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
October 4, 2011

A meeting of the Fayetteville City Council will be held on October 4, 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:

1. **JWC Environmental (Channel Monster Grinder):** An ordinance waiving competitive bidding and approving an agreement with JWC Environmental in the amount of $28,472.37 for repair of a channel monster grinder.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5443

A. Consent:

1. Approval of the September 20, 2011 City Council meeting minutes. **APPROVED**

2. **2011 Justice Assistance Grant (JAG):** A resolution approving acceptance of a 2011 Justice Assistance Grant through the U.S. Department of Justice in coordination with other Washington County law enforcement agencies and approving a budget adjustment in the amount of $88,866.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 172-11

3. **Internal Revenue Service (IRS) Task Force:** A resolution approving a budget adjustment in the amount of $41,405.00 to recognize revenue and expenses related to city participation in the local Internal Revenue Service (IRS) Task Force for the fiscal years of 2010-2011 and 2011-2012.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 173-11

4. **Bid #11-49 Second Nature Property Management, LLC:** A resolution awarding Bid #11-49 and approving a contract with Second Nature Property Management, LLC in the amount of $151,371.34 for the construction of a modular block retaining wall near the Garland Avenue U of A Farm Trail tunnel, and approving a twenty percent (20%) project contingency.

   THIS ITEM WAS REMOVED FROM CONSENT FOR DISCUSSION.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 174-11

5. **Bid #11-54 Alarmtec Systems:** A resolution awarding Bid #11-54 and approving a contract and change order with Alarmtec Systems in the total amount of $166,500.00 for construction of security improvements at Drake Field.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 175-11

6. **Bid #11-55 All Around Landscaping, Inc.:** A resolution awarding Bid #11-55 and approving a contract with All Around Landscaping, Inc. in the amount of $66,704.00 from the tree escrow fund for the purchase and planting of trees, and approving a ten percent (10%) project contingency.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 176-11

7. **Police Department Policies:** A resolution approving Fayetteville Police Department Policies 25.1 Grievance Procedures, 35.1 Performance Evaluation, and 61.4.3 Towed Vehicles.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 177-11

8. **Washington Regional Medical Center Real Estate Conveyance Agreement:** A resolution to approve the Real Estate Conveyance Agreement with Washington Regional Medical Center.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 178-11

B. Unfinished Business:

1. **Revised Ward Boundaries:** An ordinance to approve revised Ward Boundaries to equalize ward populations after the 2010 Federal Census and to amend §32.03 of the Fayetteville Code. ***This ordinance was left on the Second Reading at the September 20, 2011 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5444

2. **RZN 11-3866 (2013 E. Mission Blvd./Ruskin Heights):** An ordinance rezoning that property described in rezoning petition RZN 11-3866, for approximately 28.93 acres located at 2013 East Mission Boulevard from R-PZD, Residential Planned Zoning District (R-PZD 06-2299 Ruskin Heights), to CS, Community Services; NC, Neighborhood Conservation; and RSF-4, Residential Single Family, 4 units/acre, subject to a Bill of Assurance. ***This ordinance was left on the Second Reading at the September 20, 2011 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5445

C. New Business:

1. **Arkansas State Highway (Crossover Road):** A resolution authorizing payment of $1,306,160.16 to the Arkansas State Highway and Transportation Department as the City's portion of construction costs associated with the widening of State Highway 265 (Crossover Road) from Mission Boulevard to Joyce Street, and approving a $200,000.00 contingency.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO.179-11

2. **RZN 11-3892 (Fayette Junction Master Plan):** An ordinance rezoning that property described in rezoning petition RZN 11-3892, for select properties located within the Fayette Junction Master Plan area totaling approximately 225 acres.

   THIS ITEM WAS LEFT ON THE SECOND READING.

3. **RZN 11-3916 (Holcomb Heights PZD/TTO LLC:** An ordinance rezoning that property described in rezoning petition RZN 11-3916, for approximately 19.24 acres, located at the southwest corner of Salem and Weir Road from R-PZD, Residential Planned Zoning District (06-2281 Holcomb Heights I and 07-2613 Holcomb Heights II), to RSF-8, Residential Single-Family, 8 units per acre.

   THIS ITEM WAS LEFT ON THE SECOND READING.

4. **ADM 11-3943 Belclaire Subdivision-Amendment to Bill of Assurance):** An ordinance to amend Section 3 of Ordinance No. 4605 to amend the Bill of Assurance to reduce the minimum house size from 2,400 square feet to 2,000 square feet.

   THIS ITEM WAS LEFT ON THE SECOND READING.

5. **ADM 11-3948 (Oakland Courts Right-of-Way Dedication):** A resolution to approve a lesser right-of-way dedication than required by the Master Street Plan for property located on Storer Avenue between North Street and Hazel Street.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 180-11

6. **Amend XXI Rules of Conduct for all Fayetteville Boards, Commissions and Committees:** An ordinance to amend Article XXI Rules of Conduct for all Fayetteville Boards, Commissions and Committees to codify uniform eligibility and attendance requirements, to repeal Resolution No. 27-01 and to amend or repeal any conflicting code sections.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5446

7. **2011 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2011 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5447

Announcements:

Adjournment: 7:45 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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City Council Meeting: **October 4, 2011** **Adjourn:** 7:45 p.m.

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

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

City Council Meeting: **October 4, 2011**

Subject:	JWC Environmental - Channel Monster Grinder				
Motion To:		Add to the Agenda	2nd Read	3rd Read	Pass
Motion By:		Petty	Boudreaux	Gray	
Seconded:		Adams	Lewis	Tennant	
Added to the Agenda	**Petty**	✓	✓	✓	✓
	Tennant	✓	✓	✓	✓
	Ferrell	Absent during the vote	✓	✓	✓
	Adams	✓	✓	✓	✓
passed	**Lewis**	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
5443	**Boudreaux**	✓	✓	✓	✓
	Kinion	✓	✓	✓	✓
	Mayor Jordan				
		7-0	8-0	8-0	8-0

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

City Council Meeting: **October 4, 2011**

Subject:	**Consent**	Bid # 11-49 Second Nature Property Management Removed for discussion			
Motion To:		Approve			
Motion By:		Tennant			
Seconded:		Adams			
Item #4 Removed from Consent	**Petty**	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
Minutes Approved	**Lewis**	✓			
	Gray	✓			
	Boudreaux	✓			
172-11 thru 178-11	**Kinion**	✓			
	Mayor Jordan				
		8-0			

Subject:		Consent Item #4 Bid # 11-49 Second Nature Property Management			
Motion To:		Amend dollar amount	Pass		
Motion By:		Boudreaux	Boudreaux		
Seconded:		Lewis	Gray		
Passed Resolution	**Petty**	✓	✓		
	Tennant	✓	✓		
	Ferrell	✓	✓		
	Adams	✓	✓		
	Lewis	✓	✓		
	Gray	✓	✓		
	Boudreaux	✓	✓		
	Kinion	✓	✓		
	Mayor Jordan				
		8-0	8-0		

City Council Meeting: **October 4, 2011**

Subject:	**Revised Ward Boundaries**				
Motion To:		3rd Read	Pass		
Motion By:		Gray			
Seconded:		Tennant			
B. 1 Unfinished Business	**Petty**	✓	✓		
	Tennant	✓	✓		
	Ferrell	✓	✓		
	Adams	✓	✓		
Passed	**Lewis**	✓	✓		
	Gray	✓	✓		
5444	**Boudreaux**	✓	✓		
	Kinion	✓	✓		
	Mayor Jordan				
		8-0	8-0		

Subject:	**RZN 11-3866 (2013 E. Mission Blvd./Ruskin Heights)**				
Motion To:		3rd Read	Pass		
Motion By:		Gray			
Seconded:		Tennant			
B. 2 Unfinished Business	**Petty**	✓	✓		
	Tennant	✓	✓		
	Ferrell	✓	✓		
	Adams	✓	✓		
Passed	**Lewis**	✓	✓		
	Gray	✓	✓		
5445	**Boudreaux**	✓	✓		
	Kinion	✓	✓		
	Mayor Jordan				
		8-0	8-0		

City Council Meeting: **October 4, 2011**

Subject:	**Arkansas State Highway (Crossover Road)**				
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Boudreaux			
C. 1 New Business	**Petty**	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
Passed	**Lewis**	✓			
	Gray	✓			
	Boudreaux	✓			
179-11	**Kinion**	✓			
	Mayor Jordan				

8-0

Subject:	**RZN 11-3892 (Fayette Junction Master Plan)**				
Motion To:		2nd Read			
Motion By:		Boudreaux			
Seconded:		Lewis			
C. 2 New Business	**Petty**	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
Left on the 2nd Reading	**Lewis**	✓			
	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Mayor Jordan				

8-0

City Council Meeting: **October 4, 2011**

Subject:	**RZN 11-3916 (Holcomb Heights PZD/TTO LLC**				
Motion To:		2nd Read			
Motion By:		Ferrell			
Seconded:		Tennant			
C. 3 New Business	**Petty**	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
Left on the 2nd Reading	**Lewis**	✓			
	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Mayor Jordan				

8-0

Subject:	**ADM 11-3943 Belclaire Subdivision-Amendment to Bill of Assurance)**				
Motion To:		2nd Read			
Motion By:		Lewis			
Seconded:		Gray			
C. 4 New Business	**Petty**	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
Left on the 2nd Reading	**Lewis**	✓			
	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Mayor Jordan				

8-0

City Council Meeting: **October 4, 2011**

Subject:	**ADM 11-3948 (Oakland Courts Right-of-Way Dedication)**				
Motion To:		Amend	Approve		
Motion By:		Boudreaux	Gray		
Seconded:		Petty	Ferrell		
C. 5 New Business	**Petty**	✓	✓		
	Tennant	✓	✓		
	Ferrell	✓	✓		
	Adams	✓	✓		
passed	**Lewis**	✓	✓		
	Gray	✓	✓		
180-11	**Boudreaux**	✓	✓		
	Kinion	✓	✓		
	Mayor Jordan				
		8-0	8-0		

Subject:	**Amend XXI Rules of Conduct for all Fayetteville Boards, Commissions and Committees**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Lewis	Ferrell		
Seconded:		Ferrell	Gray		
C. 6 New Business	**Petty**	✓	✓	✓	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
passed	**Lewis**	✓	✓	✓	
	Gray	✓	✓	✓	
5446	**Boudreaux**	✓	✓	✓	
	Kinion	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0		

City Council Meeting: **October 4, 2011**

Subject:	**2011 Millage Levy**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Tennant		
Seconded:		Boudreaux	Ferrell		
C. 7 New Business	**Petty**	✓	✓	✓	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
passed	**Lewis**	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
5447	**Kinion**	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	

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

Fayetteville ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **October 5, 2011**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of October 4, 2011**

1. **Repair of Channel Monster Grinder:** An ordinance waiving competitive bidding and approving an agreement with JWC Environmental in the amount of $28,472.37 for repair of a Channel Monster Grinder.

2. **2011 Justice Assistance Grant:** A resolution approving acceptance of a 2011 Justice Assistance Grant through the U.S. Department of Justice in coordination with other Washington County Law Enforcement Agencies and approving a budget adjustment in the amount of $88,866.00.

3. **IRS Task Force:** A resolution approving a budget adjustment in the amount of $41,405.00 to recognize revenue and expenses related to City participation in the local Internal Revenue Service Task Force for the Fiscal Years of 2010-2011 and 2011-2012.

4. **Bid 11-49 2nd Nature Property Mgmt., LLC:** A resolution awarding Bid #11-49 and approving a contract with Second Nature Property Mgmt., LLC in the amount of $138,555.00 for the construction of a modular block retaining wall near the Garland Avenue U of A Farm Trail Tunnel, and approving a 20% project contingency.

5. **Bid #11-54 Alarmtec Systems:** A resolution awarding Bid #11-54 and approving a contract and change order with Alarmtec Systems in the total amount of $166,500.00 for construction of security improvements at Drake Field.

6. **Bid #11-55 All Around Landscaping, Inc.:** A resolution awarding Bid #11-55 and approving a contract with All Around Landscaping, Inc. for the amount of $66,704.00 from the Tree Escrow Fund for the purchase and planting of trees, and approving a 10% project contingency.

7. **Police Department Policies:** A resolution approving Fayetteville Police Department Policies 25.1 Grievance Procedures, 35.1 Performance Evaluation, and 61.4.3 Towed Vehicles.

8. **WRMC Real Estate Conveyance Agreement:** A resolution to approve the Real Estate Conveyance Agreement with Washington Regional Medical Center.

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CONTRACT
Reference Bid: 11-54, Construction – Drake Field Security Improvements
Contractor: Alarmtec Systems
Term: Specific Project Only – No Revolving Terms

This contract executed this _____ day of October, 2011, between the **City of Fayetteville, Arkansas**, and **Alarmtec Systems.** In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Alarmtec Systems** 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 11-54 as stated in **Alarmtec Systems's** bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid 11-54.

2. The City of Fayetteville shall pay **Alarmtec Systems** for work as described in Bid 11-54, submitted by **Alarmtec Systems** for the **Total Lump Sum Bid, less Deductive Alternates #1 and #2, $189,800,** and **less Change Order No. 1 ($23,300.00)** for a **Contract Sum of One Hundred Sixty Six Thousand, Five Hundred Dollars $166,500.00**. Payments will be made after approval and acceptance of work, and submission of detailed invoice. Payments will be made within a maximum 30 days after acceptance of invoice. **Alarmtec Systems** agrees to make detailed invoicing related documentation available to the City.

3. The Contract documents which comprise this contract between the City of Fayetteville and **Alarmtec Systems** consist of this Contract and the following documents attached hereto, and made a part hereof:

   A. Bid form identified as Invitation to Bid 11-54 with the specifications and conditions typed thereon.
   B. **Alarmtec Systems** bid proposal, including mark up on materials and hourly rates.
   C. The Notice to Prospective Bidders and the Bid Tabulation.

4. These Contract documents constitute the entire agreement between the City of Fayetteville and **Alarmtec Systems** and may be modified only by a duly executed written instrument signed by the City of Fayetteville and **Alarmtec Systems.**

5. **Alarmtec Systems** shall not assign its duties under the terms of this agreement.

6. **Alarmtec Systems** 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.

7. **Alarmtec Systems** 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, **Alarmtec Systems** 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 **Alarmtec Systems.**

8. **Alarmtec Systems** shall furnish proof of licensure as required by all federal, state, and local agencies.

9. This contract may be terminated without penalty by the City of Fayetteville or **Alarmtec Systems** with 30 days written notice.

10. **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 coping costs pursuant to the FOIA may be assessed for this compliance.

11. **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.

ALARMTEC SYSTEMS

By: _____

Jim Smith - Owner
Printed Name & Title

ATTEST:

Suzanne Gray
Company Secretary

5636 Commerce Court
Business Address

Sherwood Ar. 72120
City, State & Zip Code

Date Signed: 9-21-11

CITY OF FAYETTEVILLE, ARKANSAS

_____
LIONELD JORDAN, Mayor

ATTEST:

_____
Sondra Smith, City Clerk

Date Signed: _____

CHANGE ORDER

Order No. 1
Date: September 15, 2011
Agreement Date: October 4, 2011

NAME OF PROJECT: Drake Field Security Improvements Bid 11-54

OWNER: City of Fayetteville (Airport Department)

CONTRACTOR: Alarmtec Systems

The following changes are hereby made to the CONTRACT DOCUMENTS:

1. Decrease the amount of work by decreasing the number of cameras by five(5) and provide three (3) POE switches and add Two weather proof enclosure at to two gate locations to house the POE switches, and delete the seeding, mulching and sodding. (See attached deductive change order request from the Electrical Engineer. **Deduct cost of $ 23,300.00 to the contract..**

Justification:

1. The Owner requires the project cost to be reduced to be within the available funding from the State Aeronautics Dept. and the Drake Field Airport Account.

CONTRACT PRICE prior to this Change Orders:	$ 189,800.00
Decrease in Contract Price:	($ 23,300.00)
Revised CONTRACT PRICE Including this Change Order:	$ 166,500.00
Final Completion Time Prior to This Change Order:	90 Calendar Days
Net Time Change Resulting From This Change Order:	0 Calendar Days

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

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

Requested by: _____ 9-21-11
Alarmtec Systems — Date

R Wayne Jones

Recommended by: _____ September 16, 2011
McClelland Consulting Engineers, Inc. — Date

Approved by: _____
City of Fayetteville — Date

Zoning: ***Community Services: Area 1***

The following uses shown in Chapter 161.19 of the City of Fayetteville's Zoning Regulations **SHALL NOT** be allowed in the area shown on the Rezoning Plat (Exhibit A) as Community Services:

- *Unit 4*: Cultural & recreational facilities, everything excluded except churches.
- *Unit 18*: Gasoline stations & drive – in/drive through restaurants.
- *Unit 3*: Public protection and utility facilities.
- *Under Use Unit 14*, Hotel, motel and amusement services: Everything is permitted except Hotel & Motel.
- *Under Use Unit 16*, Shopping Goods: Transportation Services.
- *Unit 17*: Transportation, trades & services.
- *Unit 28*: Center for recycle materials.
- *Unit 34*: Liquor stores.
- *Unit 35*: Outdoor music establishments.
- *Unit 36*: Wireless communication facilities.
- *Unit 42*: Clean technologies.

Zoning: ***Neighborhood Conservation: Area 3-6***

The areas shown on the Rezoning Plat (Exhibit A) as Neighborhood Conservation **SHALL BE LIMITED TO** the following uses and densities:

1. Area 3 (2.56 acres): Max Density of 10 units/acre
   a. Permitted Uses
      - *Unit 8*: Single-family dwellings
      - *Unit 9*: Two-family dwellings
   b. Conditional Uses
      - *Unit 10*: Three-family dwellings
      - *Unit 24*: Home occupations
2. Area 4 & Area 6 (14.27 acres): Max Density of 6 units/acre
   a. Permitted Uses
      - *Unit 8*: Single-family

Added at Agenda Session 9/27/11

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

10/4/2011
City Council Meeting Date
Agenda Items Only

Chris Brown CB	Engineering	Development Services
Submitted By	**Division**	**Department**

Action Required:

A resolution approving a payment in the amount of $1,306,160.16 to the Arkansas State Highway & Transportation Department for the City's portion of the construction costs associated with widening Crossover Road (Hwy 265) from Mission Boulevard to Joyce Street, and approving a $200,000 Contingency.

$ 1,306,160.16	$ 2,665,000.00	Transportation Bonds
Cost of this request	Category / Project Budget	Program Category / Project Name
4520.9540.5809.00	--	Transportation Bonds
Account Number	Funds Used to Date	Program / Project Category Name
06035.2000	$ 2,665,000.00	Sales Tax Construction
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director	09.26.2011 Date	Previous Ordinance or Resolution #
City Attorney	9-26-11 Date	Original Contract Date:
Finance and Internal Services Director	9-26-2011 Date	Original Contract Number:
Chief of Staff	9-26-11 Date	Received in City Clerk's Office 09-25-11 P02:23 RCVD
Mayor	9/27/11 Date	Received in Mayor's Office ENTERED 9/26/11

Comments:

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

Council Meeting of October 4, 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: September 23, 2011

Subject: **A resolution approving a payment in the amount of $1,306,160.16 to the Arkansas State Highway & Transportation Department for the City's portion of the construction costs associated with widening Crossover Road (Hwy 265) from Mission Boulevard to Joyce Street, and approving a $200,000 Contingency.**

PROPOSAL:

Arkansas Highway 265 is planned for widening and improvement by the Arkansas Highway and Transportation Department (AHTD). Planned improvements include widening to 4 lanes between Mission Boulevard and Joyce Boulevard, with a center turn lane between Mission Blvd. and Township Street, and a center median between Township and Joyce.

On September 7, 2004, the City Council passed Resolution No. 137-04 that expressed "*the intent of the Fayetteville City Council to participate with the Arkansas Highway and Transportation Department on Improvements to Highway 265 from Highway 45 to the Northern City Limits.*" Based on this resolution, the City of Fayetteville included $7.7M in the Transportation Bond Program for this cost share.

On March 18, 2008, the City Council passed Resolution No. 71-08 that reaffirmed the City's commitment of $7.7M, and changed the original project limits of Highway 45 to the City limits to the reduced project limits of Highway 45 to Joyce Boulevard. Correspondence from the AHTD received at that time indicated that the Department was willing to pick up the entire cost of right of way and utilities, if the City would provide its commitment of up to $7.7 million for construction. In 2009, the City made a $5 million payment toward this obligation, leaving a maximum of $2.7 million additional due.

On September 7th of this year, the Department received bids for construction of the project. Nabholz Construction was the low bidder, at $12,612,320.32. Since the City has agreed to pay 50% of this amount, or $6,306,160.16, and has previously paid $5 million, the current amount due is **$1,306,160.16**, as indicated in the attached letter from the AHTD.

RECOMMENDATION:

Staff recommends approval of a payment of $1,306,160.16 to the Arkansas State Highway & Transportation Department (AHTD) to widen Crossover Road (Hwy 265) from Mission Boulevard to Joyce Street.

