consistency

The proposed zoning is highly consistent with the land use and planning objectives of the City of Fayetteville. A portion of the parcel lies within the Fayetteville Downtown Master Plan District (eastern edge) and nearby and adjacent parcels are currently zoned in keeping with the proposed rezoning.

Item (f) - Justification of Request

The proposed rezoning is both justified and needed by the 27th of July in order to facilitate favorable recapitalization that allows for construction for the new development.

Item (g) - Traffic

The proposed zoning will not appreciably increase traffic danger and congestion around the development.

Item (h) - Increased Load

The proposed zoning will slightly increase the population density but it will not undesirably increase the load on public services such as schools, water or sewer.

Item (i) - Impracticality of Uses

The current zoning already allows for consistent use with proposed zoning. The primary difference for the proposed use being the number of nights that a resident/guest stays in a flat. Therefore; it is not a matter of impracticality, but is a matter of enhancement of current uses as permitted under its current zoning classification and the allowance of a favorable density increase as guided by the ~~Main Street/Center~~ zoning district.

RZN11-3877

ECO MODERN FLATS

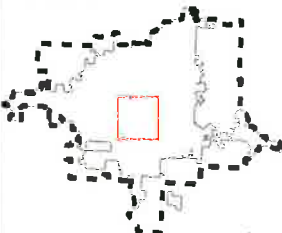
One Mile View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Multi-Use Trail (Existing)
- Future Trails
- Hillside-Hilltop Overlay District

Overview



Legend

- Subject Property
- RZN11-3877

Boundary

0 0.25 0.5

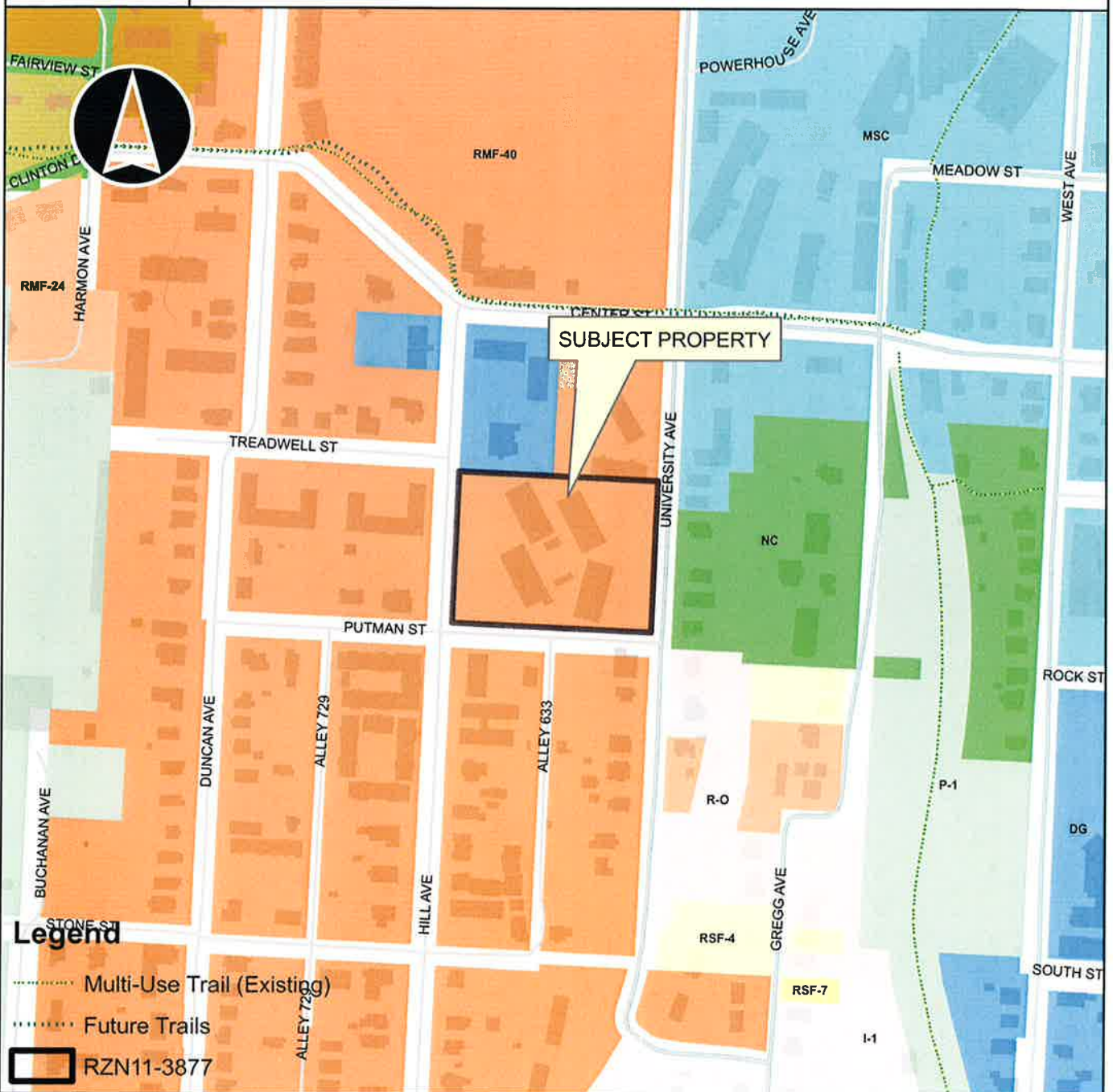
1 Miles

- RZN11-3877
- Design Overlay District
- Planning Area
- Fayetteville

RZN11-3877

Close Up View

ECO MODERN FLATS

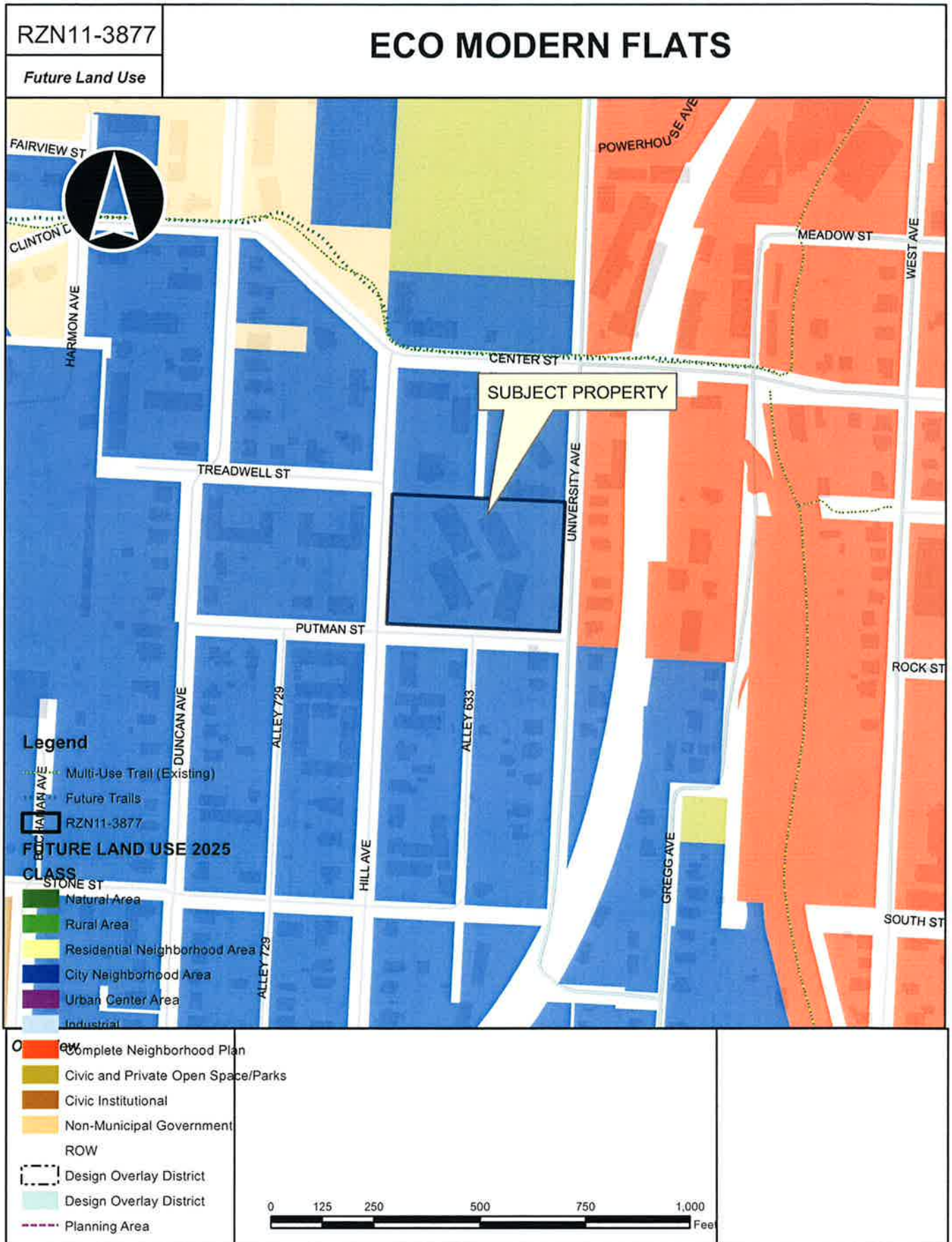


Legend

- Multi-Use Trail (Existing)
- Future Trails
- RZN11-3877

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area
- Fayetteville

0 125 250 500 750 1,000 Feet





City of Fayetteville Staff Review Form

C. 7
Amend R-PZD 04-01.00
Southern View II PZD
Page 1 of 30

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

8/16/2011

City Council Meeting Date
Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

ADM 11-3906: Administrative Item (SOUTHERN VIEW II PZD AMENDMENT #2, 519): Submitted by LINDSEY MANAGEMENT COMPANY, INC. for property located on FUTRAL DRIVE AND OLD FARMINGTON ROAD, EAST OF I-540. The request is to approve an ordinance amending the approved R-PZD 04-1.00, Southern View II, to permit Use Unit #26, Multi-family Dwellings as a permitted use throughout all of the buildings on the subject property.

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

Project Number

\$

-

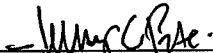
Remaining Balance

Fund Name

Budgeted Item

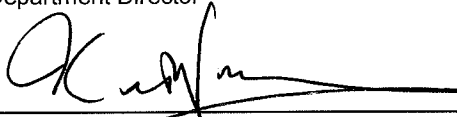
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Budget Adjustment Attached

☐

Department Director

7-22-2011
Date

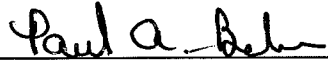
Previous Ordinance or Resolution #


City Attorney

7-22-2011
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

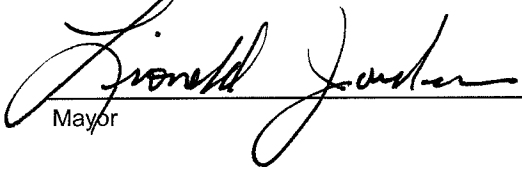
7-25-2011
Date

Received in City 07-22-11 P01:24 RCVD
Clerk's Office


Chief of Staff

7-25-11
Date

Received in
Mayor's Office


Mayor

7/25/11
Date


Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Andrew Garner, Senior Planner

Date: July 22, 2011

Subject: ADM 11-3906 (Southern View II PZD Amendment #2)

RECOMMENDATION

Staff recommends approval of an ordinance amending the Residential Planned Zoning District for Southern View II (R-PZD 04-1.00), permitting Use Unit #26, Multi-family Dwellings, as a use by right throughout all floors of the existing six mixed use buildings on the property.

