

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.

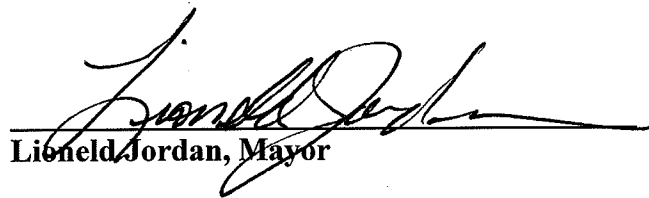
City Attorney Kit Williams: We will add Subsection 3 to note the Bill of Assurance that has been offered by the petitioner.

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.

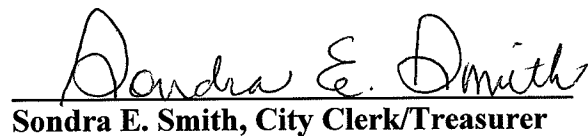
Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 1-7. Alderman Petty voting yes.

This ordinance failed.

Meeting adjourned at 10:30 p.m.



Lioneld Jordan, Mayor



Sondra E. Smith, City Clerk/Treasurer