BUDGET IMPACT:

The City currently has $7.7M budgeted for this project through the Transportation Bond Program, of which $5 million has been paid to the AHTD. This payment will bring the total paid to $6,306,160.16.

It should be noted that the AHTD has included an incentive for early completion, and will pay the contractor $10,000 per day for the number of days that the project is completed before the required date, up to a total of $400,000. The City will be responsible for paying 50% of any incentive paid, as well as 50% of Change Orders to the Contract. Therefore, approval of a $200,000 contingency amount to cover the cost of the City's share of potential incentive payments is also recommended Even with the contingency, staff expects the City to save in excess of $1 million compared to the budget on the project.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING PAYMENT OF $1,306,160.16 TO THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT AS THE CITY'S PORTION OF CONSTRUCTION COSTS ASSOCIATED WITH THE WIDENING OF STATE HIGHWAY 265 (CROSSOVER ROAD) FROM MISSION BOULEVARD TO JOYCE STREET, AND APPROVING A $200,000.00 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 authorizes the payment of $1,306,160.16 to the Arkansas State Highway and Transportation Department as the City's portion of construction costs associated with the widening of State Highway 265 (Crossover Road) from Mission Boulevard to Joyce Street.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a project contingency in the amount of $200,000.00.

PASSED and **APPROVED** this 4th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Scott E. Bennett
Director
Telephone (501) 569-2000
Voice/TTY 711

P.O. Box 2261
Little Rock, Arkansas 72203-2261
Telefax (501) 569-2400
www.arkansashighways.com

September 22, 2011

The Honorable Lioneld Jordan
Mayor of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Re: Job 040517
F.A.P. STP-9142(24)
Hwy. 45-E. Joyce Blvd. (Fayetteville) (S)
Washington County

Dear Mayor Jordan:

Nabholz Construction Corporation of Rogers submitted the low bid of $12,612,320.33 for the referenced project at the Department's September 7, 2011 letting.

The Arkansas State Highway Commission has tentatively accepted Nabholz's proposal and will execute the contract upon receipt of the City's remaining funds. As previously agreed, the City is responsible for 50% of the construction cost of this project and has previously deposited $5,000,000.00. At this time, we request that you submit a check (made payable to the Arkansas State Highway and Transportation Department) in the amount of $1,306,160.16. **The contract will not be executed, and construction cannot begin until your funds are received.** Submittal of these funds to the Department will be considered as your concurrence in the award of this contract. Upon completion of the project, a statement will be prepared reflecting the final cost and respective matching shares. At that time, the City will be returned funds remaining or billed for additional funds required.

We look forward to working with the City to complete the proposed improvements. Should you have any questions or comments, please advise.

Sincerely,

Frank Vozel

Frank Vozel
Deputy Director and
Chief Engineer

c: Assistant Chief Engineer-Planning
Programs and Contracts
Fiscal Services (2)
Planning and Research
District 4
Job 040517 'C' File
Chris Brown, P.E., Fayetteville City Engineer

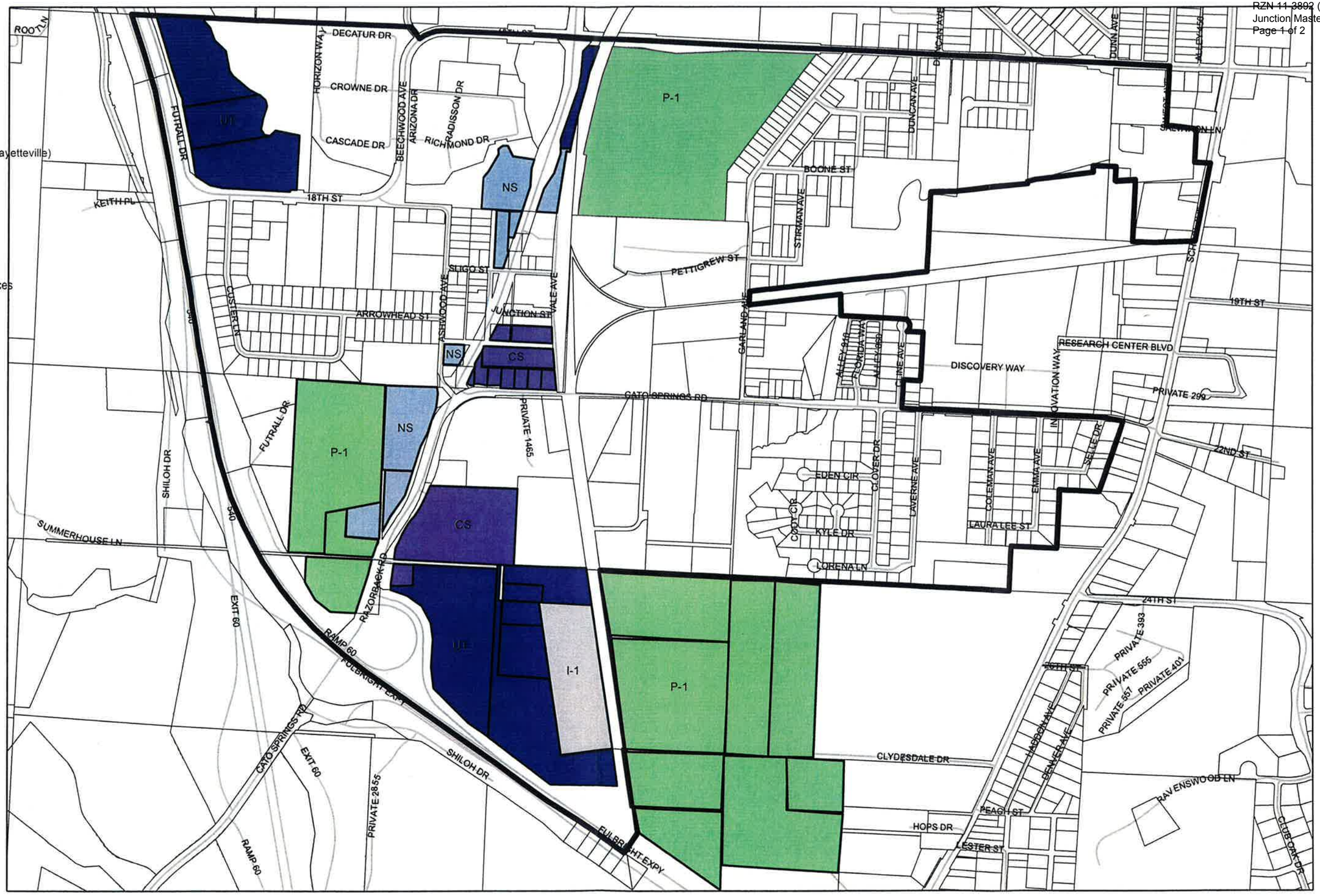
EXHIBIT A

Legend

- County Parcels
- xxxWash Co Parcels (Fayetteville)
- Fayette_Junction

Proposed Zoning

- UT, Urban Thoroughfare
- CS, Community Services
- NS, Neighborhood Services
- P-1, Institutional
- I-1, Light Industrial



Fayette Junction Rezoning (Draft)

09.14.2011

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

City of Fayetteville Arkansas
City Council Meeting Minutes
October 4, 2011

A meeting of the Fayetteville City Council was held on October 4, 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:

Mayor Jordan read a proclamation announcing Aviation Day in Fayetteville and presented the proclamation to Ray Boudreaux, Airport Director.

Ray Boudreaux introduced members of the Airport Board.

Alderman Adams: I think it is wonderful that the Airport is allowing events to be held there.

Mayor Jordan welcomed the Spring International Students from the University of Arkansas and asked that they stand and be recognized.

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions:

Unofficial

JWC Environmental (Channel Monster Grinder): An ordinance waiving competitive bidding and approving an agreement with JWC Environmental in the amount of $28,472.37 for repair of a channel monster grinder.

Alderman Petty moved to amend the agenda and add JWC Environmental (Channel Monster Grinder). Alderman Adams seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent during the vote.

City Attorney Kit Williams read the ordinance.

Lynn Hyke, Construction and Contract Manager gave a brief description of the equipment. He states the grinder prevents blockages and overflows.

Mayor Jordan apologized to the Council for the late notice.

Alderman Lewis read a list of things that the grinder chews up. We have to pay to chew up this stuff so that it doesn't get into the pumps.

Lynn Hyke: That is correct.

Alderman Ferrell questioned how some of the items listed were able to get into the sewer.

Lynn Hyke: People dump things into the manholes.

Alderman Ferrell: There are prevent screens aren't there?

Lynn Hyke: There is a prevent screen in front of it.

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

City Attorney Kit Williams read the ordinance.

A discussion followed on the dollar amount of the equipment.

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

Ordinance 5443 as Recorded in the office of the City Clerk

Unofficial

Consent:

Approval of the September 20, 2011 City Council meeting minutes.

Approved

2011 Justice Assistance Grant (JAG): A resolution approving acceptance of a 2011 Justice Assistance Grant through the U.S. Department of Justice in coordination with other Washington County law enforcement agencies and approving a budget adjustment in the amount of $88,866.00.

Resolution 172-11 as recorded in the office of the City Clerk.

Internal Revenue Service (IRS) Task Force: A resolution approving a budget adjustment in the amount of $41,405.00 to recognize revenue and expenses related to city participation in the local Internal Revenue Service (IRS) Task Force for the fiscal years of 2010-2011 and 2011-2012.

Resolution 173-11 as recorded in the office of the City Clerk.

Bid #11-49 Second Nature Property Management, LLC: A resolution awarding Bid #11-49 and approving a contract with Second Nature Property Management, LLC in the amount of $151,371.34 for the construction of a modular block retaining wall near the Garland Avenue U of A Farm Trail tunnel, and approving a twenty percent (20%) project contingency.

This resolution was removed from the Consent Agenda for discussion.

Bid #11-54 Alarmtec Systems: A resolution awarding Bid #11-54 and approving a contract and change order with Alarmtec Systems in the total amount of $166,500.00 for construction of security improvements at Drake Field.

Resolution 175-11 as recorded in the office of the City Clerk.

Bid #11-55 All Around Landscaping, Inc.: A resolution awarding Bid #11-55 and approving a contract with All Around Landscaping, Inc. in the amount of $66,704.00 from the tree escrow fund for the purchase and planting of trees, and approving a ten percent (10%) project contingency.

Resolution 176-11 as recorded in the office of the City Clerk.

Police Department Policies: A resolution approving Fayetteville Police Department Policies 25.1 Grievance Procedures, 35.1 Performance Evaluation, and 61.4.3 Towed Vehicles.

Resolution 177-11 as recorded in the office of the City Clerk.

Unofficial

Washington Regional Medical Center Real Estate Conveyance Agreement: A resolution to approve the Real Estate Conveyance Agreement with Washington Regional Medical Center.

Resolution 178-11 as recorded in the office of the City Clerk.

Alderman Tennant moved to approve the Consent Agenda as read with Bid #11-49 Second Nature Property Management, LLC removed for discussion. Alderman Adams seconded the motion. Upon roll call the motion passed unanimously.

The following resolution was removed from the Consent Agenda for discussion:

Bid #11-49 Second Nature Property Management, LLC: A resolution awarding Bid #11-49 and approving a contract with Second Nature Property Management, LLC in the amount of $151,371.34 for the construction of a modular block retaining wall near the Garland Avenue U of A Farm Trail tunnel, and approving a twenty percent (20%) project contingency.

Chris Brown, City Engineer gave a brief description of the resolution and stated the dollar amount needed to be changed.

Alderman Boudreaux moved to amend the dollar amount of the resolution to $138,555.00. Alderman Lewis seconded the motion. Upon roll call the motion passed unanimously.

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

Resolution 174-11 as recorded in the office of the City Clerk.

<u>Unfinished Business:</u>

Revised Ward Boundaries: An ordinance to approve revised Ward Boundaries to equalize ward populations after the 2010 Federal Census and to amend §32.03 of the Fayetteville Code. ***This ordinance was left on the Second Reading at the September 20, 2011 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Alderman Boudreaux expressed her concerns about changing the effective date to July 1, 2011.

City Attorney Kit Williams: The amendment to change the effective date was discussed but it was not made.

Unofficial

Alderman Lewis: The request was to look at changing the date and discuss if it made sense to align it with other deadlines that are related with the election.

Alderman Ferrell: Anyone that would go to the trouble to run would study and know where the wards are.

Alderman Lewis: I like the idea of aligning it with when everyone will be thinking of the new ward map and it would officially begin when people are allowed to run which is after July 1.

A discussion followed on when the first day to file for the election would be.

Alderman Lewis: I would propose we make this effective by the filing deadline.

A discussion followed on when signatures can be obtained on the paperwork that is required to run for election.

Alderman Lewis stated there was a perception at the last Ward 4 meeting that they would not be a part of Ward 4. Can you talk about how the boundaries were decided on the southern part of Ward 4?

John Goddard, GIS Coordinator explained the process that was used to determine the ward boundaries on the new proposed map. When we re-district our goal is to balance the population in the wards and at the same time try to keep the precincts in tack as much as possible.

A discussion followed on the map.

Alderman Lewis: This method is a strategic, scientific, neutral and methodical way of doing this so that you don't get into politics and picking and choosing who is where. GIS software is a great tool for doing this kind of thing. Anyone in the whole city can come to the Ward 4 meetings. You do not have to live in Ward 4 to come to the meetings.

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

Ordinance 5444 as Recorded in the office of the City Clerk

RZN 11-3866 (2013 E. Mission Blvd./Ruskin Heights): An ordinance rezoning that property described in rezoning petition RZN 11-3866, for approximately 28.93 acres located at 2013 East Mission Boulevard from R-PZD, Residential Planned Zoning District (R-PZD 06-2299 Ruskin Heights), to CS, Community Services; NC, Neighborhood Conservation; and RSF-4, Residential Single Family, 4 units/acre, subject to a Bill of Assurance. ***This ordinance was left on the Second Reading at the September 20, 2011 City Council meeting.***

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

Unofficial

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Development Services Director gave a brief description of the ordinance.

Fred Sherman, resident of 2134 East Camelot Place: I am not opposed to this development but I ask that you do it in accordance with the Hillside Ordinance. I ask that you not allow street parking in this development.

Don Conner, resident of 1686 Shadowridge Drive: I want to make sure that the hillside is respected and that the forest is conserved. We would like to make sure that the City Council does not change the Bill of Assurance later on.

Mayor Jordan: I don't think we can tie the hands of any future Councils.

City Attorney Kit Williams: This Council or any future Council can change this.

Don Conner: I just want to make sure, that as this is brought forward, they keep the flavor of what happened here.

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

Ordinance 5445 as Recorded in the office of the City Clerk

New Business:

Arkansas State Highway (Crossover Road): A resolution authorizing payment of $1,306,160.16 to the Arkansas State Highway and Transportation Department as the City's portion of construction costs associated with the widening of State Highway 265 (Crossover Road) from Mission Boulevard to Joyce Street, and approving a $200,000.00 contingency.

Chris Brown gave a brief description of the resolution.

Alderman Ferrell: This has been through the Street Committee and when we looked at the potential savings we loved it.

Alderman Lewis: Is that a new strategy for the incentive for early completion. We are paying half of that with the potential to save almost $1 million.

Chris Brown: The Highway Department has used the incentive on other projects. I am not sure if they have used an incentive in the City before. They have never done one where we participated in the project. They typically use it in high traffic areas that is where they can justify paying that additional amount because there is a cost to the users for not being able to have full access to the road.

Unofficial

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

Resolution 179-11 as recorded in the office of the City Clerk.

RZN 11-3892 (Fayette Junction Master Plan): An ordinance rezoning that property described in rezoning petition RZN 11-3892, for select properties located within the Fayette Junction Master Plan area totaling approximately 225 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Boudreaux: I was a little concerned that this might affect some of the neighborhoods but it really doesn't. This makes perfectly good sense to me and I am very much in favor of getting the hilltop and hillside rezoned out of the multi-family.

Alderman Adams: On the Treat property the problem was resolved right?

Jeremy Pate: Yes, there is a letter in your packet. We talked with them and everything was resolved.

Alderman Adams: The process that you all used is to be commended and I appreciate that very much.

Jeremy Pate: I would be remiss to not mention the Arkansas Research and Technology Park and their support from the University of Arkansas on that campus. They are not within our boundary but they certainly played a huge role in this plan.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell asked that this be left on the second reading.

This ordinance was left on the Second Reading.

RZN 11-3916 (Holcomb Heights PZD/TTO LLC: An ordinance rezoning that property described in rezoning petition RZN 11-3916, for approximately 19.24 acres, located at the southwest corner of Salem and Weir Road from R-PZD, Residential Planned Zoning District (06-2281 Holcomb Heights I and 07-2613 Holcomb Heights II), to RSF-8, Residential Single-Family, 8 units per acre.

Unofficial

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. This property has changed hands. The PZD's have expired. Planning Commission approved this 5-4.

Alderman Ferrell: Did you say what size the lots were at Salem Village?

Jeremy Pate: I believe some of those lots are about 40 to 45 foot wide and at the front they are actually only about 35.

Alderman Ferrell: That is a nice area.

Alderman Adams: Some residents of Salem Meadows heard that this was going to be rezoned and planned to be high-rise apartments. Has that been clarified?

Jeremy Pate: I was forwarded that information but this zoning district would not allow any type of multi-family uses. It does allow a duplex by conditional use just like RSF-4 does but it is the same exact type of land use pattern as RSF-4.

City Attorney Kit Williams: It did not appear at the Planning Commission meeting as a fear.

Alderman Lewis: People do not always understand what RSF-8 means and what that looks like. Can you explain that?

Jeremy Pate briefly explained the zoning classifications.

Justin Jorgensen with Jorgensen Associates gave a brief explanation of their goals for the project. The reason for the RSF-8 request is to have the ability to do a 50 foot lot.

Alderman Lewis: There is an existing pond. Do you think that will stay?

Justin Jorgensen: On the concept plan we utilized that pond for that plan. That is a goal and it would be a neat feature for the area.

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

City Attorney Kit Williams read the ordinance.

Alderman Adams: We would like to hold this please.

This ordinance was left on the Second Reading.

Unofficial

ADM 11-3943 Belclaire Subdivision-Amendment to Bill of Assurance): An ordinance to amend Section 3 of Ordinance No. 4605 to amend the Bill of Assurance to reduce the minimum house size from 2,400 square feet to 2,000 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Jeff Roth with Roth Custom Homes and ADR Homes by Roth: We have had a fair amount of demand for a smaller home.

Alderman Ferrell: Do the inhabitants out there seem to be all right with the change?

Jeff Roth: Everybody is great with it.

Alderman Ferrell: Understanding that times change I think this is a good day for this.

Alderman Lewis: It looks like there is an existing drainage area that runs out of there.

Jeff Roth: Right, there are actually a couple of them that runs through the Subdivision.

Alderman Lewis: Is that going to be part of your plan? The footprint is the same.

Jeff Roth: Absolutely, we are not going to change any of that. We will position the houses so they fit on the lots.

Alderman Lewis: So the infrastructure is there with streets and everything?

Jeff Roth: Correct.

Alderman Petty: Have you laid out your plats and your properties in a way that has been built with our plans for the street in mind.

Jeff Roth: The streets are already in and the subdivision is completely finished as far as utility, streets, curb and guttering.

Jeremy Pate: The right of way for the subdivision was dedicated with the plat so we measure all building setbacks off of that right of way. This is within the City so we have a lot more control.

Alderman Petty: If you noticed a trend of perspective buyers and some of them wanting smaller homes, why 2,000 square feet and not 1,800 square feet or less than that?

Jeff Roth: Our money is not made in small houses. We have a lot of the same fixed cost in a 2,000 square foot house as we have in a 2,400 square foot square foot home. A 2,000 square foot home is at the bottom level of my comfort home.

Unofficial

Rick McWhorter, resident of 3791 Woodside Drive spoke in favor of the development however he asked that the neighbors be notified in the future if any other changes are made to the Bill of Assurance.

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

City Attorney Kit Williams read the ordinance.

Alderman Lewis: I would like to request that we hold this.

This ordinance was left on the Second Reading.

ADM 11-3948 (Oakland Courts Right-of-Way Dedication): A resolution to approve a lesser right-of-way dedication than required by the Master Street Plan for property located on Storer Avenue between North Street and Hazel Street.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the resolution.

Alderman Boudreaux moved to amend the resolution to include Oakland Street. Alderman Petty seconded the motion. Upon roll call the motion passed unanimously.

Alderman Gray moved to approve the resolution. Alderman Ferrell seconded the motion.

Alderman Petty asked Brian Teague if there was anything that he could describe what this variance will allow him to do as far as meeting the design builds of the project.

Brian Teague with Community by design representing the developer briefly explained the allowances of this variance.

Alderman Lewis: Thank you for proposing innovative and interesting designs.

Upon roll call the resolution passed unanimously.

Resolution 180-11 as recorded in the office of the City Clerk.

Amend XXI Rules of Conduct for all Fayetteville Boards, Commissions and Committees: An ordinance to amend Article XXI Rules of Conduct for all Fayetteville Boards, Commissions and Committees to codify uniform eligibility and attendance requirements, to repeal Resolution No. 27-01 and to amend or repeal any conflicting code sections.