BACKGROUND

Lindsey Management Company, Inc. has submitted a request to amend the approved and completed R-PZD 04-1.00, Residential Planned Zoning District for Southern View II. The project originally consisted of a mixed-use development in six buildings. Each building originally contained 6,733 square feet of retail space (on the first floor only) and 19 multi-family units within the three-story structures, for a total of 40,398 square feet of retail and 114 dwelling units. On September 18, 2007 the City Council approved a modification to the PZD to allow up to 75% of the overall non-residential square feet on the property to be used as an extended stay hote/motel type use. This space has been and continues to be occupied for the hotel/motel use. However, there remains 27% of the first floor of the buildings that remains vacant. The applicant's proposal would permit all six of the completed buildings on this site to be used entirely for multi-family residences. The applicant's letter discusses that the project was intended to be a mixed-use project. The apartments on the second and third floors of the buildings have been successful, however even with constant advertisements and marketing, the retail and commercial space has not attracted a single tenant. The applicant has indicated that the change in frontage road (Futrall Drive) to one-way traffic has extremely limited the commercial or retail potential of the site. Staff finds in favor of the applicant's request to add Use Unit #26 throughout all of the existing buildings on the property. It is not an efficient use of the land or buildings to leave 27% vacant when there is an apparent demand for apartments in that space, and not for commercial use. One of the primary advantages of a mixed-use project is the flexibility of the buildings to adapt to market changes over time. At some point in the future the buildings could be converted back for non-residential use. Staff finds that it is appropriate to modify the zoning on this site to allow for more flexibility as proposed by the applicant, and that this proposal is consistent with the City Plan 2030 designation of this site as a City Neighborhood Area.

DISCUSSION

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

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING A RESIDENTIAL PLANNED ZONING DISTRICT ENTITLED R-PZD 04-01.00, SOUTHERN VIEW II, LOCATED AT FUTRALL EAST OF I-540, CONTAINING APPROXIMATELY 6.7 ACRES, TO ALLOW THE ADDITION OF USE UNIT #26, MULTI-FAMILY DWELLINGS, AS A PERMITTED USE THROUGHOUT ALL OF THE SPACE IN THE SIX EXISTING MIXED-USE BUILDING ON THE SUBJECT PROPERTY, AS DESCRIBED HEREIN.

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

Section 1: That Use Unit #26, Multi-Family Dwellings, as defined by the City of Fayetteville Unified Development Code, is hereby approved as a permitted use throughout all of the space in the six existing mixed-use buildings, and reflected in the Planned Zoning District zoning criteria for R-PZD 04-1.00, Southern View II.

Section 2: That the approval of Use Unit #26 as a permitted use on the subject property shall be conditioned upon the following:

1. Use Unit #26 is permitted throughout 100% of the buildings on the property as shown on Exhibit "A" without restriction on the total number of dwelling units.
2. That the conversion of buildings on the property for multi-family use is subject to review in compliance with all applicable development codes.

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

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

PASSED and **APPROVED** this day of , 2011.

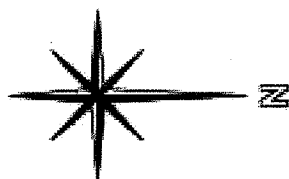
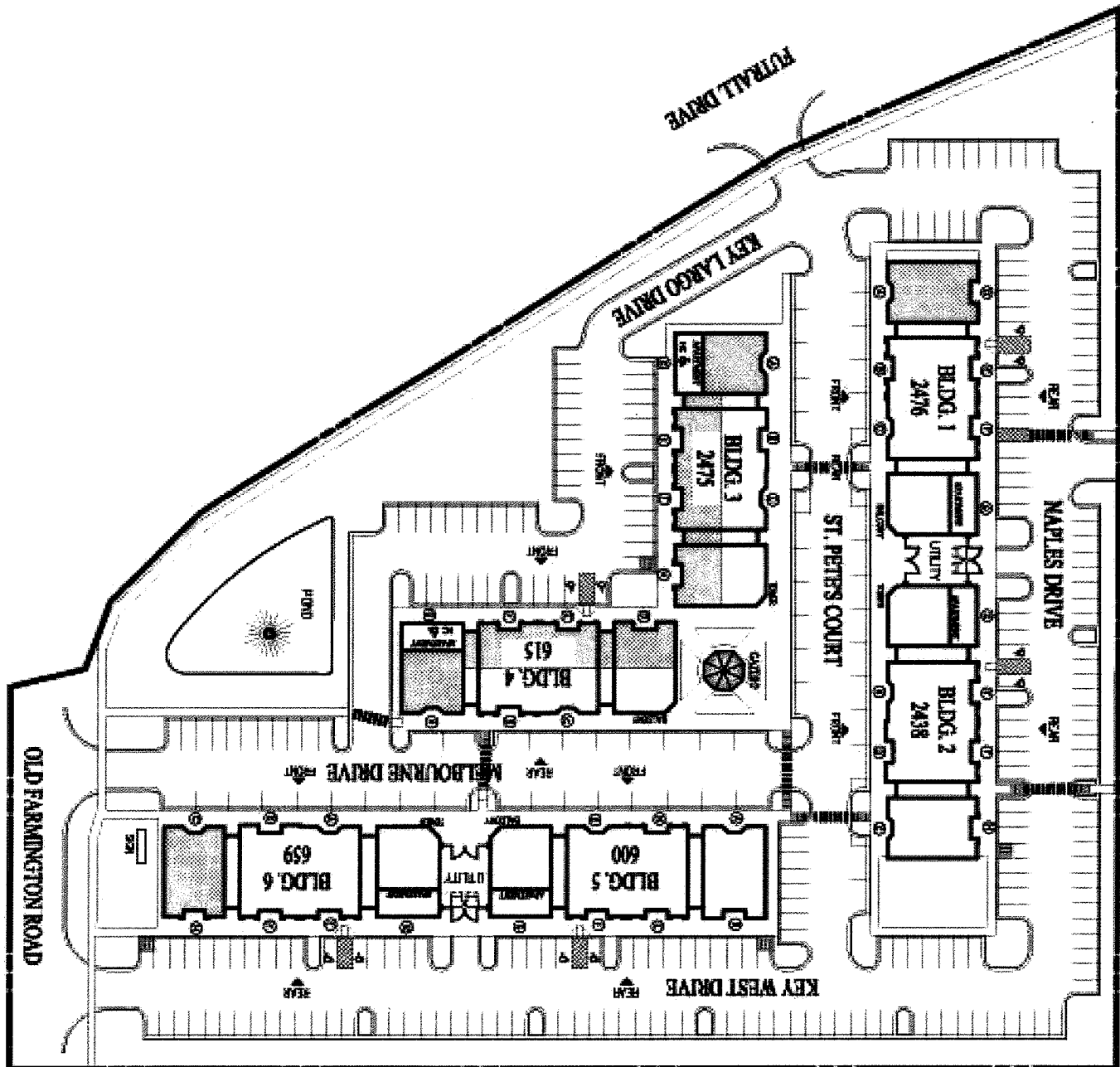
APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Exhibit "A"
ADM 11-3906 Southern View II
PZD Amendment #2



Lindsey Management Co., Inc.

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

June 28, 2011

City of Fayetteville
ATTN: Mr. Jeremy Pate
125 W. Mountain Street
Fayetteville, AR 72701

RE: Southern View PZD

Dear Mr. Pate:

Please treat this letter as a formal request by Southern View, Phase II, a Limited Partnership (Southern View II) to amend the existing PZD on the property to include the ability to rent apartments in 100% of the space at Southern View II.

In 2007 the Mixed Use property known as Southern View II was completed. This property consisted of three-story structures, with apartments on the top two floors, and commercial or retail space on the bottom floor. The apartments were successful, however, the retail and commercial space was never able to attract a single tenant.

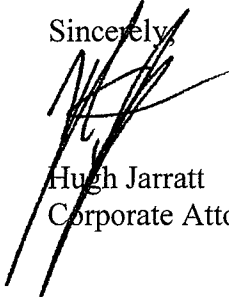
From the commencement of construction up until today, advertisements and real estate signs have been posted on the site. A senior real estate broker with Lindsey & Associates, Inc., has the property listed and actively seeks tenants for Southern View II. However, it has become apparent that the change in the frontage roads to one-way traffic has extremely limited the commercial or retail potential for the site.

On August 28, 2007, Southern View II requested that Use Unit 14, Hotel, Motel, Amusement be added to the majority of the first floor at Southern View II. That request was granted by the City of Fayetteville and all but 27% of the first floor was converted into extended-stay hotel type use. Those units were promptly occupied, and the remaining retail and commercial has remained vacant.

At this time, Southern View II would like to add Use Unit 26 to all of the first floor at Southern View II.

Thank you.

Sincerely,



Hugh Jarratt
Corporate Attorney

**CITY COUNCIL
APPROVED**

DATE: 09.08.07
AS AMENDED HEREIN
88

ORDINANCE NO.

AN ORDINANCE AMENDING A RESIDENTIAL PLANNED ZONING DISTRICT ENTITLED R-PZD 04-01.00, SOUTHERN VIEW II, LOCATED AT FUTRALL DRIVE AND OLD FARMINGTON ROAD EAST OF I-540, CONTAINING APPROXIMATELY 6.7 ACRES, TO ALLOW THE ADDITION OF USE UNIT #14, HOTEL, MOTEL AND AMUSEMENT FACILITIES AS A PERMITTED USE, AS DESCRIBED HEREIN.

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

Section 1. That Use Unit #14, Hotel, Motel and Amusement Facilities, as defined by the City of Fayetteville Unified Development Code, is hereby approved as a permitted use and reflected in the Planned Zoning District zoning criteria for R-PZD 04-1.00, Southern View II.

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

1. Use Unit #14 shall be limited to a maximum of 75% of the overall non-residential square feet on the property as shown on Exhibit "A", in order to retain a true mixture of retail uses, as proposed and approved with the original Planned Zoning District for Southern View II.
2. Any portion of the property or structures designated for non-residential use and hereby approved for Use Unit #14 shall not be converted to residential use, and shall remit sales and HMR taxes accordingly. An occupant's stay within any one hotel/motel room shall be limited to a maximum of 30 days.