City Attorney Kit Williams read the ordinance.

Unofficial

City Attorney Kit Williams: This was requested by our City Clerk. We felt it made sense to have uniform rules for our citizens that serve on committees. We also felt it was appropriate that it be in the code so citizens can see what the requirements are.

Alderman Lewis: So there needs to be a record kept?

City Attorney Kit Williams: Generally there are records kept. There is usually a staff member for every committee so that we know when they attend.

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 Gray: I think this is a great idea and it's excellent that we have a uniform code so there is no question.

Alderman Ferrell 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.

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

Ordinance 5446 as Recorded in the office of the City Clerk

2011 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2011 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

City Attorney Kit Williams read the ordinance.

Paul Becker: This is the same levy we passed last year. The Mayor is recommending what we continue and maintain the same property tax rate for next year.

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.

Unofficial

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 5447 as Recorded in the office of the City Clerk

Meeting adjourned at 7:45 p.m.

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

Unofficial

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

Added at the City Council Meeting 10-04-11

4-Oct-11
City Council Meeting Date
Agenda Items Only

Lynn Hyke	Water and Sewer	Utilities
Submitted By	**Division**	**Department**

Action Required:

Approval of a Bid Waiver with JWC Environmental for the repair of a Channel Monster for $28,475.

$ 28,475	$ 118,953	WWTP Upgrade/Replace Lift Stations
Cost of this request	Category / Project Budget	Program Category / Project Name
5400.5800.5801.00	$ -	Wastewater Treatment
Account Number	Funds Used to Date	Program / Project Category Name
02068.1	$ 118,953	Water/Sewer
Project Number	Remaining Balance	Fund Name

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

Lynn A. Hyke — 10/4/2011
Department Director — Date

M B Kelly — 10/4/11
City Attorney — Date

Paul A. Becker — 10-4-2011
Finance and Internal Services Director — Date

Dan Mem — 10-4-11
Chief of Staff — Date

Lionel D. Jordan — 10/4/11
Mayor — Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 10-04-11 P03:40 RCVD

Received in Mayor's Office ENTERED 10/4/11

Comments:

Revised January 15, 2009

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: Lynn Hyke, Construction & Contract Manager

Date: October 4, 2011

Subject: Approval of a Bid Waiver with JWC Environmental for the Repair of a Channel Monster for $28,475

RECOMMENDATION

City Administration recommends approval of a Bid Waiver with JWC Environmental for the repair of a Channel Monster for $28,475. Funds are available within the Wastewater Treatment Plant CIP – Upgrade/Replace Lift Stations project.

BACKGROUND

A channel grinder style screening and grinding unit is installed on the front end of the new Hamestring Lift Station. The unit was installed to protect both the pump station and the WWTP from large foreign objects entering the lift station. Examples of objects we have seen in our system which could be transported down the 48" sewer line include bowling balls, children's bicycles, toys, dog leashes, large sticks, oil filters, construction debris, metal pipes, etc. This grinder unit serves both as a screen and grinder, which reduces long term maintenance costs on all components of the system at and downstream from the grinder.

In the last four years, there have been two significant failures at the Noland WWTP due to large items entering the influent pump station. Each of these failures resulted in more than $100,000 damages; one resulted in a substantial sewer overflow. This grinder unit prevents this type of failure from occurring on the West Side Wastewater Treatment Plant (WWTP) and the critical Hamestring Lift Station that pumps over 85% of the flow to the plant.

DISCUSSION

During a routine inspection of the Hamestring Lift Station, it was discovered that the channel grinder was not functioning properly. The unit was removed for maintenance. Upon further investigation, it was necessary to ship the unit to the manufacturer for inspection and determination of required repairs. The City received a quote for repairs from JWC Environmental in the amount of $28,472.37 (attached). The manufacturer does not have any authorized service repair agreements with any service providers and is the sole source provider for this type of repair. Therefore, staff recommends approving a bid waiver to have the unit repaired as soon as possible.

BUDGET IMPACT

Funds are available within the Wastewater Treatment Plant CIP – Upgrade/Replace Lift Stations project.

ORDINANCE NO. _____

AN ORDINANCE WAIVING COMPETITIVE BIDDING AND APPROVING AN AGREEMENT WITH JWC ENVIRONMENTAL IN THE AMOUNT OF $28,472.37 FOR REPAIR OF A CHANNEL MONSTER GRINDER

WHEREAS, a channel grinder style screening and grinding unit is installed on the front end of the Hamestring Lift Station to protect both the pump station and the wastewater treatment plant from large foreign objects entering the lift station; and

WHEREAS, the grinder unit serves both as a screen and grinder, which reduces long term maintenance costs on all components of the system at and downstream from the grinder; and

WHEREAS, during routine inspection of the Hamestring Lift Station, it was discovered that the channel grinder was not functioning properly; and

WHEREAS, the unit was shipped to the manufacturer for inspection and a determination of required repairs and received a quote for repairs from JWC Environmental in the amount of $28,472.37; and

WHEREAS, the manufacturer does not have any authorized service repair agreements with any service providers and is the sole source provider for this type of repair,

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 determines the facts above constitute an exceptional situation in which competitive bidding is not deemed practical or feasible and therefore waives formal competitive bidding and approves an agreement with JWC Environmental in the amount of $28,472.37 for repair of a channel monster grinder.

PASSED and **APPROVED** this 4th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

JWC Environmental®

290 Paularino Ave.
Costa Mesa, CA 92626
(949) 833-3888

CUSTOMER ORDER

Order Number: G006316
Date: 10/3/2011
Page: 2
Order Date: 9/8/2011

_____ Pulled By
_____ QC By
_____ Packed By

Sold To	Ship To
Fayetteville, City of Accounts Payable 113 West Mountain Fayetteville, AR 72701 USA	Fayetteville, City of Accounts Payable 113 West Mountain Fayetteville, AR 72701 USA

CUSTOMER ID	CUSTOMER P.O.	PAYMENT TERMS	FREIGHT TERMS
6007626	Waiting for PO	NET 30 DAYS	Freight Billed
SALES REP ID	**SHIPPING METHOD**	**F.O.B.**	**SHIP DATE**
Instrument & Supply Inc.	Bestway	Origin	12/31/2012

LI #	QUANTITY ORD	SHP	BCK	PART ID	DESCRIPTION	T X	GROSS PRICE	DISC %	UNIT PRICE	EXTENDED PRICE
1	1	0	0	EVAL_GA	CDD6020-XDM2.5-Repair Evalua Ship Date 12/31/2012		0.00	0.0	$0.00	$0.00
2	1	0	0	GRINDER	CDD6020-XDM2.5 Repair Ship Date 12/31/2012 11 cam Cutters 1:1 Stack 8620 STL Buna Elastomers Motor Type: Electric Less Motor Less Reducer Less Spool Grinder SN: 104831-1-1-01		26,107.27	0.0	$26,107.27	$26,107.27
3	1	0	0	RL	Repair Labor Ship Date 12/31/2012		950.00	0.0	$950.00	$950.00
4	1	0	0	FLC	Free Labor Credit Ship Date 12/31/2012 FREE LABOR JWC Environmental's Free Labor Reconditioning provides FREE LABOR services on refurbishing all Muffin Monster, Channel Monster grinders and screens when the work is performed by factory personnel at a JWC Environmental Service Center. **********		-950.00	0.0	($950.00)	($950.00)
5	1	0	0	Freight In -GA	Freight In Ship Date 12/31/2012		1,182.55	0.0	$1,182.55	$1,182.55

SUB TOTAL	$27,289.82
FREIGHT CHARGES	$1,182.55
TOTAL ORDER AMOUNT	$28,472.37

479-575-8220

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

Requisition No.:

Date: 10/4/2011

P.O Number:

Expected Delivery Date:

Vendor #: 17296

Vendor Name: JWC Environmental

Mail Yes:__ No:____

Address: 290 Paularino Avenue

Fob Point:

Taxable Yes:__ No:____

Quotes Attached Yes:____ No:____

City: Costa Mesa

State: CA

Zip Code: 92626

Ship to code:

Divison Head Approval:

Requester: Allison Atha

Requester's Employee #: 2613

Extension: 670

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Channel Monster Repair	1	JOB	28,475.00	$28,475.00	5400.5800.5801.00	02068.1		
2									
3					$0.00				
4					$0.00				
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				
*	Shipping/Handling		Lot		$0.00				

Special Instructions:

Subtotal: $28,475.00

Tax:

Total: $28,475.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

Revised 1/2/2008

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

Changed at the Oct 4, 2011 City Council Meeting. Removed from Consent to discuss.

October 4, 2011
City Council Meeting Date
Agenda Items Only

Matt Mihalevich	Engineering	Development Services
Submitted By	**Division**	**Department**

Action Required:

Staff recommends approval of a resolution awarding Bid #11-49 and approval for the installation of a modular block retaining wall for the approaches ramps to the tunnel under Garland Avenue along the U of A Farm Trail by Second Nature Property Management, LLC. of Fayetteville in the amount of $138,555.00. Approval of a 20% contingency in the amount of $27,711.00 is also requested.

		Transportation Bond Trail Improvements
$ 166,266.00	$ 776,574.00	U of A Farm Trail (Scull Creek / Agri Park)
Cost of this request	Category / Project Budget	Program Category / Project Name
4520.9550.5814.05	$ 276,400.27	Trail Improvements
Account Number	Funds Used to Date	Program / Project Category Name
06036 / 1002	$ 500,173.73	Sales Tax Construction Bond
Project Number	Remaining Balance	Fund Name

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

Department Director — Date: 09-30-2011

City Attorney — Date: 9-30-11

Finance and Internal Services Director — Date: 9-30-2011

Chief of Staff — Date: 10-3-11

Mayor — Date: 10/4/11

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office: 09-30-11 P01:02 RCVD

Received in Mayor's Office: ENTERED 9/30/11

Comments:

Revised January 15, 2009

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

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

From: Matt Mihalevich, Trails Coordinator MM

Date: September 30th, 2011

Subject: U of A Farm Trail – Retaining Wall Bids

RECOMMENDATION:

Staff recommends approval of a resolution awarding Bid #11-49 and approval for the installation of a modular block retaining wall for the approaches ramps to the tunnel under Garland Avenue along the U of A Farm Trail by Second Nature Property Management, LLC. of Fayetteville in the amount of $138,555.00. Approval of a 20% contingency in the amount of $27,711.00 is also requested.

PROPOSAL:

The U of A Farm Trail is a 2.3 mile trail connecting the new bike lanes on Mt. Comfort Road east under I-540 across the U of A Farm to connect to Scull Creek Trail (see attached site plan). This highly requested trail will provide a safe alternative transportation route for the numerous residents and businesses west of I-540.

The new trail will include a tunnel for safe crossing under Garland Avenue (Highway 112). The tunnel will be located just south of Knapp Street near the Pauline Whitaker Animal Science Arena. The City's in-house trails construction crew has been working diligently on the trail project and will install the tunnel using the precast box culvert sections. The trail will ramp down at 5% on each side of the tunnel and retaining walls are necessary to retaining the soil on each side as the trail drops below grade and under Garland Avenue. Due to the scale of the retaining wall project, we have requested assistance of a private contractor to perform the installation work. The City's in-house construction crew will assist with the major excavation and site preparation for the retaining wall contractor.

BUDGET IMPACT:

Funds for the installation of the fencing have been budgeted as part of the Transportation Bond Trail Development Program. Five bidders responded to the request for formal bids and Second Nature Property Management, LLC was low bid - See attached bid tab.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #11-49 AND APPROVING A CONTRACT WITH SECOND NATURE PROPERTY MANAGEMENT, LLC IN THE AMOUNT OF $138,555.00 FOR THE CONSTRUCTION OF A MODULAR BLOCK RETAINING WALL NEAR THE GARLAND AVENUE U OF A FARM TRAIL TUNNEL, AND APPROVING A TWENTY PERCENT (20%) 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 #11-49 and approves a contract with Second Nature Property Management, LLC in the amount of $138,555.00 for the construction of a modular block retaining wall near the Garland Avenue U of A Farm Trail tunnel.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a twenty percent (20%) project contingency.

PASSED and **APPROVED** this 4th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

City Of Fayetteville

Requisition No.:	Date: 10/4/2011
P.O Number:	Expected Delivery Date:
Vendor #: Pending	Vendor Name: Second Nature Property Management, LLC
Mail Yes:__ No:____	
Address:	Fob Point:
Taxable Yes:____ No:____	Quotes Attached Yes:____ No:____
City:	State:
Zip Code:	Ship to code: 104
Divison Head Approval:	
Requester: Ginny Gundlach / Matt Mihalevich	Requester's Employee #: 2283
Extension: 489	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Retaining Wall Installation for U of A Farm Trail	1	LOT	$138,555.00	$138,555.00	4520.9550.5814.05	06036.1002		
2					$0.00				
3					$0.00				
4					$0.00				
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				

Special Instructions:

Per Bid 11-49 and Res. _____

Subtotal:	$138,555.00
Tax:	$0.00
Total:	$138,555.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

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
October 4, 2011

A meeting of the Fayetteville City Council will be held on October 4, 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 September 20, 2011 City Council meeting minutes.

2. **2011 Justice Assistance Grant (JAG):** A resolution approving acceptance of a 2011 Justice Assistance Grant through the U.S. Department of Justice in coordination with other Washington County law enforcement agencies and approving a budget adjustment in the amount of $88,866.00.

3. **Internal Revenue Service (IRS) Task Force:** A resolution approving a budget adjustment in the amount of $41,405.00 to recognize revenue and expenses related to city participation in the local Internal Revenue Service (IRS) Task Force for the fiscal years of 2010-2011 and 2011-2012.

4. **Bid #11-49 Second Nature Property Management, LLC:** A resolution awarding Bid #11-49 and approving a contract with Second Nature Property Management, LLC in the amount of $151,371.34 for the construction of a modular block retaining wall near the Garland Avenue U of A Farm Trail tunnel, and approving a twenty percent (20%) project contingency.

5. **Bid #11-54 Alarmtec Systems:** A resolution awarding Bid #11-54 and approving a contract and change order with Alarmtec Systems in the total amount of $166,500.00 for construction of security improvements at Drake Field.

6. **Bid #11-55 All Around Landscaping, Inc.:** A resolution awarding Bid #11-55 and approving a contract with All Around Landscaping, Inc. in the amount of $66,704.00 from the tree escrow fund for the purchase and planting of trees, and approving a ten percent (10%) project contingency.

7. **Police Department Policies:** A resolution approving Fayetteville Police Department Policies 25.1 Grievance Procedures, 35.1 Performance Evaluation, and 61.4.3 Towed Vehicles.

8. **Washington Regional Medical Center Real Estate Conveyance Agreement:** A resolution to approve the Real Estate Conveyance Agreement with Washington Regional Medical Center.

B. Unfinished Business:

1. **Revised Ward Boundaries:** An ordinance to approve revised Ward Boundaries to equalize ward populations after the 2010 Federal Census and to amend §32.03 of the Fayetteville Code. ***This ordinance was left on the Second Reading at the September 20, 2011 City Council meeting.***

   Left on the Second Reading

2. **RZN 11-3866 (2013 E. Mission Blvd./Ruskin Heights):** An ordinance rezoning that property described in rezoning petition RZN 11-3866, for approximately 28.93 acres located at 2013 East Mission Boulevard from R-PZD, Residential Planned Zoning District (R-PZD 06-2299 Ruskin Heights), to CS, Community Services; NC, Neighborhood Conservation; and RSF-4, Residential Single Family, 4 units/acre, subject to a Bill of Assurance. ***This ordinance was left on the Second Reading at the September 20, 2011 City Council meeting.***

   Left on the Second Reading

C. New Business:

1. **RZN 11-3892 (Fayette Junction Master Plan):** An ordinance rezoning that property described in rezoning petition RZN 11-3892, for select properties located within the Fayette Junction Master Plan area totaling approximately 225 acres.

2. **RZN 11-3916 (Holcomb Heights PZD/TTO LLC:** An ordinance rezoning that property described in rezoning petition RZN 11-3916, for approximately 19.24 acres, located at the southwest corner of Salem and Weir Road from R-PZD, Residential Planned Zoning District (06-2281 Holcomb Heights I and 07-2613 Holcomb Heights II), to RSF-8, Residential Single-Family, 8 units per acre.

3. **ADM 11-3943 Belclaire Subdivision-Amendment to Bill of Assurance):** An ordinance to amend Section 3 of Ordinance No. 4605 to amend the Bill of Assurance to reduce the minimum house size from 2,400 square feet to 2,000 square feet.

4. **ADM 11-3948 (Oakland Courts Right-of-Way Dedication):** A resolution to approve a lesser right-of-way dedication than required by the Master Street Plan for property located on Storer Avenue between North Street and Hazel Street.

5. **Amend XXI Rules of Conduct for all Fayetteville Boards, Commissions and Committees:** An ordinance to amend Article XXI Rules of Conduct for all Fayetteville Boards, Commissions and Committees to codify uniform eligibility and attendance requirements, to repeal Resolution No. 27-01 and to amend or repeal any conflicting code sections.

6. **2011 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2011 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

D. City Council Agenda Session Presentations:

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

City Council Agenda Items
and
Contracts, Leases or Agreements

10/4/2011
City Council Meeting Date
Agenda Items Only

G. Tabor	Patrol	Police
Submitted By	**Division**	**Department**

Action Required:

Approval of the non-matching 2011 Justice Assistance Grant (JAG) Local Solicitation award and budget adjustment in the amount of $88,866.00.

$ 88,866.00	$ 88,866.00	JAG Local Solicitation - 2011
Cost of this request	Category / Project Budget	Program Category / Project Name
1010-2920-various	$ -	Grant
Account Number	Funds Used to Date	Program / Project Category Name
09022-2011	$ 88,866.00	General
Project Number	Remaining Balance	Fund Name

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

Department Director — Date: 9-9-11

City Attorney — Date: 9-9-11

Finance and Internal Services Director — Date: 9-9-2011

Chief of Staff — Date: 9-12-11

Mayor — Date: 9/12/11

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office: 09-09-11 P02:09 RCVD

Received in Mayor's Office: ENTERED 9/9/11

Comments:

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council Members

From: Greg Tabor, Chief of Police

Date: September 7, 2011

Subject: **Approval of the 2011 Justice Assistance Grant Local Solicitation Award and Budget Adjustment**

PROPOSAL:

The U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance has awarded the 2011 Justice Assistance Grant for local agencies. This award is based in part on population and violent crime rates and is given to Fayetteville, Springdale and Washington County to share. This grant does not require any local cash matching funds. This is the seventh year for this grant to be a shared grant with these other agencies.

The Fayetteville Police Department will be the lead agency for this grant award in the amount of $88,866. Fayetteville will receive $38,741 for two (2) training courses, extended range taser, digital camera with accessories, cell phone service for patrol supervisors, audio/video equipment, security shelving for evidence, crime scene software, binoculars, and a laser color printer for internet crimes against children cases. Please see budget detail worksheet for complete listing of training, equipment, and supplies to be purchased.

Within this grant award, Springdale will receive $34,340 to purchase twenty (20) automatic vehicle locators (AVL), and Washington County will receive $15,785 to purchase in-car video upgrades.

RECOMMENDATION:

Staff recommends approval of the 2011 JAG Local Solicitation Grant Award and budget adjustment in the amount of $88,866.00 for the purchase of law enforcement equipment. If you should have any comments or question regarding this grant award, please contact me at extension 500.

BUDGET IMPACT:

This grant does not require any local cash or in-kind matching funds.

RESOLUTION NO. _____

A RESOLUTION APPROVING ACCEPTANCE OF A 2011 JUSTICE ASSISTANCE GRANT THROUGH THE U.S. DEPARTMENT OF JUSTICE IN COORDINATION WITH OTHER WASHINGTON COUNTY LAW ENFORCEMENT AGENCIES AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $88,866.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves acceptance of a 2011 Justice Assistance Grant through the U.S. Department of Justice in coordination with other Washington County law enforcement agencies in the total amount of $88,866.00.

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 4th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

V11.0425

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Division: Police Department: Police	Request Date	Adjustment Number
2011		10/4/2011	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Establish budget for 2011 Justice Assistance Grant Local Solicitation award.

Division Head	Date	Prepared By:	wnewman
Budget Director	9-9-11 Date	Reference:	
Department Director	9-9-11 Date	Budget & Research Use Only	
Paul A. Becker Finance Director	9-9-2011 Date	Type: A B C D E P	
Chief of Staff	9-12-11 Date	General Ledger Date	
Mayor	9/12/11 Date	Posted to General Ledger	Initial / Date
		Checked / Verified	Initial / Date

TOTAL BUDGET ADJUSTMENT 88,866 88,866

Account Name	Account Number	Increase / (Decrease) Expense	Increase / (Decrease) Revenue	Project.Sub Number
Minor equipment	1010.2920.5210.00	33,785		09022 . 2011
Travel & training	1010.2920.5304.00	4,956		09022 . 2011
Trans to Springdale	1010.2920.5737.00	34,340		09022 . 2011
Trans to Wash Co Sheriff	1010.2920.5738.00	15,785		09022 . 2011
Federal Grant-Operational	1010.0001.4309.01		88,866	09022 . 2011
				.
				.
				.
				.

EXHIBIT
A

Budget Detail Worksheet

A. Personnel

Name/Position	Computation	Cost		
		-		
	Total Personnel	-	$	-

B. Fringe Benefits

Name/Position	Computation	Cost		
		-		
	Total Fringe Benefits	-	$	-

C. Travel

Purpose	Computation	Cost		
City of Fayetteville				
NNDDA Training	2 officers @ $1,478.20	$ 2,956.40		
COP Training	2 officers @ $1,000	2,000.00		
	Total Travel	4,956.40	$	**4,956.40**

D. Equipment

Item	Computation	Cost		
Washington County Sheriffs Office				
Upgrade In-car Video System	1 Server w/ 100 dvd-r capacity	$ 15,785.00		
	Total Washington County Equipment	**$ 15,785.00**	$	**15,785.00**

E. Supplies

Item	Computation	Cost		
City of Fayetteville				
Patrol Officer Business Cards	120 officers @$25	$ 3,000.00		
Taser Extended Range Electronic Projectile	1 Shotgun @ $650 plus cartridges	1,700.00		
Wireless Color Laser Printer	1 @ $554	554.00		
Canon Digital Camera w/ lens, supplies, accessories	1 @ $1,000	1,110.00		
Cellphone service for Patrol Supervisors	10 supervisors @$55 per month x 3 years	19,800.00		
Interview Room Audio/Video Equipment	2 A/V Systems @ $750 each	1,500.00		
Canon 10x30 Image Stabilization Binoculars	2 @ $475	950.00		
Visual Statement 3-D Crime Scene Drawing Softwa	1 license @ $1,390 plus $125 warranty	1,515.00		
Evidence Secure Shelving	New security shelving for Evidence	3,655.60		
	Total Fayetteville Equipment	**$ 33,784.60**		
City of Springdale				
Automatic Vehicle Locator (AVL)	20 patrol units @ $1,717 each	$ 34,340.00		
	Total Springdale Equipment	**$ 34,340.00**		
	Total Supplies		$	**68,124.60**

F. Construction

Purpose		Cost		
		-		
	Total Construction		$	-

Budget Detail Worksheet

G. Consultants

Name of Consultant	Cost
	-
Total Consultants	**$ -**

H. Other Costs

Description	Cost
	-
Total Other Costs	**$ -**

Budget Total **$ 88,866.00**

Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Office of Justice Programs *Washington, D.C. 20531*

September 1, 2011

Chief Greg Tabor
City of Fayetteville
100A West Rock Street
Fayetteville, AR 72701-6069

Dear Chief Tabor:

On behalf of Attorney General Eric Holder, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 11 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Local Solicitation in the amount of $88,866 for City of Fayetteville.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Jennifer Lugue, Program Manager at (202) 305-8064; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

Denise O'Donnell
Director

Enclosures

Department of Justice
Office of Justice Programs
Office for Civil Rights

Washington, D.C. 20531

September 1, 2011

Chief Greg Tabor
City of Fayetteville
100A West Rock Street
Fayetteville, AR 72701-6069

Dear Chief Tabor:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of Federal funding to compliance with Federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice is responsible for ensuring that recipients of financial aid from OJP, its component offices and bureaus, the Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS) comply with applicable Federal civil rights statutes and regulations. We at OCR are available to help you and your organization meet the civil rights requirements that come with Justice Department funding.

Ensuring Access to Federally Assisted Programs

As you know, Federal laws prohibit recipients of financial assistance from discriminating on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in respect to employment practices but also in the delivery of services or benefits. Federal law also prohibits funded programs or activities from discriminating on the basis of age in the delivery of services or benefits.

Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with Department of Justice Guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of Federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website at http://www.lep.gov.

Ensuring Equal Treatment for Faith-Based Organizations

The Department of Justice has published a regulation specifically pertaining to the funding of faith-based organizations. In general, the regulation, Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of all Justice Department Program Participants, and known as the Equal Treatment Regulation 28 C.F.R. part 38, requires State Administering Agencies to treat these organizations the same as any other applicant or recipient. The regulation prohibits State Administering Agencies from making award or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the Department of Justice to fund inherently religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must be held separately from the Department of Justice funded program, and customers or beneficiaries cannot be compelled to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see OCR's website at http://www.ojp.usdoj.gov/ocr/etfbo.htm.

State Administering Agencies and faith-based organizations should also note that the Safe Streets Act, as amended; the Victims of Crime Act, as amended; and the Juvenile Justice and Delinquency Prevention Act, as amended, contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the Justice Department has concluded that the Religious Freedom Restoration Act (RFRA) is reasonably construed, on a case-by-case basis, to require that its funding agencies permit faith-based organizations applying for funding under the applicable program statutes both to receive DOJ funds and to continue considering religion when hiring staff, even if the statute that authorizes the funding program generally forbids considering of religion in employment decisions by grantees.

Questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment may be directed to this Office.

Enforcing Civil Rights Laws

All recipients of Federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to the prohibitions against unlawful discrimination. Accordingly, OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal employment opportunity standards.

Complying with the Safe Streets Act or Program Requirements

In addition to these general prohibitions, an organization which is a recipient of financial assistance subject to the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, 42 U.S.C. § 3789d(c), or other Federal grant program requirements, must meet two additional requirements:(1) complying with Federal regulations pertaining to the development of an Equal Employment Opportunity Plan (EEOP), 28 C.F.R. § 42.301-.308, and (2) submitting to OCR Findings of Discrimination (see 28 C.F.R. §§ 42.205(5) or 31.202(5)).

1) Meeting the EEOP Requirement

In accordance with Federal regulations, Assurance No. 6 in the Standard Assurances, COPS Assurance No. 8.B, or certain Federal grant program requirements, your organization must comply with the following EEOP reporting requirements:

If your organization has received an award for $500,000 or more and has 50 or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare an EEOP and submit it to OCR for review **within 60 days from the date of this letter**. For assistance in developing an EEOP, please consult OCR's website at http://www.ojp.usdoj.gov/ocr/eeop.htm. You may also request technical assistance from an EEOP specialist at OCR by dialing (202) 616-3208.

If your organization received an award between $25,000 and $500,000 and has 50 or more employees, your organization still has to prepare an EEOP, but it does not have to submit the EEOP to OCR for review. Instead, your organization has to maintain the EEOP on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to OCR. The Certification Form can be found at http://www.ojp.usdoj.gov/ocr/eeop.htm.

If your organization received an award for less than $25,000; or if your organization has less than 50 employees, regardless of the amount of the award; or if your organization is a medical institution, educational institution, nonprofit organization or Indian tribe, then your organization is exempt from the EEOP requirement. However, your organization must complete Section A of the Certification Form and return it to OCR. The Certification Form can be found at http://www.ojp.usdoj.gov/ocr/eeop.htm.

2) Submitting Findings of Discrimination

In the event a Federal or State court or Federal or State administrative agency makes an adverse finding of discrimination against your organization after a due process hearing, on the ground of race, color, religion, national origin, or sex, your organization must submit a copy of the finding to OCR for review.

Ensuring the Compliance of Subrecipients

If your organization makes subawards to other agencies, you are responsible for assuring that subrecipients also comply with all of the applicable Federal civil rights laws, including the requirements pertaining to developing and submitting an EEOP, reporting Findings of Discrimination, and providing language services to LEP persons. State agencies that make subawards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of subrecipients.

If we can assist you in any way in fulfilling your civil rights responsibilities as a recipient of Federal funding, please call OCR at (202) 307-0690 or visit our website at http://www.ojp.usdoj.gov/ocr/.

Sincerely,

Michael L. Alston

Michael L. Alston
Director

cc: Grant Manager
Financial Analyst

Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Grant

1. RECIPIENT NAME AND ADDRESS (Including Zip Code)
City of Fayetteville
100A West Rock Street
Fayetteville, AR 72701-6069

4. AWARD NUMBER: 2011-DJ-BX-2967

5. PROJECT PERIOD: FROM 10/01/2010 TO 09/30/2014
BUDGET PERIOD: FROM 10/01/2010 TO 09/30/2014

6. AWARD DATE 09/01/2011

7. ACTION
Initial

1A. GRANTEE IRS/VENDOR NO.
716018462

8. SUPPLEMENT NUMBER
00

9. PREVIOUS AWARD AMOUNT $ 0

3. PROJECT TITLE
Washington County FY 2011 JAG Project

10. AMOUNT OF THIS AWARD $ 88,866

11. TOTAL AWARD $ 88,866

12. SPECIAL CONDITIONS
THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).

13. STATUTORY AUTHORITY FOR GRANT
This project is supported under FY11(BJA - JAG) 42 USC 3750, et seq.

15. METHOD OF PAYMENT
GPRS

AGENCY APPROVAL

16. TYPED NAME AND TITLE OF APPROVING OFFICIAL
Denise O'Donnell
Director

17. SIGNATURE OF APPROVING OFFICIAL

GRANTEE ACCEPTANCE

18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL
Greg Tabor
Chief of Police

19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL

19A. DATE

AGENCY USE ONLY

20. ACCOUNTING CLASSIFICATION CODES

FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REG.	SUB.	POMS	AMOUNT
X	B	DJ	80	00	00		88866

21. KDJUGT1587

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)

Department of Justice Office of Justice Programs **Bureau of Justice Assistance**	**AWARD CONTINUATION SHEET** **Grant**	PAGE 2 OF 6

PROJECT NUMBER 2011-DJ-BX-2967 AWARD DATE 09/01/2011

SPECIAL CONDITIONS

1. The recipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.

2. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302), that is approved by the Office for Civil Rights, is a violation of its Certified Assurances and may result in suspension or termination of funding, until such time as the recipient is in compliance.

3. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and further understands and agrees that funds may be withheld, or other related requirements may be imposed, if outstanding audit issues (if any) from OMB Circular A-133 audits (and any other audits of OJP grant funds) are not satisfactorily and promptly addressed, as further described in the current edition of the OJP Financial Guide.

4. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.

5. The recipient must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has either 1) submitted a false claim for grant funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. This condition also applies to any subrecipients. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by -

   mail:

   Office of the Inspector General
   U.S. Department of Justice
   Investigations Division
   950 Pennsylvania Avenue, N.W.
   Room 4706
   Washington, DC 20530

   e-mail: oig.hotline@usdoj.gov

   hotline: (contact information in English and Spanish): (800) 869-4499

   or hotline fax: (202) 616-9881

   Additional information is available from the DOJ OIG website at www.usdoj.gov/oig.

6. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OJP.

7. The recipient agrees to comply with any additional requirements that may be imposed during the grant performance period if the agency determines that the recipient is a high-risk grantee. Cf. 28 C.F.R. parts 66, 70.

SPECIAL CONDITIONS

8. Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), the Department encourages recipients and sub recipients to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

9. The recipient agrees to comply with applicable requirements regarding Central Contractor Registration (CCR) and applicable restrictions on subawards to first-tier subrecipients that do not acquire and provide a Data Universal Numbering System (DUNS) number. The details of recipient obligations are posted on the Office of Justice Programs web site at http://www.ojp.gov/funding/ccr.htm (Award condition: Central Contractor Registration and Universal Identifier Requirements), and are incorporated by reference here. This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

10. The recipient agrees to comply with applicable requirements to report first-tier subawards of $25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients of award funds. Such data will be submitted to the FFATA Subaward Reporting System (FSRS). The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the Office of Justice Programs web site at http://www.ojp.gov/funding/ffata.htm (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here. This condition, and its reporting requirement does not apply to grant awards made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own operate in his or her name).

11. Award recipients must verify Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

12. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

13. To support public safety and justice information sharing, OJP requires the grantee to use the National Information Exchange Model (NIEM) specifications and guidelines for this particular grant. Grantee shall publish and make available without restriction all schemas generated as a result of this grant to the component registry as specified in the guidelines. For more information on compliance with this special condition, visit http://www.niem.gov/implementationguide.php.

14. Grantee agrees to comply with all confidentiality requirements of 42 U.S.C. section 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. Grantee further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23.

SPECIAL CONDITIONS

15. The recipient agrees that any information technology system funded or supported by OJP funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). Recipient may not satisfy such a fine with federal funds.

16. The recipient agrees to ensure that the State Information Technology Point of Contact receives written notification regarding any information technology project funded by this grant during the obligation and expenditure period. This is to facilitate communication among local and state governmental entities regarding various information technology projects being conducted with these grant funds. In addition, the recipient agrees to maintain an administrative file documenting the meeting of this requirement. For a list of State Information Technology Points of Contact, go to http://www.it.ojp.gov/default.aspx?area=policyAndPractice&page=1046.

17. The grantee agrees to comply with the applicable requirements of 28 C.F.R. Part 38, the Department of Justice regulation governing "Equal Treatment for Faith Based Organizations" (the "Equal Treatment Regulation"). The Equal Treatment Regulation provides in part that Department of Justice grant awards of direct funding may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of direct grants may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from the grantee or a sub-grantee must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment. See http://www.ojp.gov/about/ocr/equal_fbo.htm.

18. The recipient acknowledges that all programs funded through subawards, whether at the state or local levels, must conform to the grant program requirements as stated in BJA program guidance.

19. Grantee agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

SPECIAL CONDITIONS

20. The grantee agrees to assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these grant funds, either directly by the grantee or by a subgrantee. Accordingly, the grantee agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the grant, the grantee agrees to contact BJA.

    The grantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the grantee, a subgrantee, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:
    a. New construction;
    b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
    c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
    d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
    e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

    The grantee understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The grantee further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at http://www.ojp.usdoj.gov/BJA/resource/nepa.html, for programs relating to methamphetamine laboratory operations.

    Application of This Special Condition to Grantee's Existing Programs or Activities: For any of the grantee's or its subgrantees' existing programs or activities that will be funded by these grant funds, the grantee, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

21. The recipient agrees that funds received under this award will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

22. Award recipients must submit quarterly a Federal Financial Report (SF-425) and annual performance reports through GMS (https://grants.ojp.usdoj.gov). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA), P.L. 103-62, applicants who receive funding under this solicitation must provide data that measure the results of their work. Therefore, quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

23. The recipient agrees to monitor subawards under this JAG award in accordance with all applicable statutes, regulations, OMB circulars, and guidelines, including the OJP Financial Guide, and to include the applicable conditions of this award in any subaward. The recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of JAG funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

AWARD CONTINUATION SHEET
Grant

PROJECT NUMBER 2011-DJ-BX-2967 AWARD DATE 09/01/2011

SPECIAL CONDITIONS

24. The recipient is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate and expend the grant funds in the trust fund (including any interest earned) during the period of the grant. Grant funds (including any interest earned) not expended by the end of the grant period must be returned to the Bureau of Justice Assistance no later than 90 days after the end of the grant period, along with the final submission of the Federal Financial Report (SF-425).

25. The grantee agrees that within 120 days of award acceptance, each member of a law enforcement task force funded with these funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, will complete required online (internet-based) task force training. The training is provided free of charge online through BJA's Center for Task Force Integrity and Leadership (www.ctfli.org). All current and new task force members are required to complete this training once during the life of the award, or once every four years if multiple awards include this requirement. This training addresses task force effectiveness as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. Additional information is available regarding this required training and access methods via BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Incorporates NEPA Compliance in Further Developmental Stages for City of Fayetteville

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:
a. New construction;
b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see http://www.ojp.usdoj.gov/BJA/resource/nepa.html.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.

Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY

Grant

PROJECT NUMBER
2011-DJ-BX-2967

PAGE 1 OF 1

This project is supported under FY11(BJA - JAG) 42 USC 3750, et seq.

1. STAFF CONTACT (Name & telephone number)

Jennifer Lugue
(202) 305-8064

2. PROJECT DIRECTOR (Name, address & telephone number)

Willie Newman
Financial Coordinator
100-A West Rock Street
Fayetteville, AR 72701-6191
(479) 587-3579

3a. TITLE OF THE PROGRAM

FY 2011 Justice Assistance Grant Program

3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)

4. TITLE OF PROJECT

Washington County FY 2011 JAG Project

5. NAME & ADDRESS OF GRANTEE

City of Fayetteville
100A West Rock Street
Fayetteville, AR 72701-6069

6. NAME & ADRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 10/01/2010 TO: 09/30/2014

8. BUDGET PERIOD

FROM: 10/01/2010 TO: 09/30/2014

9. AMOUNT OF AWARD

$ 88,866

10. DATE OF AWARD

09/01/2011

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following purpose areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; and 7) crime victim and witness programs (other than compensation).

The city of Fayetteville, serving as the fiscal agent, is in a disparate relationship with the county of Washington and the city of Springdale. Fayetteville City will purchase patrol business cards, tasers, taser cartridges, printer, digital camera, cellphone, video equipment, binoculars, software, evidence secure shelving, and

officer training. Washington County will purchase an in-car video system. Springdale City will purchase an automatic vehicle locator. The equipment purchased with JAG funds will reduce area crime and violence in communities.

NCA/NCF

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

10/4/2011
City Council Meeting Date
Agenda Items Only

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

Action Required:

Staff recommends approval of a budget adjustment in the amount of $41,405 for the revenues and expenses within the IRS Task Force's fiscal years of 2010-2011 and 2011-2012, respectively.

$ 41,405.00	$ -	IRS Reimbursements
Cost of this request	Category / Project Budget	Program Category / Project Name
1010-2920-various	$ -	Tracking
Account Number	Funds Used to Date	Program / Project Category Name
08071-1011		
08071-1112	$ -	General
Project Number	Remaining Balance	Fund Name

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

Department Director — Date 9-9-11

City Attorney — Date 9-9-11

Finance and Internal Services Director — Date 9-9-2011

Chief of Staff — Date 9-12-11

Mayor — Date 9/12/11

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 09-09-11 P02:09 RCVD Kim G.

Received in Mayor's Office ENTERED 9/9/11

Comments:

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council Members

From: Greg Tabor, Chief of Police

Date: September 2, 2011

Subject: **Budget Adjustment for Participation in the Internal Revenue Service Task Force**

PROPOSAL:

In the Fall of 2008, the Fayetteville Police Department assigned an officer to the local Internal Revenue Service (IRS) Task Force. Our local IRS Task Force is one of only fifteen (15) such task forces to be established nationwide for the purpose of covert investigations of fraudulent activity. The IRS Task Force provides reimbursement funding for all overtime and operating expenses associated with this officer's task force activities. These expenses included overtime, vehicle lease, fuel, cellular phone, and travel.

Our local IRS Task Force has proven successful in numerous investigations and received funding for continuation from the Department of Treasury. We will be reimbursed for all overtime and operating expenses associated with our officer's task force activities. The attached budget adjustment in the amount of $41,405 will establish a budget for the revenues and expenses within the IRS Task Force's fiscal years of 2010-2011 and 2011-2012, respectively. The IRS Task Force fiscal year is October through September. These funds will be tracked within our Project Accounting System.

RECOMMENDATION:

Staff recommends approval of a budget adjustment in the amount of $41,405 for the revenues and expenses within the IRS Task Force's fiscal years of 2010-2011 and 2011-2012, respectively.

BUDGET IMPACT:

Expenses will be reimbursed through funding from the Department of Treasury.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $41,405.00 TO RECOGNIZE REVENUE AND EXPENSES RELATED TO CITY PARTICIPATION IN THE LOCAL INTERNAL REVENUE SERVICE (IRS) TASK FORCE FOR THE FISCAL YEARS OF 2010-2011 AND 2011-2012

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 in the amount of $41,405.00 to recognize revenue and expenses related to City participation in the local Internal Revenue Service (IRS) Task Force for the fiscal years of 2010-2011 and 2011-2012. A copy of the budget adjustment is attached as Exhibit "A".

PASSED and **APPROVED** this 4th day of October, 2011.

APPROVED: ATTEST:

By: _____ By: _____

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

A. 3 V11.0425
Internal Revenue Service
(IRS) Task Force
Page Number 1

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Division: Police Department: Police	Request Date	Adjustment Number
2011		10/4/2011	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Establish revenue and expense budget for our participation in the Internal Revenue Service (IRS) Task Force for fiscal years 2010-2011 and 2011-2012.

Division Head	Date	Prepared By:	wnewman
Budget Director	Date	Reference:	
Department Director	Date	Budget & Research Use Only Type: A B C D E P	
Finance Director	Date	General Ledger Date	
Chief of Staff	Date	Posted to General Ledger	Initial / Date
Mayor	Date	Checked / Verified	Initial / Date

	TOTAL BUDGET ADJUSTMENT	41,405	41,405	
		Increase / (Decrease)		
Account Name	Account Number	Expense	Revenue	Project.Sub Number
Personnel Svcs - Contra	1010.2920.5120.00	3,500		08071 . 1011
Fuel	1010.2920.5213.04	250		08071 . 1011
Travel & training	1010.2920.5304.00	4,500		08071 . 1011
Lease expense	1010.2920.5309.00	1,300		08071 . 1011
Telephone expense	1010.2920.5310.01	855		08071 . 1011
IRS Reimbursement	1010.0001.4310.02		10,405	08071 . 1011
Personnel Svcs - Contra	1010.2920.5120.00	12,000		08071 . 1112
Fuel	1010.2920.5213.04	2,400		08071 . 1112
Travel & training	1010.2920.5304.00	7,600		08071 . 1112
Lease expense	1010.2920.5309.00	7,800		08071 . 1112
Telephone expense	1010.2920.5310.01	1,200		08071 . 1112
IRS Reimbursement	1010.0001.4310.02		31,000	08071 . 1112

EXHIBIT A

AGREEMENT BETWEEN TREASURY LAW ENFORCEMENT AGENCIES and LOCAL, COUNTY AND STATE LAW ENFORCEMENT AGENCIES FOR THE REIMBURSEMENT OF EXPENSES

****

This agreement is entered into by the Fayetteville Police Department and Internal Revenue Service, Criminal Investigation, for the purpose of receiving reimbursable costs incurred by the Fayetteville Police Department in providing resources to joint operations/task forces.