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

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

PASSED AND APPROVED this _____ day of _____, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

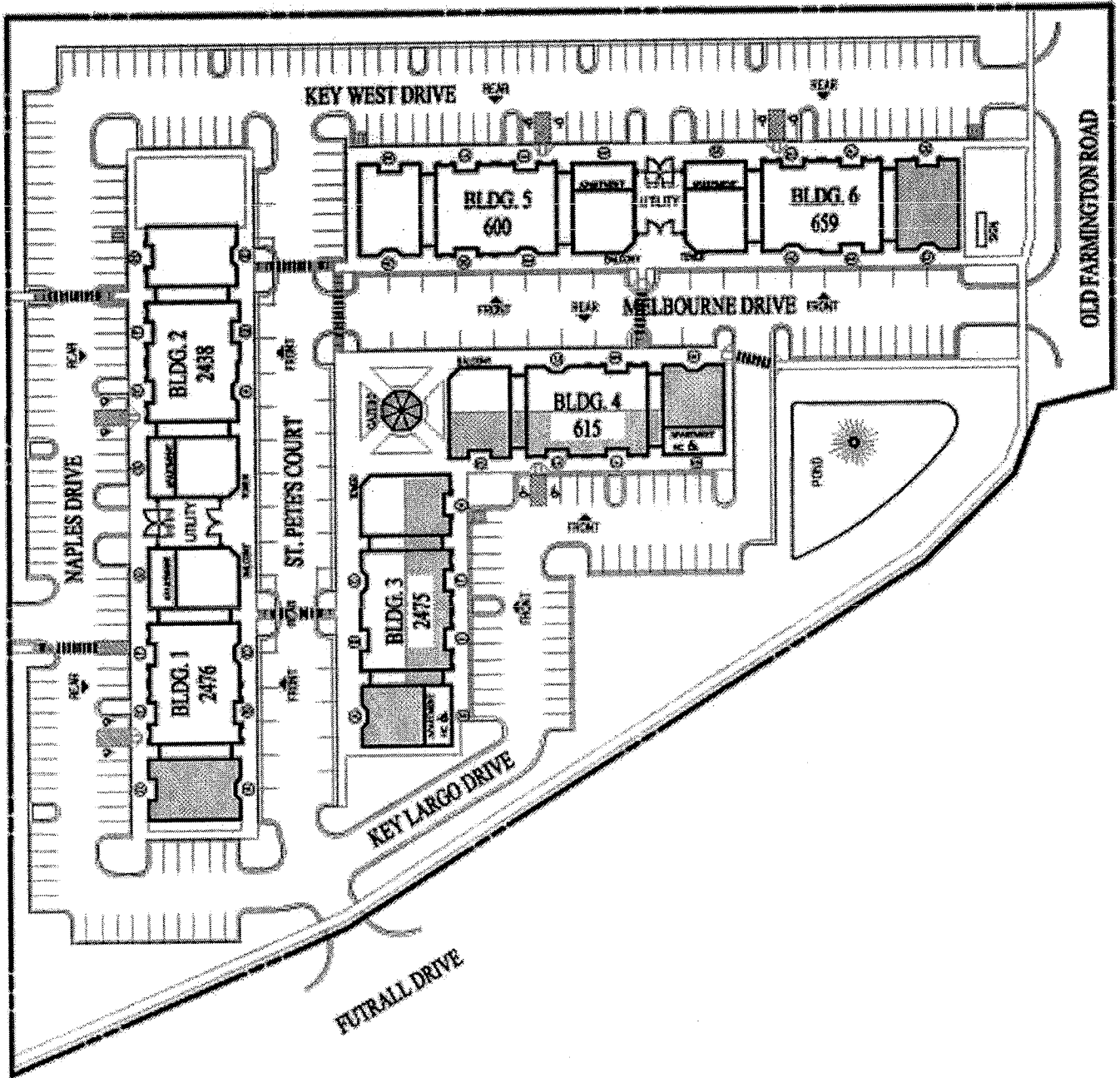
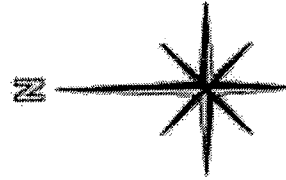


Exhibit "A"
 ADM 07-2575 Southern View II

Lindsey Management Co., Inc.

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

RECEIVED

AUG 28 2007

**CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE**

August 28, 2007

Mr. Jeremy Pate
Director of Current Planning
113 West Mountain Street
Fayetteville, AR 72701

RE: Modification Southern View PZD, Phase II

Dear Mr. Pate:

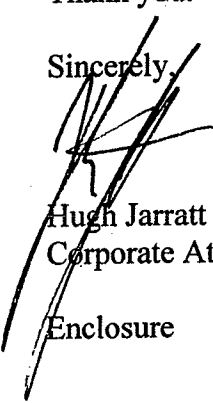
Lindsey Management Company, Inc., (Lindsey Company) on behalf of Southern View Phase II, a Limited Partnership, would like to request a modification of the Southern View PZD, Phase II, to allow Use Unit 14, Hotel, Motel, and Amusement facilities as a permitted use for a certain part of the nonresidential portion of the project. The Lindsey Company is requesting proper zoning to convert a certain portion of the first floor of the buildings into an extended stay motel type use. Attached to this letter are diagrams which show the areas of the first floor which we would like to allow Use Unit 14 along with which buildings we are seeking to include as an extended stay motel type use. With the exception of previously approved apartment units located on the first floor, this area would be operated as an extended stay motel type operation and would thereby pay sales and HMR taxes.

The only part of these buildings that will be affected by the additional use will be a portion of the first floor only. No changes are being sought for the second or third floors. The Lindsey Company is committed to the mixed use concept which has been promoted by the City of Fayetteville, and we look forward to working with the City to make these type developments economically and aesthetically successful.

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

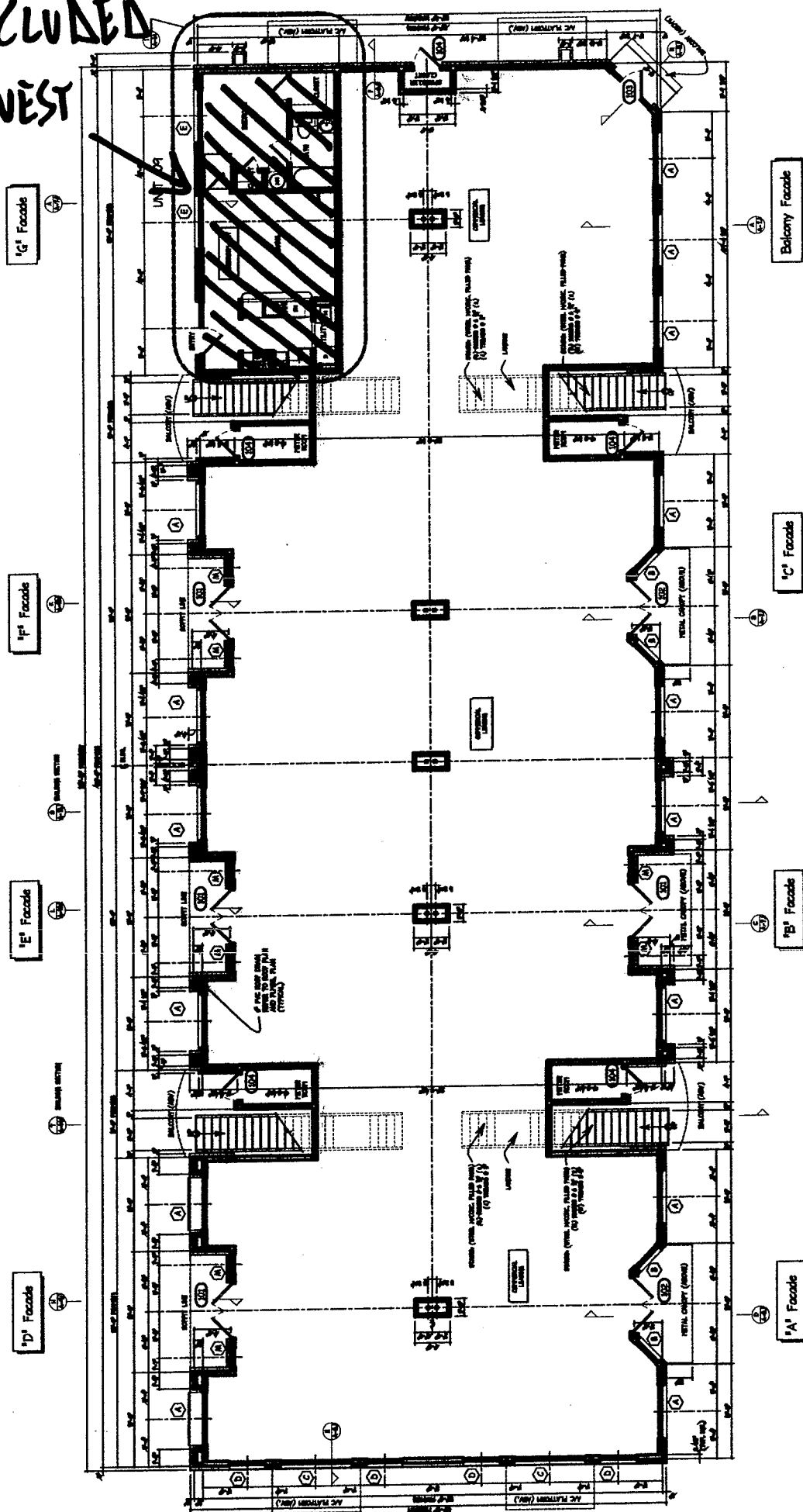
Thank you.