Payments may be made to the extent they are included in the Treasury law enforcement agency's Fiscal Year Plan, and the monies are available within the Treasury Forfeiture Fund to satisfy the request(s) for reimbursable overtime expenses.

I. LIFE OF THIS AGREEMENT

This agreement is effective on the date it is signed by both parties and terminates on the last day of the current Fiscal Year. Agreements are required on a Fiscal Year basis and must be renewed, if appropriate, by September 30th of each Fiscal Year for the following Fiscal Year.

II. AUTHORITY

This agreement is established pursuant to the provisions of 31 U.S.C. 9703, the Treasury Forfeiture Fund Act of 1992, which provides for the reimbursement of certain expenses of local, county, and state law enforcement agencies incurred as participants in joint operations/task forces with a Department of the Treasury law enforcement agency.

III. PURPOSE OF THIS AGREEMENT

This agreement establishes the procedures and responsibilities of both the Fayetteville Police Department and the Criminal Investigation, Internal Revenue Service, for the reimbursement of certain overtime and other expenses pursuant to 31 U.S.C. 9703.

IV. NAME OF TASK FORCE/JOINT OPERATION (If Applicable)

The Name of this Task Force is Suspicous Activity Report Task Force

Projected Dates of Remaining Operation: 10/01/2010 to 09/30/2011.

V. CONDITIONS AND PROCEDURES

A. Assignment of Fayetteville Police Department Officers

To the maximum extent possible, Fayetteville Police Department shall assign dedicated officer(s) to the Task Force/Joint Operations.

The Fayetteville Police Department shall provide the Criminal Investigation, Internal Revenue Service, with the names, titles, badge or ID numbers of the officer(s) assigned to the Task Force/joint Operation in an attachment to this agreement.

B. Requests for Reimbursement of Overtime Expenses

1. The Fayetteville Police Department may request reimbursement for payment of overtime expenses directly related to work performed by its officer(s) assigned as members of a Joint Task Force/Operation with the Criminal Investigation, Internal Revenue Service, for the purpose of conducting official Treasury investigations.

2. The Fayetteville Police Department shall provide the Criminal Investigation, Internal Revenue Service, within 10 days of the signing of this agreement, a mandatory ACH Vendor Payment Enrollment Form for Electronic Funds Transfer.

3. Invoices submitted for the payment of overtime to Fayetteville Police Department officer(s) shall be submitted on the agency's letterhead. The invoice shall be signed by an authorized representative of that agency.

4. The Fayetteville Police Department will submit all requests for reimbursable payments together with appropriate documentation to the Criminal Investigation, Internal Revenue Service, , ATTN: SSA Glen Perciful, P. O. Box 706, Little Rock, AR 72203

   The Fayetteville Police Department shall certify that the request is for overtime expenses incurred by the Fayetteville Police Department for Participation with a joint operation conducted with the Criminal Investigation, Internal Revenue Service. The Fayetteville Police Department shall also certify that requests for reimbursement of overtime expenses have not been made to other Federal law enforcement agencies who may also be participating with the task force/joint operation.

The Fayetteville Police Department acknowledges that they remain fully responsible for their obligations as the employer of the officer(s) assigned to the task force/joint operation and are responsible for the payment of overtime earnings, withholdings, insurance coverage and all other requirements by law, regulation, ordinance or contract regardless of the reimbursable overtime charges incurred.

5. All requests for reimbursement of costs incurred by the Fayetteville Police Department must be approved and certified by the Criminal Investigation, Internal Revenue Service. The Treasury law enforcement agency shall countersign the invoices for payment.

6. All requests for reimbursement of costs are to be received by Criminal Investigation, Internal revenue Service no later than 15 days after the previous month end. These requests for reimbursement are to be for a full month time period, from the first day to the last day of the month. *There should not be invoices covering only part of the month, as in 1/10/04 – 1/25/04.*

7. The Fayetteville Police Department is limited to a maximum reimbursement for all overtime expenses in connection with this operation of $12,000 per year under this agreement. By statute, no single officer may earn more than $15,000.00 per fiscal year in overtime regardless of the number of agreements he/she is authorized on. Travel and related expenses should not exceed a maximum of $12,000 for this task force/joint operation for the Fiscal Year period.

8. The total dollar value of this agreement may be adjusted at anytime by Criminal Investigation, Internal Revenue Service based upon the following:

   A) The Criminal Investigation, Internal Revenue Service may modify the total dollar obligation, resulting in an increase or decrease, if they determine that the original obligated amount is not commensurate with the rate of reimbursable requests, based on their analysis of submitted reimbursement requests.

   B) The adjustments to the total dollar value of this agreement may result in a partial and/or total reduction of reimbursement funds requested. Any modification made to an authorized agreement will be documented in writing and immediately provided to the impacted state and local agency.

C. PROGRAM AUDIT

This agreement and its procedures are subject to audit by the Criminal Investigation, Internal Revenue Service, Department of the Treasury, Office of Inspector General, the General Accounting Office, and other government designated auditors. The Fayetteville Police Department agrees to permit such audits and agrees to maintain all records relating to these transactions for a period of not less than three years; and in the event of an on-going audit, until the audit is completed.

These audits may include reviews of any and all records, documents, reports, accounts, invoices, receipts or expenditures relating to this agreement; as well as the interview of any and all personnel involved in these transactions.

D. **REVISIONS**

The terms of this agreement may be amended upon the written approval of both the Fayetteville Police Department and the Criminal Investigation, Internal Revenue Service. The revision becomes effective upon the date of approval.

E. **NO PRIVATE RIGHT CREATED**

This is an internal government agreement between a Treasury Law Enforcement Agency and the Fayetteville Police Department, a Local/County/State Law Enforcement Agency, and is not intended to confer any right or benefit to any private person or party.

****

9-10-10
Signature Date:

Chief
Printed Name Title
Fayetteville Police Department

Signature Date:

Special Agent in Charge
Printed Name Title
Criminal Investigation
Nashville Field Office
Internal Revenue Service

9-10-10
Signature Date:

Judy Cohea Support Services Mgr.
Printed Name Title
Chief Financial Officer
Fayetteville Police Department

Signature Date:

Printed Name Title
Criminal Investigation
Internal Revenue Service
Washington, DC

AGREEMENT BETWEEN TREASURY LAW ENFORCEMENT AGENCIES and LOCAL, COUNTY AND STATE LAW ENFORCEMENT AGENCIES FOR THE REIMBURSEMENT OF EXPENSES

This agreement is entered into by the Fayetteville Police Department and Internal Revenue Service, Criminal Investigation, for the purpose of receiving reimbursable costs incurred by the Fayetteville Police Department in providing resources to joint operations/task forces.

Payments may be made to the extent they are included in the Treasury law enforcement agency's Fiscal Year Plan, and the monies are available within the Treasury Forfeiture Fund to satisfy the request(s) for reimbursable overtime expenses.

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III. PURPOSE OF THIS AGREEMENT

This agreement establishes the procedures and responsibilities of both the Fayetteville Police Department and the Criminal Investigation, Internal Revenue Service, for the reimbursement of certain overtime and other expenses pursuant to 31 U.S.C. 9703.

IV. NAME OF TASK FORCE/JOINT OPERATION (If Applicable)

The Name of this Task Force is Razorback Financial Crimes Task force

Projected Dates of Remaining Operation: 10/01/2011 to 09/30/2012.

V. CONDITIONS AND PROCEDURES

A. Assignment of Fayetteville Police Department Officers

To the maximum extent possible, Fayetteville Police Department shall assign dedicated officer(s) to the Task Force/Joint Operations.

The Fayetteville Police Department shall provide the Criminal Investigation, Internal Revenue Service, with the names, titles, badge or ID numbers of the officer(s) assigned to the Task Force/joint Operation in an attachment to this agreement.

B. Requests for Reimbursement of Overtime Expenses

1. The Fayetteville Police Department may request reimbursement for payment of overtime expenses directly related to work performed by its officer(s) assigned as members of a Joint Task Force/Operation with the Criminal Investigation, Internal Revenue Service, for the purpose of conducting official Treasury investigations.

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4. The Fayetteville Police Department will submit all requests for reimbursable payments together with appropriate documentation to the Criminal Investigation, Internal Revenue Service, , ATTN: SSA Glen Perciful, P.O. Box 706, Little Rock, AR 72203; ph 501-396-5921

   The Fayetteville Police Department shall certify that the request is for overtime expenses incurred by the Fayetteville Police Department for Participation with a joint operation conducted with the Criminal Investigation, Internal Revenue Service. The Fayetteville Police Department shall also certify that requests for reimbursement of overtime expenses have not been made to other Federal law enforcement agencies who may also be participating with the task force/joint operation.

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7. The Fayetteville Police Department is limited to a maximum reimbursement for all overtime expenses in connection with this operation of $12,000per year under this agreement. By statute, no single officer may earn more than $15,000.00 per fiscal year in overtime regardless of the number of agreements he/she is authorized on. Travel and related expenses should not exceed a maximum of $ 19,000 (Includes lease vehicle and fuel) for this task force/joint operation for the Fiscal Year period.

8. The total dollar value of this agreement may be adjusted at anytime by Criminal Investigation, Internal Revenue Service based upon the following:

   A) The Criminal Investigation, Internal Revenue Service may modify the total dollar obligation, resulting in an increase or decrease, if they determine that the original obligated amount is not commensurate with the rate of reimbursable requests, based on their analysis of submitted reimbursement requests.

   B) The adjustments to the total dollar value of this agreement may result in a partial and/or total reduction of reimbursement funds requested. Any modification made to an authorized agreement will be documented in writing and immediately provided to the impacted state and local agency.

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This agreement and its procedures are subject to audit by the Criminal Investigation, Internal Revenue Service, Department of the Treasury, Office of Inspector General, the General Accounting Office, and other government designated auditors. The Fayetteville Police Department agrees to permit such audits and agrees to maintain all records relating to these transactions for a period of not less than three years; and in the event of an on-going audit, until the audit is completed.

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The terms of this agreement may be amended upon the written approval of both the Fayetteville Police Department and the Criminal Investigation, Internal Revenue Service. The revision becomes effective upon the date of approval.

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****

9.9.11

Signature Date:

Chief of Police

Greg Tabor

Printed Name Title
Fayetteville Police Department

Signature Date:

Special Agent in Charge

Printed Name Title
Criminal Investigation
Nashville Field Office
Internal Revenue Service

Judy Cohea 9/7/2011

Signature Date:

Judy Cohea Fiscal Officer

Printed Name Title
Chief Financial Officer
Fayetteville Police Department

Signature Date:

Printed Name Title
Criminal Investigation
Internal Revenue Service
Washington, DC

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

October ~~9~~ 4th, 2011
City Council Meeting Date
Agenda Items Only

Matt Mihalevich	Engineering	Development Services
Submitted By	**Division**	**Department**

Action Required:

Staff recommends approval of a resolution awarding Bid #11-49 and approval for the installation of a modular block retaining wall for the approach ramps to the tunnel under Garland Avenue along the U of A Farm Trail by Second Nature Property Management, LLC. of Fayetteville in the amount of $138,555.00 plus sales tax in the amount of $12,816.34 for a total contract amount of $151,371.34. Approval of a 20% contingency in the amount of $30,274.27 is also requested.

		Transportation Bond Trail Improvements
$ 181,645.61	$ 776,574.00	U of A Farm Trail (Scull Creek / Agri Park)
Cost of this request	Category / Project Budget	Program Category / Project Name
4520.9550.5814.05	$ 276,400.27	Trail Improvements
Account Number	Funds Used to Date	Program / Project Category Name
06036 / 1002	$ 500,173.73	Sales Tax Construction Bond
Project Number	Remaining Balance	Fund Name

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

Department Director — Date 09.15.2011

City Attorney — Date 9-16-11

Finance and Internal Services Director — Date 9-16-2011

Chief of Staff — Date

Mayor — Date 9/19/11

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 09-15-11 A08:18 RCVD

Received in Mayor's Office ENTERED 9/16/11 BCP

Comments:

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

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

From: Matt Mihalevich, Trails Coordinator MM

Date: September 14th, 2011

Subject: U of A Farm Trail – Retaining Wall Bids

RECOMMENDATION:

Staff recommends approval of a resolution awarding Bid #11-49 and approval for the installation of a modular block retaining wall for the approach ramps to the tunnel under Garland Avenue along the U of A Farm Trail by Second Nature Property Management, LLC. of Fayetteville in the amount of $138,555.00 plus sales tax in the amount of $12,816.34 for a total contract amount of $151,371.34. Approval of a 20% contingency in the amount of $30,274.27 is also requested.

PROPOSAL:

The U of A Farm Trail is a 2.3 mile trail connecting the new bike lanes on Mt. Comfort Road east under I-540 across the U of A Farm to connect to Scull Creek Trail (see attached site plan). This highly requested trail will provide a safe alternative transportation route for the numerous residents and businesses west of I-540.

The new trail will include a tunnel for safe crossing under Garland Avenue (Highway 112). The tunnel will be located just south of Knapp Street near the Pauline Whitaker Animal Science Arena. The City's in-house trails construction crew has been working diligently on the trail project and will install the tunnel using the precast box culvert sections. The trail will ramp down at 5% on each side of the tunnel and retaining walls are necessary to retaining the soil on each side as the trail drops below grade and under Garland Avenue. Due to the scale of the retaining wall project, we have requested assistance of a private contractor to perform the installation work. The City's in-house construction crew will assist with the major excavation and site preparation for the retaining wall contractor.

BUDGET IMPACT:

Funds for the installation of the fencing have been budgeted as part of the Transportation Bond Trail Development Program. Five bidders responded to the request for formal bids and Second Nature Property Management, LLC was low bid - See attached bid tab.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #11-49 AND APPROVING A CONTRACT WITH SECOND NATURE PROPERTY MANAGEMENT, LLC IN THE AMOUNT OF $151,371.34 FOR THE CONSTRUCTION OF A MODULAR BLOCK RETAINING WALL NEAR THE GARLAND AVENUE U OF A FARM TRAIL TUNNEL, AND APPROVING A TWENTY PERCENT (20%) 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 #11-49 and approves a contract with Second Nature Property Management, LLC in the amount of $151,371.34 for the construction of a modular block retaining wall near the Garland Avenue U of A Farm Trail tunnel.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a twenty percent (20%) project contingency.

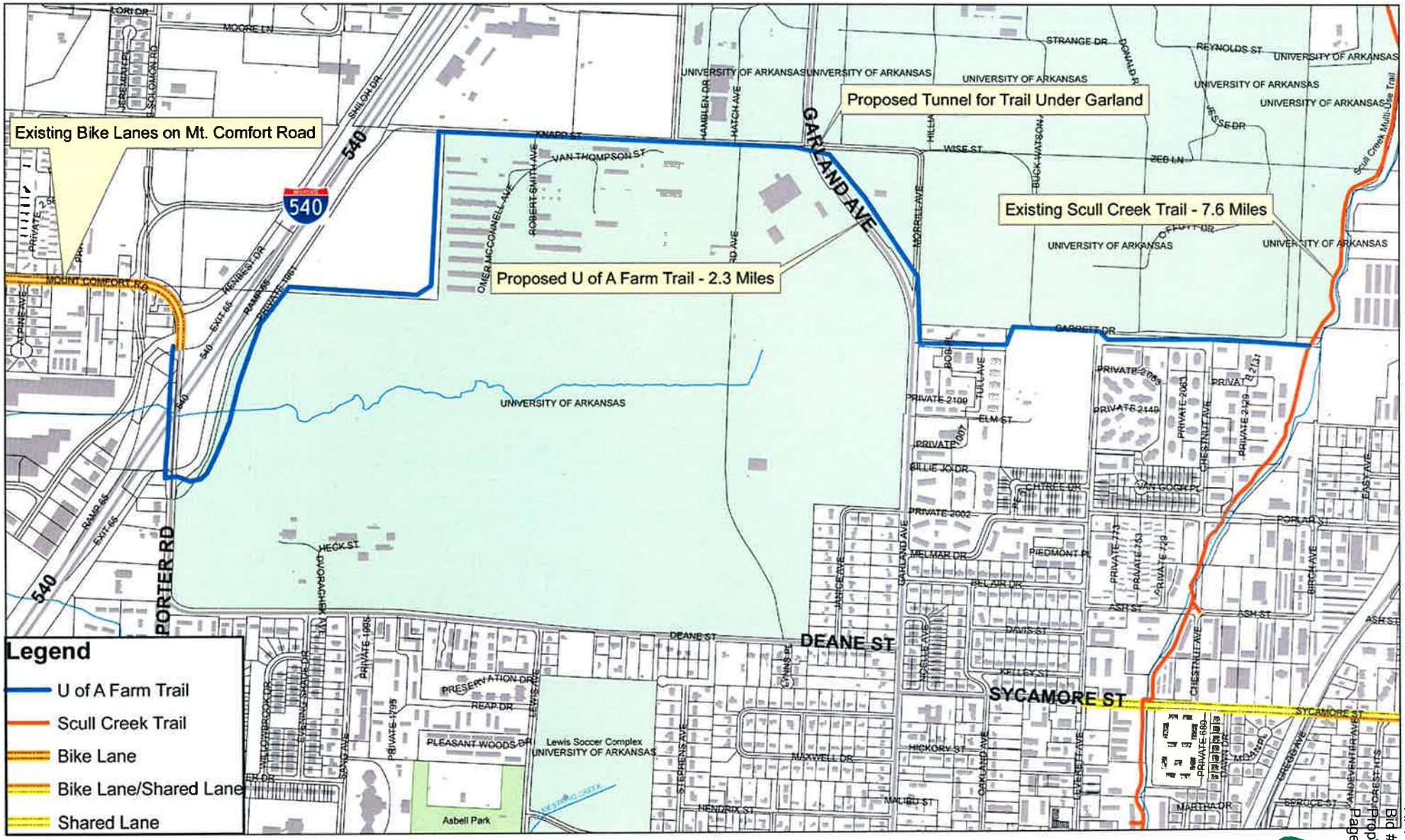
PASSED and **APPROVED** this 4th day of October, 2011.

APPROVED:

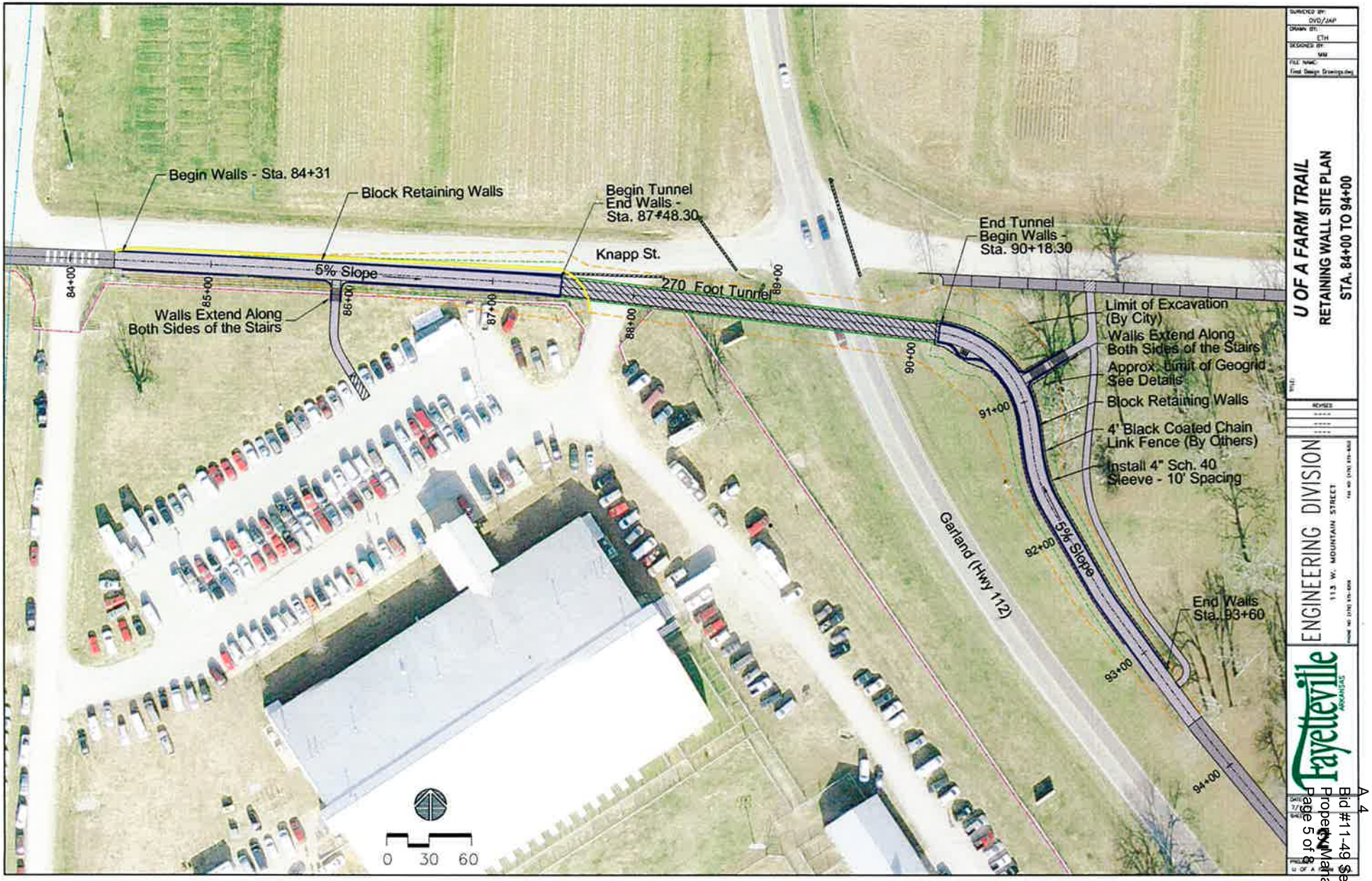
By: _____
LIONELD JORDAN, Mayor

ATTEST:

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



U of A Farm Trail
2.3 Miles


Begin Walls - Sta. 84+31
Block Retaining Walls
Begin Tunnel
End Walls -
Sta. 87+48.30
Knapp St.
5% Slope
270 Foot Tunnel
Walls Extend Along
Both Sides of the Stairs
84+00
85+00
86+00
87+00
88+00
89+00
90+00
91+00
92+00
93+00
94+00
End Tunnel
Begin Walls -
Sta. 90+18.30
Limit of Excavation
(By City)
Walls Extend Along
Both Sides of the Stairs
Approx. Limit of Geogrid -
See Details
Block Retaining Walls
4' Black Coated Chain
Link Fence (By Others)
Install 4" Sch. 40
Sleeve - 10' Spacing
5% Slope
End Walls
Sta. 93+60
Garland (Hwy 112)
0 30 60
U OF A FARM TRAIL
RETAINING WALL SITE PLAN
STA. 84+00 TO 94+00
ENGINEERING DIVISION
113 W. MOUNTAIN STREET
Fayetteville
ARKANSAS

BID: 11-49
DATE: 09/14/11
TIME: 3:00 PM
CITY OF FAYETTEVILLE

Bid 11-49, Construction - Block Retaining Wall Installation

	BIDDER	TOTAL BASE BID
1	Fochtman Enterprises, Inc.	$ 412,810.00
2	General Construction Solutions, Inc.	$ 345,618.01
3	Prime Contracting, Inc.	$ 232,076.00
4	Second Nature Property Management, LLC	$ 138,555.00

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

CERTIFIED: P Vice
P. VICE, PURCH MGR

Witness

9/15/11
DATE

City Of Fayetteville

Requisition No.:	Date: 10/4/2011
P.O Number:	Expected Delivery Date:
Vendor #: ~~Pending~~ 21427	Vendor Name: Second Nature Property Management, LLC
Mail Yes:__ No:____	
Address:	Fob Point:
Taxable Yes:____ No:__	Quotes Attached Yes:____ No:____
City:	State:
Zip Code:	Ship to code: 104
Divison Head Approval:	
Requester: Ginny Gundlach / Matt Mihalevich	Requester's Employee #: 2283
Extension: 489	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Retaining Wall Installation for U of A Farm Trail	1	LOT	$138,555.00	$138,555.00	4520.9550.5814.05	06036.1002		
2					$0.00				
3					$0.00				
4					$0.00				
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				

Special Instructions:

Per Bid 11-49 and Res. _____

Subtotal:	$138,555.00
Tax:	$12,816.34
Total:	$151,371.34

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

10/4/2011
City Council Meeting Date
Agenda Items Only

Ray M. Boudreaux	Aviation	Transportation
Submitted By	**Division**	**Department**

Action Required:

Action Required: (1) Approve a Contract with Alarmtec Systems, Contact: Brent Blankinship, 5636 Commerce Ct., Sherwood AR 72120, 501-834-2079, 501-834-1087 fax, bblankinship@alarmtec.com. (2) Approve Change Order #1, (reduction) to Contract with Alarmtec Systems.

$ 166,500.00	$ 180,000.00	Airport Security Improvements
Cost of this request	Category / Project Budget	Program Category / Project Name
5550.3960.5804.00	$ 13,288.00	Avi/ED Imp
Account Number	Funds Used to Date	Program / Project Category Name
11017 1	$ 166,712.00	Airport
Project Number	Remaining Balance	Fund Name

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

Department Director — Date 9-16-11

City Attorney — Date 9-16-11

Finance and Internal Services Director — Date 9-21

Chief of Staff — Date 28 Sep 11

Mayor — Date 9/20/11

Previous Ordinance or Resolution # 66-11

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office 09-15-11 P04:00 RCVD

Received in Mayor's Office 9/19/11 ENTERED

Comments: This project has received a 80/20 grant from the Arkansas Department of Aeronautics.

City Council Meeting of: October 4, 2011
Agenda Item Number:

Fayetteville
ARKANSAS

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: September 1, 2011

SUBJECT: **Approve Contract and Changer Order No 1 with Alarmtec Systems for the Airport Security Upgrade Project. Signature of the Mayor,**

RECOMMENDATION: Approve Contract and Change Order No. 1 with Alarmtec Systems for the Airport Security Upgrade Project. Signature of the Mayor.

BACKGROUND: The City Council approved application to the State for a grant to complete a Security Improvement Project that installs cameras on the entry points, the Terminal Apron and the fuel storage areas. The State approved the grant and the project received one bid to do the work. The bid was over the available funding so the project was successfully negotiated with the contractor for an amount within the available funding. Several items were eliminated from the project to get the price down. The contractor will install cameras, new entry gate controllers and provide a security badge system which includes RFID coding that can be used to control the entry gates. The system will reside on the City network so that access can be gained by Dispatch during non-duty hours. This project meets the FAA recommendations for general aviation airport security.

BUDGET IMPACT: This project is funded by an 80/20 State Aeronautics Commission Grant. 20% will be funded by the Airport use of fund balance.

Attachments:
- Staff Review
- Budget Adjustment
- Contract
- Change Order No. 1

4500 SOUTH SCHOOL AVENUE, SUITE F ▪ AIRPORT TERMINAL BUILDING ▪ FAYETTEVILLE AR 72701
479.718.7642 ▪ 479.718.7646 FAX ▪ www.accessfayetteville.org/government/aviation
airport_economic_development@ci.fayetteville.ar.us

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #11-54 AND APPROVING A CONTRACT AND CHANGE ORDER WITH ALARMTEC SYSTEMS IN THE TOTAL AMOUNT OF $166,500.00 FOR CONSTRUCTION OF SECURITY IMPROVEMENTS AT DRAKE FIELD

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 #11-54 and approves a contract and change order with Alarmtec Systems in the total amount of $166,500.00 for construction of security improvements at Drake Field.

PASSED and **APPROVED** this 4th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

CONTRACT
Reference Bid: 11-54, Construction – Drake Field Security Improvements
Contractor: Alarmtec Systems
Term: Specific Project Only – No Revolving Terms

This contract executed this _____ day of October, 2011, between the **City of Fayetteville, Arkansas**, and **Alarmtec Systems.** In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Alarmtec Systems** 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 11-54 as stated in **Alarmtec Systems's** bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid 11-54.

2. The City of Fayetteville shall pay **Alarmtec Systems** for work as described in Bid 11-54, submitted by **Alarmtec Systems** for the **Total Lump Sum Bid, less Deductive Alternates #1 and #2, $189,800,** and **less Change Order No. 1 ($23,300.00)** for a **Contract Sum of One Hundred Sixty Six Thousand, Five Hundred Dollars $166,500.00**. Payments will be made after approval and acceptance of work, and submission of detailed invoice. Payments will be made within a maximum 30 days after acceptance of invoice. **Alarmtec Systems** agrees to make detailed invoicing related documentation available to the City.

3. The Contract documents which comprise this contract between the City of Fayetteville and **Alarmtec Systems** consist of this Contract and the following documents attached hereto, and made a part hereof:

   A. Bid form identified as Invitation to Bid 11-54 with the specifications and conditions typed thereon.
   B. **Alarmtec Systems** bid proposal, including mark up on materials and hourly rates.
   C. The Notice to Prospective Bidders and the Bid Tabulation.

4. These Contract documents constitute the entire agreement between the City of Fayetteville and **Alarmtec Systems** and may be modified only by a duly executed written instrument signed by the City of Fayetteville and **Alarmtec Systems.**

5. **Alarmtec Systems** shall not assign its duties under the terms of this agreement.

6. **Alarmtec Systems** 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.

7. **Alarmtec Systems** 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, **Alarmtec Systems** 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 **Alarmtec Systems.**

8. **Alarmtec Systems** shall furnish proof of licensure as required by all federal, state, and local agencies.

9. This contract may be terminated without penalty by the City of Fayetteville or **Alarmtec Systems** with 30 days written notice.

10. **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 coping costs pursuant to the FOIA may be assessed for this compliance.

11. **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.

ALARMTEC SYSTEMS

By: _____

_____
Printed Name & Title

ATTEST:

_____
Company Secretary

_____
Business Address

_____
City, State & Zip Code

Date Signed: _____

CITY OF FAYETTEVILLE, ARKANSAS

_____
LIONELD JORDAN, Mayor

ATTEST:

_____
Sondra Smith, City Clerk

Date Signed: _____

CHANGE ORDER

Order No. 1
Date: September 15, 2011
Agreement Date: October 4, 2011

NAME OF PROJECT: Drake Field Security Improvements Bid 11-54

OWNER: City of Fayetteville (Airport Department)

CONTRACTOR: Alarmtec Systems

The following changes are hereby made to the CONTRACT DOCUMENTS:

1. Decrease the amount of work by decreasing the number of cameras by five(5) and provide three (3) POE switches and add Two weather proof enclosure at to two gate locations to house the POE switches, and delete the seeding, mulching and sodding. (See attached deductive change order request from the Electrical Engineer. **Deduct cost of $ 23,300.00 to the contract..**

Justification:

1. The Owner requires the project cost to be reduced to be within the available funding from the State Aeronautics Dept. and the Drake Field Airport Account.

CONTRACT PRICE prior to this Change Orders:	$ 189,800.00
Decrease in Contract Price:	($ 23,300.00)
Revised CONTRACT PRICE Including this Change Order:	$ 165,500.00
Final Completion Time Prior to This Change Order:	90 Calendar Days
Net Time Change Resulting From This Change Order:	0 Calendar Days

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

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

Requested by: _____
Alarmtec Systems Date

Recommended by: _____
McClelland Consulting Engineers, Inc. Date

Approved by: _____
City of Fayetteville Date

Engineering Elements, PLLC
2820 E. Millennium Drive, Suite 2 Fayetteville, Arkansas 72703
Phone (479) 695-1333 Fax: (479) 251-7982

PROPOSAL REQUEST MEMORANDUM

Proposal Request No. 1

Number of Pages: 2

TO: Wayne Jones
COMPANY: McClelland Consulting Engineers
FROM: Shane R. Lanning
DATE: September 14, 2011
PROJECT: Drake Field Access Security
PROJECT #: 10-025

SUBJECT: Deduct Change Order

Please find attached a description of work required to make the changes that we have previously discussed. It is intended that this description be added to or included with your standard Proposal Request form. This is being sent only to you. If you have any questions or comments regarding this description of work, please do not hesitate to call.

ELECTRICAL

1. REFER TO SHEET E1.2, ENLARGED TERMINAL ELECTRICAL PLAN:

1.1 Delete camera C.08 on the west face of the terminal building.

1.2 Relocate camera C.09 from the present light pole location to the northwest corner of Hanger Building 14. Provide POE switch, conduit and wiring to Hanger 14 to accommodate this camera.

1.3 Delete camera C.11 on the east face of the terminal building. Coordinate the exact final aiming of cameras C.10, C.12 and C.13 with the owner during construction.

2. REFER TO SHEET E1.2, ENLARGED FUEL STORAGE ELECTRICAL PLAN:

2.1 Delete camera C.06 from this project.

2.2 Delete the new pole for camera C.07. Camera C.07 shall be relocated to the existing pole light approximately 30 feet east of the camera location presently shown. Provide POE switch and weatherproof enclosure at this gate location for new camera, with fiberoptic back to terminal building.

3. REFER TO SHEET E1.2, ENLARGED ARFF ELECTRICAL PLAN:

3.1 Delete camera C.03 at the Pilot's Lounge.

3.2 Provide POE switch and weatherproof enclosure at the gate location on Lancaster Drive for new camera and card reader, with fiberoptic back to the Pilot's Lounge.

4. REFER TO ADDENDUM NO. 2:

4.1 Delete all seed and straw and/or sodding at all new trench areas.

END OF PROPOSAL REQUEST MEMORANDUM

New contract 2184

RESOLUTION NO. 66-11

A RESOLUTION APPROVING TASK ORDER #2 TO A CONTRACT WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF $12,900.00 TO DEVELOP AND BID AN AIRPORT SECURITY IMPROVEMENTS PROJECT FOR FAYETTEVILLE EXECUTIVE AIRPORT-DRAKE FIELD CONTINGENT UPON RECEIPT OF A GRANT AWARD, AUTHORIZING APPLICATION FOR AND ACCEPTANCE OF A GRANT FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS IN THE AMOUNT OF $144,000.00, 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 approves task order #2 to a contract with McClelland Consulting Engineers, Inc. in the amount of $12,900.00 to develop and bid an airport security improvements project for Fayetteville Executive Airport-Drake Field, a copy of which is attached as Exhibit "A", contingent upon the receipt of a grant award.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes application for and acceptance of a grant from the Arkansas Department of Aeronautics in the amount of $144,000.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "B".

PASSED and **APPROVED** this 19th day of April, 2011.

APPROVED:

By: Lioneld Jordan
LIONELD JORDAN, Mayor

ATTEST:

By: Sondra E. Smith
SONDRA E. SMITH, City Clerk/Treasurer

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

10/4/2011
City Council Meeting Date
Agenda Items Only

Alison Jumper	Park Planning/Urban Forestry	Parks and Recreation
Submitted By	**Division**	**Department**

Action Required:

A resolution awarding Bid #11-55 and approval of a contract with All Around Landscaping, Inc. in the amount of $66,704 with a 10% project contingency of $6,670 for a total project cost of $73,374 for the planting of trees for the Tree Escrow Fund.

$ 73,374.00	$ 141,448.00	Tree Escrow Funds
Cost of this request	Category / Project Budget	Program Category / Project Name
4470.9470.5315.00	$ 3,817.80	Contract Services
Account Number	Funds Used to Date	Program / Project Category Name
08001.2-5	$ 137,630.20	Sales Tax/Tree Escrow
Project Number	Remaining Balance	Fund Name

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

Department Director — Date 9-16-11

City Attorney — Date 9-16-11

Finance and Internal Services Director — Date 9-16-2011

Chief of Staff — Date 9-16-11

Mayor — Date 9/19/11

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 09-16-11 P02:19 RCVD

Received in Mayor's Office ENTERED 9/16/11 BCP

Comments:

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director

From: Alison Jumper, Park Planning Superintendent

Date: September 19, 2011

Subject: **Bid # 11-55, 2011 Tree Planting Project**
Agenda Request for October 4, 2011 Meeting

PROPOSAL:

Chapter 167 of the Unified Development Code requires developers to pay money in-lieu to the Tree Escrow Fund when it is not practical to plant mitigation trees at the time of final plat approval. Monies received must be spent within seven years. Trees must be planted within the street rights-of-way of the development. If the planting space is not adequate for trees, then the trees may be planted within a 1-mile radius of the development. If a proper planting space cannot be located within one mile, the trees must be planted within the associated Park Land Dedication Quadrant. Approximately $120,000 must be spent by December 2012. This money will be used to plant trees and restore tree canopy in various sections of the city where canopy was removed by development.

The bid for the 2011 Tree Planting Project was advertised on August 15th and 29th and opened on September 14th. Four vendors including All Around Landscaping, Inc., GroundServ, Four Seasons Landscaping and Professional Landscaping Co., Inc. submitted bids with All Around Landscaping, Inc. being the low bid in the amount of $66,704.

If approved, the trees will be planted by December 31, 2011. A bid to water and prune the trees planted with the 2010 project (312 trees) as well as the 2011 trees (473) is anticipated to be advertised in the spring of 2012.

RECOMMENDATION:

A resolution awarding Bid #11-55 and approval of a contract with All Around Landscaping, Inc. in the amount of $66,704 with a 10% project contingency of $6,670.40 for a total project cost of $73,374 for the planting of trees for the Tree Escrow Fund.

BUDGET IMPACT:

The project is funded with Tree Escrow funds. Total project cost including a 10% project contingency is $73,374.

Attachments:
Staff Review Form
Certified Bid Tab
Contract Agreement Signed by Contractor
Purchase Requisition

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #11-55 AND APPROVING A CONTRACT WITH ALL AROUND LANDSCAPING, INC. IN THE AMOUNT OF $66,704.00 FROM THE TREE ESCROW FUND FOR THE PURCHASE AND PLANTING OF TREES, AND APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #11-55 and approves a contract with All Around Landscaping, Inc. in the amount of $66,704.00 from the Tree Escrow Fund for the purchase and planting of trees.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a ten percent (10%) project contingency.

PASSED and **APPROVED** this 4th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

SCANNED

Fayetteville
ARKANSAS

BID: 11-55
DATE: 09/14/11
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 11-55, Construction - Tree Planting Project

	BIDDER		TOTAL BASE BID
1	All Around Landscaping		$ 66,704.00
2	Four Seasons Landscaping		$ 97,392.00
3	GroundServ		$ 93,833.85
4	Profressional Landscaping		$ 140,000.00

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

CERTIFIED: P. Vice
P. VICE, PURCH MGR

Witness

9/15/11
DATE

AGREEMENT

BETWEEN CITY OF FAYETTEVILLE AND CONTRACTOR

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2011 by and between the City of Fayetteville, Arkansas (hereinafter called CITY OF FAYETTEVILLE) and All Around Landscape, Inc. (herein after called CONTRACTOR).

CITY OF FAYETTEVILLE and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents.

This project includes the installation of trees along street rights-of-way located within the city limits of Fayetteville, Arkansas. Street tree plantings include providing and installing minimum 2" caliper trees, as specified, along with any additional materials and equipment used in the performance of this contract.

Article 2. PROJECT MANAGER.

The Project is being managed by:

City of Fayetteville Parks and Recreation Department
1455 South Happy Hollow Road
Fayetteville, Arkansas 72701

and will hereinafter be called PARKS AND RECREATION DEPARTMENT PROJECT MANAGER and who is to act as CITY OF FAYETTEVILLE's representative, assume all duties and responsibilities, and have the rights and authority assigned to PROJECT MANAGER in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1. All trees must be installed no later than December 31, 2011.

3.2. *Liquidated Damages.* CITY OF FAYETTEVILLE and CONTRACTOR recognize that time is of the essence of the Agreement and that CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, City of Fayetteville and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars ($250.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final

payment or any proper extension thereof granted by CITY OF FAYETTEVILLE, CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars ($250.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

CITY OF FAYETTEVILLE shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1. For all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 4.2.