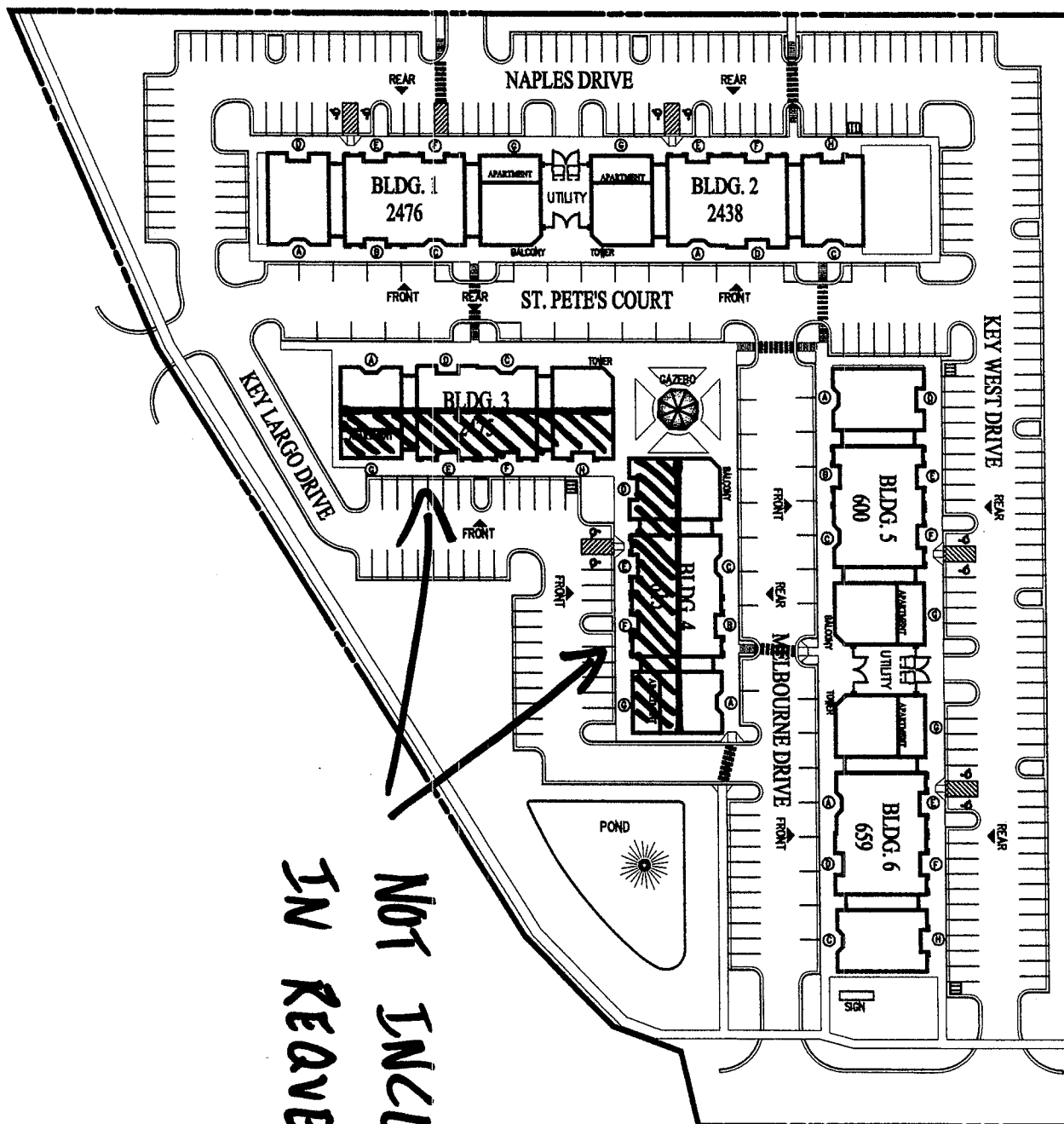
Sincerely,


Hugh Jarratt
Corporate Attorney

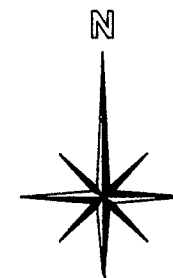
Enclosure

NOT INCLUDED
IN REQUEST





NOT INCLUDED
IN REAVEST



ORDINANCE NO. 4543

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED (R-PZD 04-01.00) LOCATED ON FUTRALL DRIVE AND OLD FARMINGTON ROAD EAST OF I-540 CONTAINING 6.713 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION.

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

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

From C-2, Thoroughfare Commercial to R-PZD 04-01.00 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on January 12, 2004.

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

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

PASSED and APPROVED this the 17th day of February, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

By: _____

SONDRA SMITH, City Clerk



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of January 12, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: January 06, 2004

R-PZD 04-01.00: Residential Planned Zoning District (Southern View II, pp 519) was submitted by Crafton, Tull & Associates on behalf of Lindsey Management Co. for property located at Futrall Drive and Old Farmington Road, east of I-540. The property is currently zoned C-2, Thoroughfare Commercial and contains approximately 6.713 acres. The request is to rezone the property to a Residential Planned Zoning District to allow for a mixed use development comprised of 114 dwelling units and 40,398 SF of commercial space proposed. Planner: Jeremy Pate

Proposal: The request is for a Residential Planned Zoning District on 6.71 acres currently zoned C-2, Thoroughfare Commercial, directly south of the constructed Southern View Phase I multi-family development. The applicant requests a rezoning and Large Scale Development approval for a mixed use development consisting of six buildings. Each of the proposed buildings will contain 6,733 SF of retail space, 14 2-Bedroom dwelling units and 3 1-Bedroom units.

Proposed Development:

R-PZD, Residential Planned Zoning District

	Land Use	Square Feet	# of Units	# of Bedrooms	Parking Required
Bldgs 1-6	Commercial/Retail	6,733 SF	N/A	N/A	27 spaces
Bldgs 1-6	Multi-Family Residential 2 -Bedroom	N/A	12	24	24 spaces
Bldgs 1-6	Multi-Family Residential 1 -Bedroom	N/A	7	7	7 spaces
Individual Total	Mixed-Use Retail/Multi-family Residential	6.733 SF Retail	19	31	58 spaces
TOTAL (x 6 Bldgs)	Mixed-Use Retail/Multi-family Residential	40,398 SF Retail	114	186	348*

**The applicant proposes 302 parking spaces, which is within the 30% +/- ordinance requirement.*

Total proposed dwelling units on the 6.71 acres numbers 114, therefore the proposed density for the R-PZD is **16.9 DU/acre.**

Access: The development is proposed to have four means of access, two from Old Farmington Road, one from Futrall Drive and one from the existing Southern View Phase I development to the north. A pedestrian access has been added from the existing Southern View I apartments, pursuant to Subdivision Committee discussion. A formal waiver request for the Design Overlay District requirement of 250 feet between an intersection and a curb cut has been submitted by the developer. Staff is in support of the request for the proposed curb cuts along Old Farmington Road. The two entrances fulfill the intent of providing an enhanced "Main Street" streetscape, along with providing needed parking in the "rear" to meet ordinance requirements. Access on both sides of the building is desirable for fire protection and emergency vehicles.

Buildings and parking in the development have been situated to create a desirable, pedestrian-oriented streetscape along the two primary entrances east from Futrall Drive and north from Old Farmington Road. Parallel parking and 10-foot wide sidewalks are incorporated with the primary interior streets, and the majority of parking is located to the rear of the structures. Additionally, a landscape buffer is proposed along Futrall Drive to ameliorate the impacts of proposed parking lots.

Elevations of the proposed structures have been submitted for Planning Commission review. The development is proposed to be under single ownership, with dwelling units rented and retail space leased. All interior streets, landscaping, common areas and buildings will be maintained by the developer.

Existing Development: The site is currently vacant.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Southern View Phase I Multi-family dwellings	RMF-18, Res. Multifamily, 18 DU/acre
South	Sines AutoBody Shop	C-2, Thoroughfare Commercial
East	Fayetteville Public Schools	P-1, Institutional
West	Futrall Drive, I-540	N/A

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

Phasing: Phase lines are shown in bold on the site plan, dividing the project construction into two phases, the first of which will incorporate all street infrastructure, landscaping, sidewalks and buildings 2 and 5.

Street Improvements Proposed: Improvements to Old Farmington Road a minimum of 14' from centerline including curb & gutter, pavement etc. Six-foot sidewalks are required to be constructed along both Futrall Drive and Old Farmington Road.

Adjacent Master Street Plan Streets: Futrall Drive (Collector), minimum of 35 feet from centerline; Old Farmington Road (Local), minimum of 25 feet from centerline

Tree Preservation: There are no existing trees on-site.

Design Overlay District:

- **Greenspace:** The applicant has complied with the 25' greenspace requirement along the rights-of-way.
- **Signage:**

Monument Sign: The applicant is indicating one (1) monument sign along Old Farmington Road, to be compliance with DOD requirements. All sign illumination is to utilize indirect lighting.

Wall Sign: Wall signage is to be determined by tenant occupancy of the leased Commercial/Retail space. Two wall signs may be installed per business (two right-of-way frontages), not to exceed 20% of that wall area or 200 SF, whichever is less.
- **Curb Cuts:** **The applicant requests a waiver of the 250 feet required from an intersection to a curb cut.** The original lot configuration does not have adequate depth to satisfy the DOD requirement. Staff is in support of this request.
- **Lighting:** The applicant shall comply with the requirement for 35-foot maximum height, utilizing full cut-off lighting fixtures that are shielded and directed downward to the parking lot and light spread not to reflect into the adjacent properties.
- **Exterior appearance:** Elevations have been submitted for all four sides of the building. Planning Commission determination of architectural treatment of fronts, along with Commercial Design Standards, is required.
- **Building Material:** Materials samples have been submitted, indicating the proposed brick colors, etc.
- **Site Coverage:** Approximately 31% of the site has been left in open space.
- **Fencing:** Fencing is not proposed with this development.
- **Outdoor Storage:** N/A
- **Access:** Pedestrian access is being provided with new 6-foot sidewalks along Futrall Drive and Old Farmington Road. Bicycle racks are being provided within the development, as are 10-foot sidewalks along buildings to allow for spillover and outdoor shopping space.

Background: The proposal was first heard at Technical Plat Review on May 28, 2003 and in subsequent meetings tabled by staff due to concerns with site development plans. The proposal was resubmitted and heard at Technical Plat Review on December 17, 2003. The revisions produced from that meeting and a subsequent meeting with staff were presented before the Subdivision Committee on December 30, 2003. Discussion at that meeting included breezeways between buildings, "placemaking" on the empty corner between Blds 3&4, trees along the "Main Street", pedestrian access to Southern View I, and graphic treatment of the building elevations.

Recommendation:

Forward to the City Council with a recommendation for approval of the requested rezoning to R-PZD 04-01.00.

Planning Commission approval of the proposed Large Scale Development plan R-PZD 04-01.00 subject to the following conditions:

Conditions of Approval:

- ✓1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district **R-PZD 04-01.00** with all conditions of approval as determined by the Planning Commission.
- ✓2. An ordinance creating this R-PZD shall be approved by City Council.
3. Planning Commission determination of Commercial Design Standards. *Staff finds the structures fully meet all aspects of Commercial Design Standards. *Addition to Condition w/Planning Commission approval: No two facades shall be constructed next to or across from one another. The end facades shall be addressed to more fully comply with Commercial Design Standards. The tower element shall not be used more than three times within the development.*
- ✓4. Planning Commission determination of a waiver request for the proposed building within the 100-foot setback of the 100-year water surface elevation of the proposed retention pond. *Staff is in support of this request.*
- ✓5. Planning Commission determination of a waiver request for the Design Overlay District requirement of 250 feet between an intersection and a curb cut, along Old Farmington Road. Approximately 110 feet is the proposed distance from the Futrall Drive intersection to the first entrance curb cut along Old Farmington Road. *Staff is in support of the waiver request.*
6. All setbacks, protective easements, and designated uses are binding with the approval of the R-PZD. Submitted building elevations are likewise binding to the project.
7. An AHTD permit is required for any work done within the Highway Department right-of-

way.