PAYMENT ITEMS
Bid 11-55 2011 Tree Planting Project

All Around Landscaping, Inc.					
ITEM #	DESCRIPTION	UNIT	EST. QTY.	UNIT PRICE	TOTAL
1	Mobilization (not to exceed 5% of project bid)	L.S.	1	$0.00	$0.00
2	Bur Oak *Quercus macrocarpa* - Complete in place per specifications & details	E.A.	33	$203.00	$6,699.00
3	Chinkapin Oak *Quercus muelenbergii* - Complete in place per specifications & details	E.A.	38	$184.00	$6,992.00
4	Shingle Oak *Quercus imbricaria* - Complete in place per specifications & details	E.A.	26	$316.00	$8,216.00
5	Swamp White Oak *Quercus bicolor* - Complete in place per specifications & details	E.A.	29	$184.00	$5,336.00
6	Loblolly Pine *Pinus taeda* - Complete in place per specifications & details	E.A.	6	$196.00	$1,176.00
7	Loblolly Pine *Pinus taeda* - Complete in place per specifications & details	E.A.	8	$196.00	$1,568.00
8	American Elm *Ulmus americana* Cultivar Valley Forge - Complete in place per specifications & details	E.A.	38	$211.00	$8,018.00
9	Red Cedar *Juniperus virginiana* Cultivar Keteleeri - Complete in place per specifications & details	E.A.	10	$221.00	$2,210.00
10	American Linden (Basswood) *Tilia americana* Cultivar Redmond - Complete in place per specifications & details	E.A.	29	$221.00	$6,409.00
11	River Birch (Heritage) *Betula nigra* Cultivar Cully - Complete in place per specifications & details	E.A.	26	$192.00	$4,992.00
12	American Hornbeam *Ostrya virginiana* - Complete in place per specifications & details	E.A.	3	$354.00	$1,062.00
13	Oklahoma Redbud *Cercis reniformis* - Complete in place per specifications & details	E.A.	11	$215.00	$2,365.00
14	Sweetgum *Liquidambar styraciflua* Cultivar Happidaze - Complete in place per specifications & details	E.A.	33	$211.00	$6,963.00
15	Southern Magnolia *Magnolia grandiflora* Cultivar Little Gem - Complete in place per specifications & details	E.A.	3	$259.00	$777.00
16	Southern Magnolia *Magnolia grandiflora* Cultivar Bracken's Brown Beauty - Complete in place per specifications & details	E.A.	8	$211.00	$1,688.00
17	White-flowering Dogwood *Cornus florida* Cultivar Cherokee Princess - Complete in place per specifications & details	E.A.	11	$203.00	$2,233.00
18	Site Restoration	L.S.	1	$0.00	$0.00
	TOTAL CONTRACT AMOUNT				**$66,704.00**

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER as provided in paragraph

9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER as provided in the General Conditions.

5.1. *Progress Payments.* CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, on or about the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02 . All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions and based on the number of units completed in the case of Unit Price Work or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in case, less the aggregate of payments previously made and less such amounts as PARKS AND RECREATION DEPARTMENT PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

95 percent of Work completed (with the balance of 5 percent being retainage), If Work has been 50 percent completed as determined by the PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, and if the character and progress of the Work have been satisfactory to CITY OF FAYETTEVILLE and PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, CITY OF FAYETTEVILLE, on recommendation of PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to CITY OF FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as PARKS AND RECREATION DEPARTMENT PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.3 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER as provided in said paragraphs 14.07.B & C.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce CITY OF FAYETTEVILLE to enter into this Agreement CONTRACTOR makes the following representations:

6.1. CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

6.2. CONTRACTOR has visited the sites and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the Work.

6.3. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

6.4. CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. CONTRACTOR accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.02 of the General Conditions.

CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that CITY OF FAYETTEVILLE and PARKS AND RECREATION DEPARTMENT PROJECT MANAGER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to the employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. CONTRACTOR is aware of the general nature of work to be performed by CITY OF FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

6.7. CONTRACTOR has given PARKS AND RECREATION DEPARTMENT PROJECT MANAGER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER is acceptable to CONTRACTOR and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between CITY OF FAYETTEVILLE and CONTRACTOR concerning the Work consist of the following:

7.1. This Agreement (pages 1 to 7, inclusive).

7.2. Performance and Payment Bonds, (Exhibits A and B respectively).

7.3. Certificates of Insurance, (Exhibit C).

7.4. Documentation submitted by CONTRACTOR prior to Notice of Selection (Exhibit D).

7.5. General Conditions (pages 1 to 42, inclusive).

7.6. Supplementary Conditions (pages 1 to 13 inclusive).

7.7. Specifications consisting of Divisions 1 through 32 as listed in table of contents thereof.

7.8. Addenda numbers 1-4, inclusive.

7.9. One set of drawings (not attached hereto) consisting of: a cover sheet and additional sheets numbered two through three with each sheet bearing the following general title: 2011 Tree Planting Project.

7.10. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

7.10.1. Notice to Proceed

7.10.2 All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 8. MISCELLANEOUS.

8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3. CITY OF FAYETTEVILLE and CONTRACTOR each binds itself, it partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

8.5. 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.

8.6. Freedom of Information Act. City contract 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, 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 photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7. **No liens against this construction project are allowed.** Arkansas law (A.C.A. §§ 18-44-501 through 508) prohibits the filing of any mechanics' or materialmen's liens in relation to this public construction project. Arkansas law requires and the Contractor promises to provide and file with the Circuit Clerk of Washington County a bond in a sum equal to the amount of this contract. Any subcontractor or materials supplier may bring an action for non-payment of labor or materials on the bond. The Contractor promises to notify every subcontractor and materials supplier for this project of this paragraph and obtain their written acknowledgement of such notice prior to commencement of the work of the subcontractor or materials supplier.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to CITY OF FAYETTEVILLE, and one counterpart has been delivered to CONTRACTOR. All portions of the Contract Documents have been signed, initialed, or identified by CITY OF FAYETTEVILLE and CONTRACTOR or identified by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER on their behalf.

This Agreement will be effective on _____, 2011 (which is the Effective Date of The Agreement).

CITY OF FAYETTEVILLE:

By: _____
Mayor

[CORPORATE SEAL]

CONTRACTOR

By: _____

[CORPORATE SEAL]

Attest_____

*Attest_____

* If a Corporation, attest by the Secretary.

Address for giving notices

Address for giving notices

(If CITY OF FAYETTEVILLE is a public body, attach License No. 00625 60412 evidence of authority to sign and resolution or other documents Agent for service of process: authorizing execution of Agreement.)

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

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

Requisition No.:

Date: 10/4/2011

P.O Number:

Expected Delivery Date:

Vendor #: 4993

Vendor Name: All Around Landscaping, Inc.

Mail Yes:__ No:____

Address: 1632 S. 56th St.

Fob Point:

Taxable Yes:__ No:____

Quotes Attached Yes:_____ No:_____

City: Springdale

State: AR

Zip Code: 72762

Ship to code:

Divison Head Approval: Connie Edmonston

Requester: Alison Jumper, Park Planning Superintendent

2369

Extension: 469

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2011 Tree Planting Project-Escrow NW Per Bid 11-55	1	LS	11,108.00	$11,108.00	4470.9470.5315.00	08001.2		
2	2011 Tree Planting Project-Escrow NE Per Bid 11-55	1	LS	4,929.00	$4,929.00	4470.9470.5315.00	08001.3		
3	2011 Tree Planting Project-Escrow SW Per Bid 11-55	1	LS	19,726.00	$19,726.00	4470.9470.5315.00	08001.4		
4	2011 Tree Planting Project-Escrow SE Per Bid 11-55	1	LS	30,941.00	$30,941.00	4470.9470.5315.00	08001.5		
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				
*	Shipping/Handling		Lot		$0.00				

Special Instructions:

Tax is included in the bid price.

Subtotal: $66,704.00

Tax:

Total: $66,704.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

Revised 1/2/2008

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

10/4/2011
City Council Meeting Date
Agenda Items Only

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

Action Required:

Staff seeks council approval of a resolution to adopt Fayetteville Police Department Policies: 25.1 Grievance Procedures, 35.1 Performance Evaluation and 61.4.3 Towed Vehicles.

$0		
Cost of this request	Category / Project Budget	Program Category / Project Name
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date 9-16-11

City Attorney — Date 9-20-11

Finance and Internal Services Director — Date

Chief of Staff — Date 21 Sep 11

Mayor — Date 9/22/11

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 09-16-11 A09:24 RCVD

Received in Mayor's Office ENTERED 9/20/11

Comments:

Fayetteville
ARKANSAS
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

To: Mayor Lioneld Jordan and City Council

From: Greg Tabor, Chief of Police

Date: Friday, September 16, 2011

Re: Police Department Policy and Procedures

Recommendation:
Council approves a resolution adopting Fayetteville Police Department Policies: 25.1, Grievance Procedures; 35.1, Performance Evaluation and 61.4.3, Towed Vehicles.

Background and Discussion:
The current Fayetteville Police Department Policies were approved by council resolution #3-99 on January 5th, 1999. The department is currently in the process of reviewing all policies and updating as necessary to conform to current practices and to comply with accreditation standards.

Budget Impact:
None

RESOLUTION NO. _____

A RESOLUTION APPROVING FAYETTEVILLE POLICE DEPARTMENT POLICIES 25.1 GRIEVANCE PROCEDURES, 35.1 PERFORMANCE EVALUATION, AND 61.4.3 TOWED VEHICLES

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 Fayetteville Police Department policies 25.1 Grievance Procedures, 35.1 Performance Evaluation, and 61.4.3 Towed Vehicles. A copy of the policies, marked as Exhibit "A", is attached hereto and made a part hereof.

PASSED and **APPROVED** this 4th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

POLICIES, PROCEDURES, AND RULES

Subject: 25.1 Grievance Procedures	**Effective Date:**
Reference:	Version: 1
CALEA: 25.1.1, 25.1.2, 25.1.3	No. Pages: 2

I. Purpose

The purpose of this directive is to ensure the Fayetteville Police Department will provide fair, equitable and clearly defined means for the resolution of grievance. All employees and supervisors shall be accorded reasonable opportunity to present the facts bearing on a grievance. Grievances will remain confidential between the aggrieved employee and all others directly involved in the resolution of the grievance. This formal grievance procedure is not intended to prevent employees from utilizing other means of recourse.

II. Procedure

A. An aggrieved matter is an issue relating to the employee's working conditions affecting health, safety, job satisfaction, availability of tools or equipment necessary to perform work or other matters related to job performance. It must be a matter within the control of the department and set forth a clear indication of unfairness resulting in harm or damage to the aggrieved employee [CALEA 25.1.1 a.].

B. Items not aggrieved under this policy include but are not limited to discrimination and harassment complaints, disciplinary actions, Office of Professional Standards investigations, job performance evaluations, and terminations.

C. An employee who, after discussing an issue with an immediate supervisor and is not satisfied with the answer, may file a grievance in writing. The grievance must be filed within 10 calendar days after the employee becomes aware of the issue to be grieved [CALEA 25.1.1 b.]. Failure to submit a written grievance within this time limit, or to appeal the grievance to the next level within stated time limits, constitutes abandonment of the formal grievance process. A grievance may be terminated at any time upon receipt of a signed statement from the employee.

D. Grievances shall be submitted in writing and shall include [CALEA 25.1.1 c.]:

1. A written statement of the grievance and facts upon which it is based,
2. Allegations of the specific violation and/or harm done, and
3. A statement of remedy or adjustment being sought.

EXHIBIT
A

E. Personnel shall submit the grievance to their immediate supervisor [CALEA 25.1.1 a.].

1. If the grievance is with the immediate supervisor, it shall be submitted to the next level in the chain of command [CALEA 25.1.1 d.].
2. The supervisor receiving the grievance shall notify the division captain or division head in writing [CALEA 25.1.1 d.].
3. Upon receipt of a grievance, a supervisor has 10 calendar days to attempt the resolution of the grievance [CALEA 25.1.1 d.].
4. If the employee is not satisfied with the response, the employee, within five calendar days, may appeal the grievance following the chain of command [CALEA 25.1.1 b.].
5. The Chief of Police is the final authority of appeal of any grievance [CALEA 25.1.1 a.].
6. If the grievance is against the Chief of Police, it shall be submitted to the City of Fayetteville Mayor [CALEA 25.1.1 d.].

E. Employees are not entitled to representation by legal counsel during a grievance proceeding; however, the employees are allowed to have a non-participating representative with them during the proceeding [CALEA 25.1.1 e.].

F. In the event of a policy conflict, the topic specific policy shall supercede this policy.

III. Coordination

A. The Office of Professional Standards shall be responsible for coordination of grievance procedures [CALEA 25.1.2].

1. Copies of grievances and their investigations shall be filed electronically by name and date with the Office of Professional Standards and kept indefinitely.
2. Due to the sensitivity of such records, access to grievance documents shall be limited to the Chief of Police or his/her designees.
3. The supervisor of the Office of Professional Standards shall conduct an annual analysis of grievances and file a report with the Chief of Police [CALEA 25.1.3].

POLICIES, PROCEDURES, AND RULES

Subject: 35.1.1 Performance Evaluation/Personnel Early Warning System	**Effective Date:**
Reference:	Version: 1
CALEA: 35.1.1, 35.1.2, 35.1.3, 35.1.4, 35.1.5, 35.1.6, 35.1.7, 35.1.8, 35.1.9	No. Pages: 4

I. Purpose

The purpose of this policy is to establish the procedures that enable the Fayetteville Police Department to execute its performance evaluation and personnel early warning system. This policy is designed to support the City of Fayetteville's Policy and Procedure HR-06 "Performance Evaluation" and covers additional requirements of the Fayetteville Police Department not covered in the city's policy.

II. Policy

A. Probationary Employees

Probationary employees are officers in their first year of employment. A separate set of criteria is important in the rating of personnel on probation in order to determine, at the earliest point, their suitability for their current position. [CALEA 35.1.3]

1. All probationary employees of the Fayetteville Police Department will be provided a written performance evaluation report quarterly during the probationary period.
2. The supervisor of the Field Training Officer Program will complete quarterly reports during the probationary period.
3. A "quarterly evaluation form" will be utilized and may be supported by FTO Daily Observation Reports (DOR) and FTO six-week phase reports.

B. Non-Probationary and Civilian Employees

1. Supervisors will be trained on how to do job performance evaluations through the City of Fayetteville Human Resources Division. [CALEA 35.1.1 d]
2. Supervisors of non-probationary employees shall notify non-probationary employees in writing whenever their performance is deemed to be unsatisfactory. [CALEA 35.1.6]
3. Non-probationary and civilian employees shall be evaluated yearly by their immediate supervisor utilizing the prescribed evaluation form. [CALEA 35.1.2]
4. The employee's supervisor shall notify the employee whenever the employee's performance is deemed to be unsatisfactory.

5. Supervisors should be prepared to substantiate ratings at the unsatisfactory level, to advise the employee of unsatisfactory performance, and to define actions that should be taken to improve his or her performance.

C. Consultation with Employee

1. Each employee should be counseled at the conclusion of the rating period in the following areas [CALEA 35.1.7]:

    a. Results of the performance evaluation. Supervisors should incorporate the results of the performance evaluation during the employee consultation [CALEA 35.1.7 a.].
    b. Level of performance expected, rating criteria or goals for the new reporting period. Supervisors must provide goals for the new reporting period as required in the City of Fayetteville Performance Evaluation Form [CALEA 35.1.7 b.].
    c. Career counseling relative to such topics as advancement, specialization, or training appropriate for the employee's position. The presentation of an employee's annual performance evaluation is an opportune time for supervisors to discuss these three topics and to discuss training needs and opportunities, educational opportunities, lateral transfer and promotional opportunities, and areas of achievement and areas for improvement [CALEA 35.1.7 c.].

2. A copy of the completed evaluation report will be provided to the employee by printed copy or electronic record [CALEA 35.1.5 e.]. The original evaluation will be filed in the employee's personnel file at the Human Resources Department. [CALEA 35.1.5 g]

D. Appeals

The Chief of Police will be the final level of authority on appeals for personnel who contest an evaluation report [CALEA 35.1.5 f.]:

1. If an employee contests an evaluation report, an employee will have the right to appeal the evaluation report to the authoring supervisor's supervisor within ten calendar days of receipt of the evaluation,
2. At that point, the authoring supervisor's supervisor will conduct a review of the evaluation report to include corresponding documents and interviews of personnel involved.
3. If the authoring supervisor's supervisor determines any changes are required, they will be made part of the official evaluation report.

E. Rating Evaluation

Raters involved in completing evaluation forms on subordinates should be evaluated by their supervisors regarding the quality of ratings given employees [CALEA 35.1.8]

1. A section to conduct this evaluation is found in each Supervisor Performance Review Form.
2. As part of this evaluation, supervisors may also use the respective evaluator's comment section and goals' section to describe the fairness and impartiality of ratings, participation in counseling rated employees, and their ability to carry out the rater's role as part of the performance evaluation system.

F. Personnel Early Warning System

1. The Fayetteville Police Department will operate a Personnel Early Warning System that will be maintained by the supervisor assigned to Officer of Professional Standards OPS [CALEA 35.1.9 a.]. The system is designed to attempt to identify and rectify an underlying problem an employee may be having which affects job performance; it is not designed to be utilized as a disciplinary tool.

    a. The department will utilize software tracking system and document incidents per officer involving citizen complaints, disciplinary actions, use of force incidents, OPS reports, and officer involved traffic accidents.
    b. The Personnel Early Warning System should both increase agency accountability and offer employees a better opportunity and understanding to meet the agency's goals.

2. The OPS supervisor shall monitor the Personnel Early Warning Tracking System and, when alerted, shall conduct a review of the circumstances causing the alert and make recommendations to the Chief of Police, if necessary. The Personnel Early Warning System may be activated under any of the following listed circumstances. [CALEA 35.1.9 b]

    a. An employee is the subject of four OPS complaints within an eighteen-month time span;
    b. An employee is considered to be at fault in two collisions within a sixty-day time span;
    c. An employee is involved in two pursuits in a sixty-day time span;
    d. An employee is involved in five use of force incidents in a sixty-day time span;
    e. An employee is involved in a combination of five of the aforementioned situations in a six-month time span.

3. The roles of first and second level supervisors, sergeants and lieutenants for sworn personnel, are critical in an effective Personnel Early Warning System [CALEA 35.1.9 d.].

    a. First level supervisors, sergeants for sworn personnel, are charged with the day to day monitoring of each employee assigned under their command. Incidents described that apply to the Personnel Early Warning System should be documented and provided to the second level supervisor, lieutenants for sworn personnel.
    b. Second level supervisors, lieutenants for sworn personnel, shall insure that this documentation is reported to the supervisor of OPS so the information

can be documented into the Personnel Early Warning System and tracked for future use.

c. Front line supervisors, sergeants for sworn personnel, may also be utilized for counseling with the employee and documentation that an employee is aware of a potential problem and is addressing the issue in an appropriate manner.

4. Remedial action, employee assistance, and peer counseling for an employee will ultimately be decided by Administration [CALEA 35.1.9 e, f].

    a. The Personnel Early Warning System is designed to address escalating patterns of less serious misconduct with an end goal of preventing more serious cases of misconduct amongst employees.

5. The supervisor assigned to OPS will conduct a yearly evaluation of the Personnel Early Warning System and provide findings in a report to the Chief of Police [CALEA 35.1.9 c.].

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 61.4.3 Towed Vehicles	**Effective Date:**
Reference:	Version: 1
CALEA: 61.4.3	No. Pages: 4

I. PURPOSE

It is the purpose of this policy to provide guidelines for towing and impounding motor vehicles.

II. POLICY

Officers are routinely faced with the question of whether to impound or tow motor vehicles for purposes of safekeeping property, securing evidence, protecting the public, or securing property under asset forfeiture statutes, among other reasons. This policy provides guidelines that officers should use to decide issues related to the ownership of and procedures for impounding motor vehicles.

III. DEFINITIONS:

1. Unattended: any vehicle left on public property without the consent of an authority in charge of such property or on or near a public way without some person in possession of such vehicle.

2. Abandoned: any vehicle deemed to be unattended as defined in this section [CALEA 61.4.3 a.]:

   Comment: Language changed to mirror city ordinance

   a. When it is apparent the owner does not intend to retake possession.
   b. When it remains unattended for a period of thirty (30) days, during which the owner has given no evidence of intent to retake possession.

3. Public way: any road, highway, street, etc. over which the public may travel, including the paved surface and any berm or shoulder thereof. (Does not include private property).

4. Removal: an officer of this department may request CDC to call a towing service.

5. Investigative Hold: a temporary hold on an impounded vehicle for investigative purposes.

6. Other Hold: a temporary hold placed on an impounded vehicle for reasons other than investigative purposes.

7. Vehicle impoundment: to remove or cause to be removed a vehicle from a street, highway, shoulder, or other public way by an officer and stored in a designated impound yard.

IV. PROCEDURES

1. Except in those instances where an emergency exists, or where the immediate clearing of a public thorough fare calls for an expedited towing service, owners shall be given preference of a towing service.

Comment: Language added to reflect current practices

2. When an officer orders a vehicle towed or impounded, the officer is to inventory the vehicle, including the interior, trunk/cargo area, glove box, all compartments and under seats. All closed/locked containers found during the inventory shall be opened. Caution should be given to ensure no damage is done to personal property. A "Tow Vehicle Inventory" form shall be completed by the officer towing the vehicle. A copy of the report will be provided to the tow company and to the owner/operator of vehicle. If the owner/operator is not available, a copy of the report will be left inside the vehicle. A third copy of the report will be kept for department files [CALEA 61.4.3 c.].

   a. This includes vehicles impounded or towed for the following: incidental to an arrest, hit and run accident, stolen, abandoned or unattended vehicles, as well as, involvement in any criminal activity.
   b. Officers should use caution during the inventory process to not contaminate or destroy the evidentiary value of the property in question.
   c. This procedure does not include vehicles that are towed at the request of the owner or operator because of malfunction or accident.
   d. Damage to the vehicle other than normal wear should be described in the section for damage. Note whether the damage appears to be new or old.

Comment: Language added for evidentiary purposes

3. Officer(s) shall take appropriate enforcement action if during an inventory evidence, contraband or proceeds/instruments of a crime are discovered.