8. Street improvements to Old Farmington Road shall include 14 feet from centerline including curb, gutter, pavement and 6-foot sidewalks. Six-foot sidewalks are also required along Futrall Drive, at the right-of-way line.
9. No fences shall be allowed within the utility easements along Futrall Drive and Old Farmington Road.
10. All parking lot lights are to be shielded, directed downward and away from adjacent properties utilizing full cut-off sodium lighting fixtures.
11. All signage shall comply with Design Overlay District requirements.
12. All trash enclosures shall be screened from view with materials that are compatible with and complementary to the proposed buildings.
13. All utilities shall be screened with materials complementary to the proposed buildings.
14. Each building shall be constructed to provide a mixture of facades as viewed from surrounding drives and streets.
15. The building permit process for Phase II of the current proposal shall begin within one (1) year from the final Certificate of Occupancy issued for Phase I.

Standard Conditions of Approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. Payment of parks fees in the amount of **\$40,086** shall be required prior to building permit. Prior to R-PZD approval, this amount shall be considered and approved by City Council to meet ordinance requirements for over 100 residential units (*scheduled for the February 03, 2004 meeting*).
19. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The applicant's proposed development introduces flexible land use in this area, allowing for residential and commercial uses to coincide. Commercial uses are highly desired in this area, and the 40,398 SF proposed will serve both residents living immediately adjacent to and citizens visiting the area. The mixed-use development promotes a harmony of residential and retail, in the traditional sense of neighborhood development. The housing type proposed will provide a variety from Southern View I, to the north, and will not have a negative impact future development in the area.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Residential Areas which are:

- 9.8a Utilize principles of traditional residential urban design to create compatible, livable and accessible neighborhoods.**
- 9.8.e Utilize more intense development patterns downtown, where appropriate, and encourage mixed uses in new developments to promote better community design, maintain human scale, and enhance pedestrian activity.**
- 9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.**

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Community Commercial areas which are:

9.10.a Provide centers that are accessible and compatible with adjacent residential development.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policy for Mixed Use Areas which is:

9.14.a Allow mixing of uses and integration of design through the planning process.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policy for Community Character which is:

9.19.f Allow compatible commercial development within and adjacent to residential development.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. Those findings are attached to this report. An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission. This ordinance will be forwarded to the City Council for approval.*

(C) R - PZD, Residential Planned Zoning District.

(1) Purpose and intent. The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing

such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The R-PZD proposed is consistent with the City's General Plan for mixed-use development, and allows a more flexible means of development to better accommodate the need for commercial and residential land use. The harmonious relationship of different land uses and activities in a single development is promoted by the City's General Plan. Land use incompatibility is minimized, and public infrastructure improvements will benefit the City.

(2) Permitted uses.

Unit 1	City-wide uses by right	
Unit 2	City-wide uses by conditional use permit	
Unit 3	Public protection and utility facilities	
Unit 4	Cultural and recreational facilities	
Unit 5	Government facilities	
Unit 8	Single-family dwellings	REMOVED BY APPLICANT
Unit 9	Two-family dwellings	REMOVED BY APPLICANT
Unit 10	Three-family dwellings	REMOVED BY APPLICANT
Unit 12	Offices, studios and related services	
Unit 13	Eating places	
Unit 15	Neighborhood shopping	
Unit 19	Commercial recreation, small sites	
Unit 24	Home occupations	
Unit 25	Professional offices	
Unit 26	Multi-family dwellings	

Approved Uses

FINDING: The applicant is proposing to retain the use of all Use Units associated with the R-PZD, with the exception of Use Units 8, 9, and 10.

(3) Condition. In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: Commercial area totals 40,398 SF; residential units comprise two floors of each building, for a total of 114 units.

***Required Findings for Rezoning Request.**

RECOMMENDATION:

LAND USE PLAN: General Plan 2020 designates this site Regional Commercial. Rezoning this property to R-PZD 04-01.00 is compatible with surrounding land uses in the area.

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: This area is designated Regional Commercial on the Future Land Use Map. That designation is reflective of the current zoning of the site which is C-2, Thoroughfare Commercial. The property to the north, Southern View I, was rezoned and developed as multi-family residential in 2002-03. Concerns cited by the Planning Commission at the time regarding the loss of prime commercial space are included in the minutes of the Rezoning request (see attached). The R-PZD proposal helps alleviate some of those concerns by providing needed commercial space along a major corridor, with a residential component, which historically provides potential for safer neighborhood shopping and longer business hours. Connectivity of pedestrian and vehicular access routes will satisfy the City's policies of connectivity and providing mixed use areas in appropriate areas.

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

Finding: A desire for commercial land use in this area has been expressed by Planning Commission and City Council, specifically with the Rezoning request of the northern property in 2002. In order to facilitate a development that fulfills the objectives of the city and the needs of the developer, a rezoning request to utilize mixed use development in an R-PZD is justified.

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

Finding: The proposed zoning will increase traffic in the area. The streets surrounding the property are classified as a Collector (Futrell) and a Local (Old Farmington). A Collector Street is designed to carry between 4,000 and 6,000 vehicles per day. A Local Street should carry up to approximately 4,000 vpd. Development on this particular site should help traffic circulation to and from the area, enabling vehicles to travel east along Old Farmington in an effort to get south (Futrell is one-way north) to 6th Street. The proposal will not appreciably increase traffic danger and congestion.

NEW BUSINESS:

Van Scoyoc Associates: A resolution approving a memorandum of agreement with Van Scoyoc Associates and a budget adjustment in the amount of \$85,000.00 to provide consulting legislative services in the amount of \$75,000.00, plus expenses up to \$10,000.00.

Alderman Lucas: Is the travel included in this \$10,000 or would that be over and above the \$10,000.

Collis Garran, Dean of Graduate School for the U of A: The travel is included in the \$10,000, the local travel they are referring to is in D.C., in the three years we have used them they have never used their \$10,000 total allowed amount.

Alderman Lucas: So their travel back and forth to Fayetteville is included in that amount.

Collis Garran: Yes.

Alderman Lucas: I think this is great and I am counting on them to do us a lot of good.

Alderman Marr moved to approve the resolution. Alderman Lucas seconded. Upon roll call the resolution passed 7-0. Alderman Davis was absent.

Resolution 21-04 as Recorded in the Office of the City Clerk.



R-PZD 04-1.00 – Southern View II: An ordinance establishing a residential planned zoning district titled (R-PZD 04-1.00) located on Futrall Drive and Old Farmington Road east of I-540 containing 6.713 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the associated residential development plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Jerry Kelso, Crafton, Tull and Associates gave a brief presentation on the project. This is a mixed used development with commercial on the bottom floor and residential units on the second and third floor. The total proposed residential units is 113, the total square feet of commercial is roughly 42,000 square feet.

Kim Fugitt, Project Architect gave a brief description of the exterior of the buildings and the project. There will be six of the buildings on the six acres; each building will have 19 apartment units and approximately 7,000 square feet of commercial space on the ground floor. There are twelve two bedroom apartments and seven one bedroom apartments; one apartment is on the ground floor to provide any kind of accessible living units for those that may be unable to reach the second and third floor.

A discussion followed on the ground level apartment and the apartments to the north of this proposed project.

Alderman Thiel: Did this go through the commercial design standard process?

Dawn Warrick: Any Planned Zoning District which has commercial components is required to be review for commercial design standards and it was approved by the Planning Commission for those standards.

A discussion followed on the project.

Jim Lindsey spoke about the project.

Mayor Coody: I want to thank you and your staff for being willing to try something that is way outside your box.

A discussion followed on the project.

Alderman Cook: As a PZD is that locked in that the first floor must remain as commercial or at some point in the future could that be turned into apartment space or what ever?

Tim Conklin: What has been shown and proposed is to lock in the first floor excluding the one assessable unit as commercial.

Alderman Reynolds: I want to thank you for jumping into this venture. I really like it, I think it will cheer up the neighborhood out there and that new traffic light alignment will help you.

Alderman Jordan: Traffic Count?

Dawn Warrick handed out the traffic counts that were taken by the city's Transportation Division.

Alderman Thiel: There are 114 new apartment units in this project.

Tim Conklin: There is 6,733 square feet of retail per building for a total of 40,398 square feet of retail.

Alderman Thiel: How many units did we add whenever the property north of there, which was commercially zoned, was rezoned multi-family, how many units are in that complex?

Tim Conklin: 300 units.

Alderman Thiel: I am concerned about the amount of apartments we are adding right now when construction has not even started on the new treatment plant. I think this a great effort on Mr. Lindsey's part. I feel 540 has a lot of apartments and that is the front door into this city, I would like to see more of it developed commercially. Even though this is mixed and it does have the commercial, it still adds 114 more units. I have reservations about how this is going to look from 540.

Alderman Marr: What is your current occupancy of the 300 apartments that you have recently built?

Mr. Lindsey: Companywide in Fayetteville we are at 97%. That project is new and it was built after the kids came back to school and we have just finished the last building in the last few weeks. That project is right now at 50%. I would say by May we would be in the 80% to 85% and by next August that project will be 100% rented.

Alderman Marr discussed housing for students and housing close to the university. He spoke about the continued same look of apartments at every intersection. There is a lot about this project that he likes, that we are having a major developer in our area try something new that is a very different look. He thinks it is very hard to argue for urban infill and mixed use and not be willing to step out and have someone who is willing to take a little bit of risk with you do that.

I appreciate that very much, I like the concept. Part of the appeal to me is the fact that it may visually hide some of the things that are repetitive on 540 when this development gets built. I am excited about some commercial in this area.

This Ordinance was left on the First Reading.

Southern View Phase II, Money in Lieu of Land: A resolution accepting the parks and Recreation Advisory Board's recommendation to accept \$40,086.00 cash in lieu of the required park land dedication for Southern View Phase II.

Alderman Jordan moved to table the Resolution until the February 17, 2004 City Council meeting. **Alderman Cook** seconded. Upon roll call the motion to table passed 7-0. **Alderman Davis** was absent.

Re-budget 2003 Budget Items: A resolution approving a budget adjustment to re-appropriate \$58,605,226.00 in order to retain project funding for identified and scheduled capital improvements and fund increased workers compensation premiums.

Alderman Jordan moved to approve the resolution. **Alderman Cook** seconded. Upon roll call the resolution passed 7-0. **Alderman Davis** was absent.

Resolution 22-04 as Recorded in the Office of the City Clerk.

ADM 03-29.00 - Chapter 167 Tree Preservation Amendment: An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide amendments to and clarification of various provisions concerning tree preservation and protection.

Mr. Williams read the ordinance.

Alderman Thiel: Is the Tree and Landscape Committee in favor of this?

Audience: They have reviewed this for several months, they have reviewed this amendment and they are in full support.

R-PZD 04-01.00: Residential Planned Zoning District (Southern View II, pp 519) was submitted by Crafton, Tull & Associates on behalf of Lindsey Management Co. for property located at Futrall Drive and Old Farmington Road, east of I-540. The property is currently zoned C-2, Thoroughfare Commercial and contains approximately 6.713 acres. The request is to rezone the property to a Residential Planned Zoning District to allow for a mixed use development comprised of 102 dwelling units and 40,398 SF of commercial space proposed.

Hoover: On to item number three, R-PZD 04-01.00 for Southern View Phase II for property at Futrall Drive and Old Farmington Road. Jeremy?

Pate: Item four is a Residential Planned Zoning District for Southern View II located at Futrall Drive and Old Farmington Road east of I-540. This is directly south of the Southern View apartment complex which is known as Southern View I which was recently completed. The subject property is currently zoned C-2, Thoroughfare Commercial and designated Regional Commercial on our future land use plan. It contains approximately 6.7 acres. The request tonight is to rezone the property to a Residential Planned Zoning District to allow for a mixed use development comprised of 102 dwelling units and approximately 40,398 sq.ft. of commercial retail type space proposed. On page 3.1 of your staff reports, the first page, the staff has broken down the numbers of buildings and the number of bedrooms/units. Approximately 17 units per building with 31 bedrooms. There is a mixture of two bedroom and one bedroom units on primarily the second and third floors of each of the six buildings with a retail being along the first floor. There are 348 spaces required by ordinance, the applicant is proposing 302 which is in within the 30% +/- portion of the ordinance for parking requirements. The proposed density with 102 units therefore, is 15.2 dwelling units per acre. The development is proposed to have four means of access, two south onto Old Farmington Road, which is a two way going east/west, one onto Futrall Drive which is one way going north and then there is another entrance also into the Southern View I apartment complex which accesses I believe it is Stone Street, which is also two way going east and west. There is a waiver request with regard to access, the 250' required between an intersection and a curb cut in the Design Overlay District. That is along Old Farmington Road, I believe it is 110' approximately that is requested. Staff is in support of this waiver request from the Design Overlay District. Additionally, this entire site is in the Overlay District. A landscape buffer is proposed along Futrall Drive to ameliorate the impacts of the proposed parking lot that is on your site plan. Elevations, as you can see, have been submitted and I believe there are some revised ones. I'm not for sure if they have made it here yet. The ones on the bottom here in black and white do call out some of the materials of those structures. Surrounding properties are zoned a number of things. To the north, of course, is Southern View I which is RMF-18,

to the south is C-2, Thoroughfare Commercial, this is Sines Auto Body Shop. To the east is the Fayetteville Public Schools which is P-1, Institutional and to the west is of course Futrall Drive and I-540. There are some phase lines shown on your plats as well with the dark dashed line. I believe it is buildings two and six I think if memory serves me correctly, that are being proposed to be developed in Phase I as well as all the infrastructure for all of this development with regard to streets and water and sewer lines. With regard to findings for the Planned Zoning District, in pages 3.7 through 3.15 I won't go over all of those, a couple of pertinent ones are included. The proposal is consistent with the General Plan in a number of areas, including residential areas. It is utilizing some of the principles of traditional residential urban design to create livable and accessible neighborhoods, both in a vehicular and pedestrian manner. It is also citing residential areas accessible to roadways and alternative transportation modes, infrastructure, retail and goods. It also meets the guiding policies for community commercial areas and providing centers that are accessible and compatible with adjacent residential development. Again, as I mentioned, this area is designated Regional Commercial on the Future Land Use Map. I included some minutes from the initial rezoning of this project. There were some concerns by both the Planning Commission and the City Council. With regard to amount of commercial space which is being lost here and a site which is very visible and has access. There is 30,000 sq.ft. or a little more of commercial space proposed in this area. Just in comparison, a typical Walgreen's for instance, is approximately 15,000 sq.ft., a grocery store, for instance, like an IGA or Harps is around 40,000 sq.ft. The Lowe's approved west of town on 6th Street is about 130,000 sq.ft. and the associated retail was about 50,000 so that is just sort of giving you an idea the amount of commercial that is being proposed here. I included some traffic counts. I just handed those out. I believe there are approximately 1,180 vehicle trips per day on average of a 24 hour span. Commissioner Graves actually asked me to produce that for the Commission to see for the traffic amounts generated by this proposed development. It is broken up into a certain amount of square footage for retail, for office and for residential uses as shown on your printout there. Again, there are four ways in and out of this development. Old Farmington and Futrall and to the north to Stone Street, three ways. Staff is recommending approval of this Residential Planned Zoning District with 19 conditions, three of which Planning Commission does need to make specific findings on tonight. Planning Commission determination of Commercial Design Standards for that portion of the site that is commercially developed. Item four, Planning Commission determination of a waiver request for a proposed building within the 100 foot setback of the 100-year water surface elevation of the proposed detention pond. Item five, Planning Commission determination of a waiver request for the Design Overlay District requirement of 250'

between intersection and a curb cut. I would also mention condition number fifteen, the building permit process for Phase II of this proposal shall begin within one year from the final Certificates of Occupancy issued for Phase I. Staff felt it appropriate that Phase II should follow after Phase I for the permitting process in a timely manner.

Hoover: Thank you. Would the applicant come forward please?

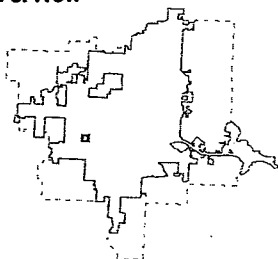
Kelso: Thank you Madam Chair. My name is Jerry Kelso, I'm with Crafton, Tull & Associates, the engineer of record on this piece of property and on this project. Jeremy has pretty much went over the overview of the thing. I just want to make a few points. We started this project based upon meetings that we have had with the city and the city's leadership to develop this type of a project. Obviously, what you see is a true mixed use type development. Commercial is on the bottom floor with residential on the second and the third floors to make a true community where you have both residential and commercial on the same tract of land. We went through several iterations with the actual building itself along with the site plan to get where we're at today. We have worked diligently with the city staff. If you look at your site plan what we've done is we've tried to create a streetscape through the middle of this thing what buildings located on both sides to create that unique design that I think is the vision of the City of Fayetteville. A couple of things I also wanted to point out, we added since Subdivision Committee if Subdivision Committee members remember. We did go ahead and add the pedestrian access to the north that was requested. Between the buildings we have created a fence so it looks like we've got a solid row of buildings along with fences straight through. There at the corner between buildings three and five we've got the gazebo and tried to spruce it up with some gardens and kind of making a nice meeting area centralizing this development. Those are some of the things that we've tried to do along the way and work with city staff, the Planning Commission and the leadership of Fayetteville to come up with what we've got. I will try to entertain any questions that you might have. Again, Kim Fugitt is the architect on these buildings if you have any building specific questions. Thank you.

Hoover: At this time we will open up this R-PZD 04-01.00 for public comment. Is there anyone in the audience that would like to address this project? Seeing none, I will bring it back to the Commission. I think we might go ahead, can we go ahead and start with the architect giving his presentation? I think that would be helpful.

Fugitt: My name is Kim Fugitt, I am the project architect, did you have some questions?

SOUTHERN VIEW II

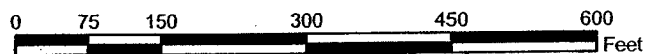
Close Up View



 FLOODWAY
 100 YEAR
 500 YEAR
 LIMIT OF STUDY
 BaseLine Profile
 R-PZD04-01.00

 **Overlay District**
Master Street Plan

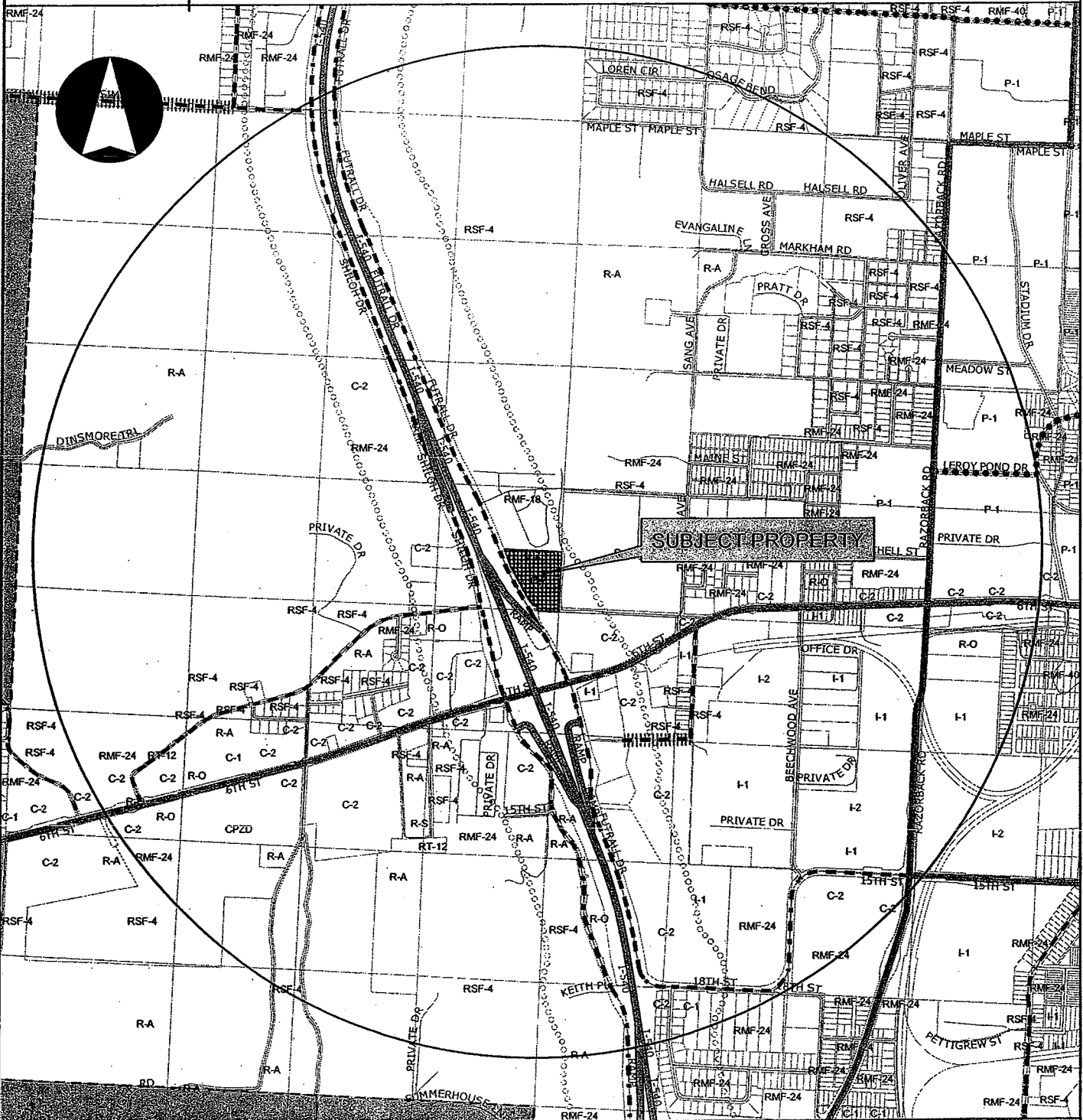
 Freeway/Expressway
 Principal Arterial
 Minor Arterial
 Collector
 Historic Collector
 Planning Area
 City Limits
 Outside City



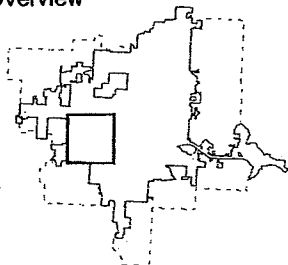
R-PZD04-01.00

SOUTHERN VIEW II

One Mile View



Overview



Legend

Subject Property

R-PZD04-01.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

AGENDA REQUEST

C. 8
Amend §172.05 Standards For
The Number Of Spaces By Use
Page 1 of 6

FOR: COUNCIL MEETING OF AUGUST 16, 2011

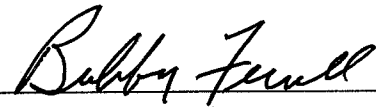
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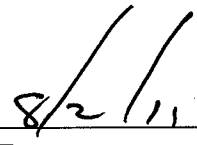
ALDERMAN BOBBY FERRELL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

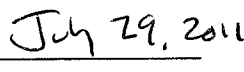
An Ordinance To Amend §172.05 Standards For The Number Of Spaces By Use, Table 3
Parking Ratios To Clarify That Spaces At Gasoline Pump Islands May Be Counted As Parking
Spaces

APPROVED FOR AGENDA:

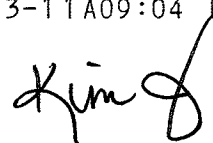

Bobby Ferrell
Alderman

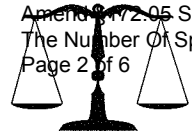

Date


City Attorney
(as to form)


Date

08-03-11A09:04 RCVD





Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Jeremy Pate, Development Services Director
Andrew Garner, Senior Planner – Current Planning

FROM: Kit Williams, City Attorney

DATE: July 29, 2011

RE: Parking ratios for gas stations with and without a convenience store

Alderman Bobby Ferrell asked that I draft an ordinance to allow the developer or owner to decide whether or not to include fueling positions at a gas station with a convenience store to count as parking spaces. Without such an amendment, all fueling positions would count as parking spaces. This could lead to unfortunate, unintended consequences in the real world.

For example a small convenience store with several gas pumps might not be allowed any actual parking spaces for customers or employees. At busy fueling times customers wishing to gas up would have to line up and wait for customers shopping inside. Customers would be frustrated and the convenience/gas station would lose business. A convenience store would, in fact, be disadvantaged because it had fueling stations.

A gas station without a convenience store would be in even worse shape. Most such gas stations are now built with many self-service gas pumps with only a single employee on duty for the entire fueling station. The current ordinance only allows three parking spaces and requires each fueling position to count as a parking space. **Thus instead of the sixteen fueling positions** which are used at the gas station at Sam's Club (with only a single employee supervising them), **a gas station could have only three fueling positions** (one double-sided pump and one single-sided pump). This is not the modern and efficient design of a gas station. Alderman Ferrell's proposal would bring much needed flexibility and the recognition of how modern gas stations operate for increased efficiency. It recognizes that fueling positions at gas pumps are rarely used for actual parking spaces at convenience store gas stations and virtually never at a gas station without a convenience store.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §172.05 STANDARDS FOR THE NUMBER OF SPACES BY USE, TABLE 3 PARKING RATIOS TO CLARIFY THAT SPACES AT GASOLINE PUMP ISLANDS MAY BE COUNTED AS PARKING SPACES

WHEREAS, Table 3 **Parking Ratios** for gasoline stations and for gasoline stations with a convenience store seems to require that each place at the pump where a motorist can fill his or her car must count as a parking space when figuring out the total number of allowed parking spaces a gasoline station may have; and

WHEREAS, such a requirement ignores the real world use of those fueling locations at the pumps which are mainly occupied only during fueling and not for extended parking; and

WHEREAS, self-serve gas stations are often manned by a single employee which would prohibit even two double-sided pump islands to be built; and

WHEREAS, owners of convenience stores should not have to count the fuel pumping stations as parking spaces which could often result in few, if any, actual parking spaces allowed at the convenience store building and a dangerous, stacking problem behind the fueling positions at the pumps which would have to be used by customers desiring to shop at the convenience store.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Table 3 **Parking Ratios** for Retail Fuel Sales With Convenience Stores and Retail Fuel Sales Only by repealing the current language in its entirety and enacting the following replacement language.

Table 3 – Parking Ratios

Retail Fuel Sales With Convenience Stores	1 per 250 square feet of retail floor area. Owner may count spaces at pump islands as parking spaces.
Retail Fuel Sales Only	1 per employee; spaces at pump islands shall not count as parking spaces

PASSED and **APPROVED** this 16th day of August, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

TITLE XV. UNIFIED DEVELOPMENT CODE

(iii) Aisles shall conform to the dimensional requirements of §172.04(C).

(c) *Waivers.* Development proposals which do not meet these standards may apply for waiver from these requirements subject to Planning Commission approval.

Parking Lots With 9 Spaces or More	
	Driveway Dimensional Requirement
One Way Access	12' Minimum – 16' Maximum
Two Way Access	2 Drive Lanes 10' Minimum Each – 24' Maximum Total Driveway Width
Collector/Arterial Streets	3 Drive Lanes - Maximum of 39'
Curb Radius - Local	15'
Curb Radius - Collector/ Arterial	20'

(G) *Hillside/Hilltop Overlay District.*

- (1) *Separation of Parking Pads in Multi-Family, and Non-Residential Development.* Parking pads shall be separated by a minimum undisturbed area of 15 feet between parking pads. Streets and access drives are permitted to cross this undisturbed area.
- (2) *Cut and Fill Slopes.* Parking pads should be encouraged to utilize cut slopes with retaining walls to minimize disturbance.
- (3) *Maximum number of spaces per parking lot for multi-family and non-residential uses.* Parking pads shall have a maximum of 30 spaces per pad.
- (4) *Parking lot location.* Parking lots shall be set back with a minimum of 35' of undisturbed area required adjacent to the street right-of-way.
- (5) *Multifamily and non-residential uses.* Developers of multi-family and non-residential uses in the Hillside Overlay District are encouraged to refer to the Hillside Best Management Practices Manual for guidance and direction in the design of their project.

(Ord. 4725, 7-19-05; Ord. No. 4855, 4-18-06; Ord. No. 4917, 9-05-06; Ord. 5044, 8-07-07; Ord. 5079, 11-20-07; Ord. 5297, 12-15-09)

172.05 Standards For The Number Of Spaces By Use

(A) *Required parking.*

(1) *Required number of spaces.* A proposed use shall conform to the established parking ratios listed in Table 3. The minimum number of spaces required for a use not specifically included in this section shall be as required for the most similar use listed or as otherwise determined by the Planning Division utilizing reference standards. For all parking space requirements resulting in a fraction, the fraction shall be:

- (a) rounded to the next higher whole number when the fraction is 0.5 or higher.
- (b) rounded to the next lower whole number when the fraction is less than 0.5.

(2) *Change of use - existing structure.* A change of use in an existing structure may be permitted if the use adequately meets the minimum parking ratio standards herein. A change of use shall not be penalized for existing parking spaces that exceed the required parking ratios included in this chapter.

(3) *Change of use - waiver.* In Downtown Core, Main Street Center, and Downtown General zoning districts, parking requirements are waived for any existing structure with a change of use. New construction, razed buildings or enlarged buildings shall conform to the parking requirements of the City of Fayetteville. For enlarged buildings, additional parking spaces will be calculated by the amount of square footage that is added.

(4) *Building footprint - waiver.* In Downtown Core, Main Street Center and Downtown General zoning districts, parking requirements are waived for the square footage "footprint" of any building which existed and has been removed since October 1, 1995, in order to rebuild.

(5) *Downtown Core, Main Street Center, and Downtown General Zoning Districts accessory outdoor use areas -* Accessory outdoor patios, balconies, decks, and other similar outdoor use areas for restaurants and bars shall be exempt from meeting off-street parking requirements in the *Downtown Core, Main Street Center, and Downtown General* zoning districts.

TABLE 3
PARKING RATIOS
(Use/Required Spaces)

Residential	
Single-family, duplex, triplex	2 per dwelling unit

Fayetteville Code of Ordinances

Multi-family or townhouse	1 per bedroom
---------------------------	---------------

Commercial

Agricultural supply	1 per 500 sq. ft. of GFA
Amusement	1 per 200 sq. ft. of GFA
Auditorium	1 per 4 seats
Auto/motorcycle service stations	4 per each enclosed service bay
Bank	1 per 200 sq. ft. of GFA
Barber or beauty shop	2 per chair
Building/home improvement supply	1 per 500 sq. ft. of GFA
Coin-operated laundry	1 per 3 machines
Dry cleaning	1 per 300 sq. ft. of retail area and 1 per employee
Hotels and motels	1 per guest room, plus 75% of spaces required for accessory uses.
Furniture and carpet store	1 per 500 sq. ft. of GFA
Plant nursery	1 per 1,000 sq. ft. of indoor/outdoor retail area
Restaurants	1 per 100 sq. ft. of GFA plus 4' stacking spaces per drive-thru window.
Retail	1 per 250 sq. ft. of GFA
Retail fuel sales with convenience stores	1 per 200 sq. ft. of retail FA; spaces at pump islands are counted toward this requirement
Retail fuel sales only	3 per each employee; spaces at pump islands are counted toward this requirement

Amendment
Changes
→
these
→

Office

Medical/Dental office	1 per 250 sq. ft. of GFA
Professional office	1 per 300 sq. ft. of GFA
Sales office	1 per 200 sq. ft. of GFA

Public and Institutional Uses
Nonprofit Commercial

Art gallery, library, museum	1 per 1,000 sq. ft. of GFA
Auditorium	1 per 4 seats, provided only auditorium space is counted in determining parking
Child care center, nursery school	1 per employee plus on-site loading and unloading spaces at a rate of 1 per 10 children accommodated
Church/religious institution	1 per 4 seats in the main auditorium or 1 per 40 sq. ft. of assembly area, whichever provides more spaces
College auditorium	1 per 4 seats
College dormitory	1 per sleeping room
College or university	1 per 500 sq. ft. of classroom area
Community center	1 per 250 sq. ft. of GFA
Cooperative housing	1 per 2 occupants
Convalescent home, assisted living, nursing home	1 per 2 beds
Detention home	1 per 1,500 sq. ft. of GFA
Elderly Housing	1 per 2 units
Funeral homes	1 per 4 seats in main chapel plus 1 per 2 employees plus

	1 reserved for each vehicle used in connection with the business
Government facilities	1 per 500 square feet of floor area
Hospital	1 per bed
Convalescent home	1 per bed
School--elementary and junior high	1 per employee plus 1 space per classroom
School--senior high	1 per employee plus 1 per 3 students based on design capacity, or 1 per 6 seats in auditorium or other places of assembly, whichever is greater
Zoo	1 per 2,000 sq. ft. of land area
All other public and institutional uses (only auditorium space shall be counted for churches, auditoriums, or group occupancy space)	1 per 4 occupants

Manufacturing/Industrial

Manufacturing	1 per 1,200 sq. ft. of GFA or one per employee, whichever is greater
Heavy industrial	1 per 1,200 sq. ft. of GFA
Extractive uses	Adequate for all employees, trucks, and equipment

Recreational Uses

Amusement park, miniature golf	1 per 1,000 sq. ft. of site area
Bowling alley	6 per lane
Commercial recreation	1 per 200 sq. ft. of GFA
Commercial recreation-large sites	1 per 1,000 sq. ft. of site area
Dance hall, bar or tavern	1 per 50 sq. ft. of GFA, excluding kitchen
Golf course	3 per hole
Golf driving range	1 per tee box
Health club, gym	1 per 150 sq. ft. of GFA
Regional or community park	2 per acre of accessible active and passive space
Neighborhood park	None
Private club or lodge	1 per 500 sq. ft. of GFA or 1 per 3 occupants based on the current adopted Standard Building Code whichever is greater
Riding stable	1 per acre; not required to be paved
Tennis court	2 per court
Theater	1 per 4 seats
All other recreational uses	1 per 4 occupants

Warehousing and Wholesale

Warehousing	1 per 2,000 sq. ft. of GFA
Wholesale	1 per 1,000 sq. ft. of GFA
Center for collecting recycled materials	1 per 1,000 sq. ft. of GFA

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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
August 16, 2011**

A meeting of the Fayetteville City Council will be held on August 16, 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 August 2, 2011 City Council meeting minutes.
2. ✓ **Dell Marketing – Computer Servers:** A resolution authorizing the purchase of two (2) high performance computer servers with associated equipment in the amount of \$104,501.90 from Dell Marketing pursuant to bids through the Western States Contracting Alliance.

3. **Office of Intergovernmental Services Division Grant – Underage Drinking Laws:** A resolution authorizing acceptance of a grant in the amount of \$31,500.00 from the Office of Intergovernmental Services Division of the Arkansas Department of Finance and Administration to enforce underage drinking laws, and approving a budget adjustment.
4. **Fayetteville Chamber of Commerce:** A resolution approving a participation and unsecured loan agreement with the Fayetteville Chamber of Commerce to perform energy retrofit services in the amount of \$13,918.00 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.
5. **Mount Sequoyah Center, Inc.:** A resolution approving a participation and unsecured loan agreement with Mount Sequoyah Center, Inc. to perform energy retrofit services in the amount of \$121,000.08 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.
6. **CPS of NWA, Inc. (Bid #11-47):** A resolution awarding Bid #11-47 and approving a contract with CPS of NWA, Inc. in the amount of \$35,200.00 for the purchase of spray foam and insulation as part of the Community Revolving Loan Fund for Energy Efficiency.
7. **Community Services Donation Revenue:** A resolution approving a budget adjustment in the total amount of \$478.00 representing \$228.00 in citizen donation revenue to the Ranger's Pantry Pet Food Bank for the second quarter of 2011 and a \$250.00 donation from the University of Arkansas Student Affairs Office for the Fest of All event.
8. **Grant Offer Acceptance:** A resolution authorizing application and acceptance of a Federal Aviation Administration 95% project cost grant and an Arkansas Department of Aeronautics 5% matching grant, for the Drake Field Runway Rejuvenation Project.

B. Unfinished Business:

1. **RZN 11-3870 (2012 West Martin Luther King Blvd./USA Drug):** An ordinance rezoning that property described in rezoning petition RZN 11-3870, for approximately 0.50 acres, located at 2012 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family 24 units per acre to C-1, Neighborhood Commercial. *This ordinance was left on the First Reading at the August 2, 2011 City Council meeting.*

Left on the First Reading

2. **Revised Master Street Plan:** A resolution approving and adopting a revised Master Street Plan and street cross-sections. *This resolution was tabled at the June 21, 2011 City Council meeting to the July 5, 2011 City Council meeting. This resolution was tabled at the July 5, 2011 City Council meeting to the August 16, 2011 City Council meeting.*

C. New Business:

Consent (1)

CDBG Reimbursement: A resolution to approve a contract to release Habitat For Humanity of Washington County, Inc. and the City of Fayetteville from The Real Estate Sales Contract of November 15, 2006 and to reconvey the property to the City of Fayetteville and to approve a budget adjustment of \$90,000.00.

Consent (2)

Benefits Renewal: A resolution approving a 2012 employee benefits package.

3. **Amend Chapter 169 & Chapter 170:** An ordinance to amend sections of Chapter 169: Physical Alteration of Land and Chapter 170: Stormwater Management, Drainage and Erosion Control.

4. **RZN 11-3880 (736 North Garland Avenue):** An ordinance rezoning that property described in rezoning petition RZN 11-3880 for approximately 0.10 acres, located at 736 North Garland Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to CS, Community Services.

*Move to
last
under
NB.*

5. **RZN 11-3883 (636 South Foster Lane):** An ordinance rezoning that property described in rezoning petition RZN 11-3883, for approximately 1.29 acres, located at 636 South Foster Lane from RSF-1, Residential Single-Family, 1 unit per acre to R-A, Residential Agricultural.

6. **RZN 11-3877 (130 South Hill Ave./Eco Modern Flats):** An ordinance rezoning that property described in rezoning petition RZN 11-3877, for approximately 2.92 acres, located at 130 South Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.

7. **Amend R-PZD 04-01.00, Southern View II PZD:** An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrell east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #26, Multi-Family dwellings, as a permitted use throughout all of the space in the six existing mixed-use buildings on the subject property, as described herein.

8. **Amend §172.05 Standards For The Number Of Spaces By Use:** An ordinance to amend §172.05 Standards For The Number Of Spaces By Use, Table 3 Parking Ratios to clarify that spaces at gasoline pump islands may be counted as parking spaces.

City Council Tour: Monday, August 15, 2011 at 4:30 p.m. The Council will tour the Water/Sewer Facility, Tanks, and Pump Stations.

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.

Pre-Agenda Meeting 8/3/11

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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Ward 1 Position 2 – Brenda Boudreaux
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City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the August 2, 2011 City Council meeting minutes.
2. **Dell Marketing – Computer Servers:** A resolution authorizing the purchase of two (2) high performance computer servers with associated equipment in the amount of \$104,501.90 from Dell Marketing pursuant to bids through the Western States Contracting Alliance.

3. **Office of Intergovernmental Services Division Grant – Underage Drinking Laws:** A resolution authorizing acceptance of a grant in the amount of \$31,500.00 from the Office of Intergovernmental Services Division of the Arkansas Department of Finance and Administration to enforce underage drinking laws, and approving a budget adjustment.
4. **Fayetteville Chamber of Commerce:** A resolution approving a participation and unsecured loan agreement with the Fayetteville Chamber of Commerce to perform energy retrofit services in the amount of \$13,918.00 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.
5. **CPS of NWA, Inc. (Bid #11-47):** A resolution awarding Bid #11-47 and approving a contract with CPS of NWA, Inc. in the amount of \$35,200.00 for the purchase of spray foam and insulation as part of the Community Revolving Loan Fund for Energy Efficiency.
6. **Community Services Donation Revenue:** A resolution approving a budget adjustment in the total amount of \$478.00 representing \$228.00 in citizen donation revenue to the Ranger's Pantry Pet Food Bank for the second quarter of 2011 and a \$250.00 donation from the University of Arkansas Student Affairs Office for the Fest of All event.
- NB #1 (7) **CDBG Reimbursement:** A resolution to approve a contract to release Habitat For Humanity of Washington County, Inc. and the City of Fayetteville from The Real Estate Sales Contract of November 15, 2006 and to reconvey the property to the City of Fayetteville and to approve a budget adjustment of \$90,000.00.
8. **Grant Offer Acceptance:** A resolution authorizing application and acceptance of a Federal Aviation Administration 95% project cost grant and an Arkansas Department of Aeronautics 5% matching grant, for the Drake Field Runway Rejuvenation Project.
- Mar 9. **Mount Sequoyah Center, Inc.:** A resolution approving a participation and unsecured loan agreement with Mount Sequoyah Center, Inc. to perform energy retrofit services in the amount of \$121,000.08 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

B. Unfinished Business:

- Reverse order 1. **Revised Master Street Plan:** A resolution approving and adopting a revised Master Street Plan and street cross-sections. *This resolution was tabled at the June 21, 2011 City Council meeting to the July 5, 2011 City Council meeting. This resolution was tabled at the July 5, 2011 City Council meeting to the August 16, 2011 City Council meeting.*
2. **RZN 11-3870 (2012 West Martin Luther King Blvd./USA Drug):** An ordinance rezoning that property described in rezoning petition RZN 11-3870, for approximately 0.50 acres, located at 2012 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family 24 units per acre to C-1, Neighborhood Commercial. *This ordinance was left on the First Reading at the August 2, 2011 City Council meeting.*

Left on the First Reading

C. New Business:

- 1✓ **Benefits Renewal:** A resolution approving a 2012 employee benefits package.
- 2✓ **Amend Chapter 169 & Chapter 170:** An ordinance to amend sections of Chapter 169: Physical Alteration of Land and Chapter 170: Stormwater Management, Drainage and Erosion Control.
- 3✓ **RZN 11-3880 (736 North Garland Avenue):** An ordinance rezoning that property described in rezoning petition RZN 11-3880 for approximately 0.10 acres, located at 736 North Garland Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to CS, Community Services.
- 4✓ **RZN 11-3883 (636 South Foster Lane):** An ordinance rezoning that property described in rezoning petition RZN 11-3883, for approximately 1.29 acres, located at 636 South Foster Lane from RSF-1, Residential Single-Family, 1 unit per acre to R-A, Residential Agricultural.
- 5✓ **RZN 11-3877 (130 South Hill Ave./Eco Modern Flats):** An ordinance rezoning that property described in rezoning petition RZN 11-3877, for approximately 2.92 acres, located at 130 South Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.
- 6✓ **Amend R-PZD 04-01.00, Southern View II PZD:** An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrall east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #26, Multi-Family dwellings, as a permitted use throughout all of the space in the six existing mixed-use buildings on the subject property, as described herein.
- 7✓ **Amend §172.05 Standards For The Number Of Spaces By Use:** An ordinance to amend §172.05 Standards For The Number Of Spaces By Use, Table 3 Parking Ratios to clarify that spaces at gasoline pump islands may be counted as parking spaces.

City Council Tour: Monday, August 15, 2011 at 4:30 p.m. The Council will tour the Water/Sewer Facility, Tanks, and Pump Stations.

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 COUNCIL CITY FACILITIES TOURS
ALL TOURS ARE SCHEDULED FOR 4:30-6:00 p.m.

April 18	Animal Shelter and Ribbon-cutting of new Puppy Nursery
May 2	Fayetteville Executive Airport—Drake Field
May 16	Noland Wastewater Treatment Plant and Biosolids Management Site
June 6	Westside Wastewater Treatment Plant and Woolsey Prairie
June 20	Fayetteville Television Center
July 18	Solid Waste and Recycling
August 1	Parks, Fleet, Transportation Complex
August 15	Water/Sewer Facility, Tanks, and Pump Stations