4. Seized vehicles - Motor vehicles shall not be impounded for purposes other than those defined by statute or ordinance, (**e.g., not as a form of punishment, or to hold the vehicle hostage until the owner produces certain information or persons, or as a means of conducting vehicle searches when probable cause does not exist or consent to search cannot be obtained**). A Criminal Investigation Division supervisor shall be consulted to authorize the seizure of a vehicle. Investigation personnel will ensure proper documentation is completed concerning the seizure of a vehicle i.e. Vehicle Notification form, CID-7 receipt form, etc. A "Tow Vehicle Inventory" form will be completed.

5. Criteria for vehicle impoundment - officers may impound vehicles in the following situations [CALEA 61.4.3 b.]:

a. When a vehicle is evidence in a crime or the vehicle needs to be held for investigative purposes.
b. When a vehicle is confiscated pursuant to law.
c. When a vehicle has been abandoned. The driver has been arrested and the vehicle is left unattended in a location which would constitute a traffic hazard or is highly susceptible to damage or vandalism. This includes private property which is open to the public.
d. When the vehicle in question has been reported stolen and the owner cannot be notified or is unable to come to the scene and take possession of the recovered vehicle within a reasonable amount of time.
e. When a vehicle has been marked for tow and is parked or left standing in the same location on a city street in excess of 24 hours.
f. When the owner or operator specifically requests and authorizes the impoundment.
g. When the owner or operator has been involved in an accident or has been taken into custody and is not physically, mentally, or legally capable of driving the vehicle or of giving consent to leave it.

6. Alternatives to Vehicle Impoundment - officers may offer the owner/operator one of the following options for the disposition of the vehicle:

a. Allow a responsible person who possesses a valid operator's license to assume responsibility of the vehicle and its contents.
b. Summon a person of the owner/operator's choice to come to the scene, in a timely manner, to take custody of the vehicle.
c. Properly park and secure the vehicle.

7. Inventory of motor vehicles [CALEA 61.4.3 c.]:

a. If items of obvious value are located inside the vehicle, or a container therein, which should be stored separately from the vehicle, it is the duty of the officer conducting the inventory to record the nature of the valuable item, the condition of the valuable item and the location where this item is stored. A copy of the inventory should be made available to the owner/operator of the vehicle and a copy of the inventory for the wrecker/storage company.
b. Care should be taken during inventory to avoid damaging the vehicle or any of its contents.

8. Owner Notification:

Comment: Owner notification added to meet CALEA standard

a. Officers towing unattended vehicles must attempt to notify the registered owner of the vehicle's location prior to the end of his/her working shift. If such notification is not possible, the officer should notify the immediate on-coming supervisor to ensure the notification process is continued.
b. Officers towing unattended vehicles used in the commission of a crime or that are stolen should notify the Criminal Investigations Division supervisor for

evidentiary purposes. Owner notification of such vehicles shall by completed by CID personnel.

9. Private Property [CALEA 61.4.3 b.]:

Comment: Section added to meet CALEA standard. Language mirrors city ordinance

a. Vehicles on private property may be subject to towing by the owner of the property. The owner of the property will be required to contact the wrecker service of their choice.

b. A tow company performing a non-consensual tow off of private property will either call the information (location, vehicle description, etc.) into the Central Dispatch Center or submit it by fax. The Central Dispatch Center, in turn, will provide the tow company the name of the registered owner and/or lien holder of the vehicle. This information is then entered in the department's records management system.

AGENDA REQUEST

FOR: COUNCIL MEETING OF OCTOBER 4, 2011

FROM:

KIT WILLIAMS, CITY ATTORNEY
LIONELD JORDAN, MAYOR

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve The Real Estate Conveyance Agreement With Washington Regional Medical Center

APPROVED FOR AGENDA:

City Attorney — Date: 9-20-2011

Mayor — Date: 9/20/11

09-20-11P04:58 RCVD

Kim O.

Fayetteville
ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
City Council

FROM: **Kit Williams**, City Attorney

DATE: **September 20, 2011**

RE: **Real Estate Conveyance Agreement with Washington Regional**

After the Fayetteville City Council passed Resolution No. 67-11, the City and WRMC administrations began working to implement it. First, the City Council appointed replacement members for the City Hospital Board of Directors or Trustees so it could achieve a quorum. This had been called for by Section 3 of Resolution No. 67-11.

After the City Hospital Board had designated Washington Regional Medical Center as the successor or replacement city hospital (as you did in Section 1 of Resolution No. 67-11), a corporate warranty deed for the land needed for the roundabout was drafted and agreed to by both administrations. We later agreed to the form of the Quit Claim Deed pursuant to Section 2 of Resolution No. 67-11.

Washington Regional Medical Center then requested that we enter into a Real Estate Conveyance Agreement to more clearly detail all aspects of our agreement including the City's assistance in replacing any portion of Washington Regional Medical Center's tree easement that could be affected by the construction of the roundabout. Washington Regional will supply any necessary additional land (at its desired location) to replace any tree easement that is lost while the City will be responsible to plant the necessary trees.

Now all parts of the Real Estate Conveyance Agreement have been approved by both administrations, but need final City Council approval. The City has also recently obtained the other property needed for the roundabout construction. We hope to close on the WRMC property and be ready for construction in early October once the City Council approves this implementing agreement.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE REAL ESTATE CONVEYANCE AGREEMENT WITH WASHINGTON REGIONAL MEDICAL CENTER

WHEREAS, on April 19, 2011, the Fayetteville City Council passed Resolution No. 67-11 which approved and authorized Mayor Jordan to sign a Quit Claim Deed conveying to Washington Regional Medical Center the property donated to the City of Fayetteville by the Stones in 1906 and 1909 to be held by the City in trust until the location of the city hospital is changed and then "the entire proceeds of the above described premises shall constitute a trust fund to be devoted exclusively to the establishment and maintenance of" the newly designated successor hospital; and

WHEREAS, the City Council pursuant to Section 3 of Resolution No. 67-11 later appointed successor trustees or board members to the Stone City Hospital Board of Trustees, also known as the Fayetteville City Hospital Board of Directors; and

WHEREAS, the City Hospital Board of Directors then met and designated Washington Regional Medical Center as the successor to the City Hospital thereby entitling WRMC to the land or proceeds of the City Hospital property; and

WHEREAS, Washington Regional Medical Center has prepared its Warranty Deed to the City of Fayetteville for the property needed for the roundabout and approved the City of Fayetteville's Quit Claim Deed conveying its interest in the City Hospital property to Washington Regional Medical Center as the successor city hospital.

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 and authorizes Mayor Jordan to sign the attached Real Estate Conveyance Agreement to fulfill the City Council's commitment to convey the City Hospital property to Washington Regional Medical Center (WRMC) after the City Hospital Board had properly designated WRMC as the successor city hospital and to accept from WRMC by warranty deed the acreage needed to construct the roundabout near the hospital.

PASSED and **APPROVED** this 4th day of October, 2011.

APPROVED: ATTEST:

By: _____ By: _____

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

REAL ESTATE CONVEYANCE AGREEMENT

THIS REAL ESTATE CONVEYANCE AGREEMENT (the "Agreement") is made and entered into as of this _____ day of October, 2011 (the "Effective Date"), by and between the **CITY OF FAYETTEVILLE, ARKANSAS, a municipal corporation** (the "City"), and **WASHINGTON REGIONAL MEDICAL CENTER, an Arkansas nonprofit corporation** ("WRMC").

WHEREAS, the City is the legal owner in trust of Block 37 as designated on the plat of the original town of Fayetteville, Arkansas, which real property is physically located at 221 S. School Avenue, in the City of Fayetteville, Arkansas, the legal description for which is set forth on **Exhibit A** (the "City Property");

WHEREAS, the City Property has long been utilized to operate a nursing and skilled nursing facility known as Fayetteville City Hospital (the "Facility"), the City Property and Facility having been leased to Washington Regional Medicorp., an Arkansas nonprofit corporation and affiliate of WRMC, pursuant to the terms of a certain Assignment and Lease Agreement dated July 26, 1991 and made between the City, Washington Regional Medicorp, and Fayetteville City Hospital Board (the "Lease Agreement");

WHEREAS, WRMC is the owner of approximately 1.10 acres of real property situated at the southwest corner of the intersection of North Hills Boulevard and Futrall Drive in the City of Fayetteville, Arkansas, the legal description for which is set forth on **Exhibit B** (the "WRMC Property");

WHEREAS, the City and WRMC are desirous of the City constructing a traffic roundabout at the intersection of North Hills Boulevard and Futrall Drive in furtherance of the Fayetteville Expressway Economic Development Corridor, Project No. 06035-1700 (the "Project"), and to improve the traffic flow through this intersection for WRMC patients, staff and the community. The City requires fee simple ownership of the WRMC Property to obtain the additional right-of-way necessary to proceed with construction of the Project;

WHEREAS, WRMC is desirous of obtaining fee simple ownership of the City Property so as to facilitate the replacement of the Facility by WRMC or one or more of its affiliates;

WHEREAS, the City has determined that the health and welfare of the citizens of the City of Fayetteville would be advanced through the conveyance of the City Property to WRMC and that the City has the legal authority pursuant to Ark. Code Ann. §14-54-302 and other state law to convey the City Property in consideration for the public advantage of improved hospital and related health care services for Fayetteville citizens, to secure the continuing and increased economic benefit that inures to the City of Fayetteville and its citizens by aiding WRMC, Fayetteville's second largest employer and a vitally important economic resource for the City, in modernizing and expanding health care facilities and services within the City of Fayetteville, and to fulfill the City's fiduciary duties as were imposed upon the City under the terms of the original conveyance of the City Property to the City of Fayetteville to ensure the establishment and maintenance of a city hospital within the City of Fayetteville;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and conditions set forth in this Agreement, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Conveyance of the WRMC Property. Subject to the terms, covenants and conditions set forth in this Agreement, WRMC hereby agrees to convey the WRMC Property to the City. The WRMC Property will be used as right-of-way for the construction of a traffic roundabout at the intersection of North Hills Boulevard and Futrall Drive.

2. Consideration for the WRMC Property.

(a) As consideration for the conveyance by WRMC of the WRMC Property to the City, the City agrees to construct the proposed roundabout as soon as possible to help alleviate the current traffic congestion in that intersection and to abide by all the terms, covenants and conditions set forth in this Agreement.

(b) As further consideration for the conveyance by WRMC of the WRMC Property to the City, the City will, at its sole cost and expense, plant such additional trees at such other location on WRMC's property that is contiguous to the WRMC Property identified on **Exhibit B** as may be mutually agreed upon by WRMC and the City as is necessary to replace any tree preservation area that the City determines has been lost to the WRMC property that is contiguous to the WRMC Property identified on **Exhibit B** as a result of the conveyance of the WRMC Property.

3. Conveyance of the City Property

Subject to the terms, covenants and conditions set forth in this Agreement, the City of Fayetteville agrees to convey the City Property to WRMC by quitclaim deed. The City Property will be utilized by WRMC exclusively in connection with the establishment and maintenance of hospital and related health care facilities and services within the City of Fayetteville.

4. Consideration for the City Property.

(a) Consideration for the conveyance of the City Property to WRMC shall include, but is not limited to, the public advantage to the citizens and City of Fayetteville of continuing and improved hospital and related health care facilities and services for Fayetteville citizens, the continuing and increasing economic benefit that inures to the City of Fayetteville and its citizens from assisting and supporting WRMC (which is the City's second largest employer and an extremely important and valuable economic resources for Fayetteville) in modernizing and expanding health care facilities and services within the City of Fayetteville, and the fulfillment of the City of Fayetteville's fiduciary duties as were imposed upon the City under the terms of the original conveyance of the City Property to the City of Fayetteville to ensure the establishment and maintenance of a city hospital within the City of Fayetteville.

(b) As further consideration for this conveyance, WRMC agrees and pledges that any proceeds realized from any future sale of the City Property by WRMC, shall be utilized by WRMC in the establishment and maintenance of hospital and related healthcare facilities and services within the City of Fayetteville or for any other purpose incidental or related to the provision of hospital or related healthcare services to the citizens of Fayetteville.

5. Title to the Real Properties.

(a) Title to the WRMC Property. At the Closing, WRMC shall convey to the City fee simple title to the WRMC Property by means of a corporate warranty deed to be executed by WRMC in substantially the form attached hereto as **Exhibit C**.

(b) Title to the City Property. At the Closing, the City shall convey to WRMC fee simple title to the City Property by means of a quitclaim deed to be executed by the City in substantially the form attached hereto as **Exhibit D**.

(c) Reservation of Preemptive Right to Purchase City Property. The quitclaim deed delivered by the City to WRMC and attached hereto as **Exhibit D** shall contain language reserving to the City a preemptive right to purchase the City Property in the event WRMC shall elect to sell all or any portion of the City Property to a third party, upon the occurrence of which condition the City shall have a right of first refusal to meet any such bona fide offer to purchase on the same terms and conditions as are set forth in such third party's bona fide offer to purchase. Upon the City's failure to tender to WRMC a written bona fide offer to meet such third party's bona fide offer of purchase within sixty (60) days after written notice thereof to the City from WRMC, WRMC shall be free to sell or convey the City Property or any portion thereof to such third party only in accordance with the terms and conditions of the third party's bona fide offer of sale as presented to the City.

(d) Resolutions of the City and FCH Regarding the City Property. At Closing, the City shall deliver to WRMC a certified copy of the Resolution of the Fayetteville City Council authorizing the execution of this Agreement and the conveyance of the City Property to WRMC in the form attached hereto as **Exhibit E**.

6. Closing.

(a) Closing Date. Provided that this Agreement has not been terminated, the closing shall take place on a mutually acceptable date or before the _____ day of October, 2011 (the "Closing").

(b) Deliverables at the Closing From WRMC. At the Closing, WRMC shall deliver the following:

(i) **Corporate Warranty Deed.** WRMC shall deliver to the City a fully executed Corporate Warranty Deed in the form set forth on **Exhibit C** with respect to the WRMC Property.

(c) Deliverables at the Closing From the City. At the Closing, the City shall deliver the following:

(i) **Quitclaim Deed.** The City shall deliver to WRMC a fully executed Quitclaim Deed in the form set forth on **Exhibit D** with respect to the City Property.

(ii) **Certified Resolution.** The City shall deliver to WRMC a certified original of the Resolution duly passed and approved by the Fayetteville City Council in the form attached hereto as **Exhibit E**.

7. Representations and Warranties of WRMC.

(a) Organization. WRMC is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of Arkansas and has all requisite power and authority to enter into and perform its obligations under this Agreement.

(b) Authorization. The execution, delivery and performance of this Agreement by WRMC and the consummation by WRMC of the transactions contemplated hereby have been duly authorized by all necessary action on the part of WRMC.

(c) Validity. This Agreement has been duly executed and delivered by WRMC and constitutes the legal, valid and binding obligation of WRMC, enforceable against WRMC in accordance with its terms.

(d) No Consents. No consent or approval of, or declaration, filing or registration with any governmental agency or other third party is, to WRMC's knowledge, required or otherwise necessary in connection with the execution, delivery or performance of this agreement by WRMC or with respect to the consummation by WRMC of the transactions contemplated hereby.

8. Representations and Warranties of the City.

(a) Organization. The City is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Arkansas and has all requisite power and authority to enter into and perform its obligations under this Agreement.

(b) Authorization. The execution, delivery and performance of this Agreement by the City and the consummation by the City of the transactions contemplated hereby have been duly authorized by all necessary action on the part of the City.

(c) Validity. This Agreement has been duly executed and delivered by the City and constitutes the legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms.

9. Miscellaneous.

(a) Assignment. No party may assign any of its rights, duties or obligations under this Agreement without the prior written consent of the other parties hereto.

(b) Further Assurances. The parties agree that from time to time hereafter, upon request, each of them will promptly execute, acknowledge, and deliver such further documents and instruments, and take such further action, as may be reasonably necessary to carry out the intent of this Agreement.

(c) Modification. No term or provision contained herein may be modified, amended or waived except by written agreement or consent signed by the party to be bound thereby.

(d) Binding Effect and Benefit. This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto, and their respective successors and permitted assigns. Otherwise, nothing in this Agreement, express or implied, is intended to confer upon any other person or entity any rights as a third party beneficiary.

(e) Headings and Captions. Subject headings and captions are included for convenience purposes only and shall not affect the interpretation of this agreement.

(f) Notice. All notices, requests, demands and other communications required or permitted hereunder shall be in writing and either (i) delivered in person (ii) sent by Express Mail or other overnight delivery service providing receipt of delivery (iii) mailed by Certified or Registered Mail, postage prepaid return receipt requested or (iv) sent by telecopy or other facsimile transmission as follows:

If to the City, addressed or delivered in person to:

The City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701
Attn: Mayor

With a copy to:

The City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701
Attn: City Attorney

If to WRMC, addressed or delivered in person to:

Washington Regional Medical Center

Attn: President & Chief Executive Officer
3215 N. North Hills Boulevard
Fayetteville, Arkansas 72703

With copy to:

Washington Regional Medical Center
Attn: General Counsel
P.O. Box 9687
Fayetteville, AR 72703-0030

or to such other address or number as a party may designate by written notice delivered in accordance with this Section.

Any such notice or communication, if properly given or made in accordance with the terms hereof, shall be deemed to have been made when actually received, but not later than three (3) business days after the same was properly posted or given to such express delivery service, and if made properly by telecopy or other facsimile transmission, such notice or communication shall be deemed to have been made at the time of dispatch.

(g) **Severability.** If any portion of this Agreement is held invalid, illegal, or unenforceable, such determination shall not impair the enforceability of the remaining terms or provisions hereof.

(h) **Waiver.** No waiver of a breach or violation of any provision of this Agreement shall operate or be construed as a waiver of any subsequent breach or limit or restrict any right or remedy otherwise available. Any waiver must be in writing.

(i) **Entire Agreement.** This document (including its Exhibits) constitutes the entire agreement of the parties, with respect to the subject matter contained herein, and supersedes any and all other prior agreements, oral or written, with respect to the subject matter contained herein. There are no representations or warranties between the parties with respect to this transaction other than those expressly set forth herein (and in the Exhibits).

(j) **Governing Law.** This Agreement shall be subject to and governed by the laws of the State of Arkansas.

(k) **Incorporation by Reference.** All exhibits referred to in this Agreement shall be incorporated herein by any reference thereto as if fully set out.

(l) **Multiple Counterparts; Facsimile or Electronic Execution.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute the same document. To facilitate the execution of this

Agreement, the parties agree that the facsimile, email, electronic or PDF signature of a party shall be sufficient to bind that party to this Agreement.

(m) **Time of the Essence.** Time is of the essence of each provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CITY OF FAYETTEVILLE, ARKANSAS

By:_____
Lioneld Jordan, Mayor

Attest:_____
Sondra E. Smith, City Clerk

WASHINGTON REGIONAL MEDICAL CENTER

By: William L. Bradley
William L. Bradley,
President & Chief Executive Officer

Witness: Nancy J. Mitchell
Signature

Nancy J. Mitchell
Printed name and title

EXHIBIT "A"

All of Block Numbered Thirty-seven (37) in the City of Fayetteville, as designated upon the original plat of said town.

EXHIBIT "B"

Part of the Southeast Quarter of Section 27 and part of the Southwest Quarter of the Southwest Quarter of Section 26, Township 17 North, Range 30 West, Washington County, Arkansas more particularly described as follows:

Starting at a point being used as the common corner of Sections 26, 27, 34, and 35, Township 17 North, Range 30 West; thence North 02°29'08" East along the common line between Sections 26 and 27 a distance of 729.96 feet to a point on the South line of Futrall Drive as established by AHTD Job 040536 for the POINT OF BEGINNING; thence North 89°43'19" West along said right of way line a distance of 128.21 feet to a point; thence North 72°48'26" West along said right of way line a distance of 98.50 feet to a point; thence North 63°09'26" West along said right of way line a distance of 101.09 feet to a point on the southeasterly right of way line of the Fulbright Expressway (U.S. Highway 71B) as established by AHTD Job 4706 Section 2; thence North 73°29'43" East along said right of way line a distance of 233.38 feet to a point; thence North 69°24'35" East along said right of way line a distance of 95.96 feet to a point on the westerly right of way line of North Hills Boulevard as established by Easement Plat for Washington Regional Medical Center; thence along said right of way along a curve to the right having an arc length of 6.78 feet and a radius of 30.00 feet, (chord bearing of North 76°57'02" East a distance of 6.76 feet) to a point on the common line between Sections 26 and 27, Township 17 North, Range 30 West; thence continue along said curve line to the right having an arc length of 39.79 feet and a radius of 30.00 feet, (chord bearing of South 58°34'45" East a distance of 36.94 feet) to a point, thence South 20°34'49" East along said right of way line a distance of 115.70 feet to a point; thence along a curve to the right having an arc length of 146.59 feet and a radius of 950.00 feet, (chord bearing South 16°09'35" East a distance of 146.45 feet) to a point on the southeasterly right of way line of Futrall Drive as established by AHTD Job 040536; thence North 52°53'14" West along said right of way line a distance of 151.27 feet to the POINT OF BEGINNING and containing 1.10 acres more or less, or 48,056 square feet, more or less.

CORPORATE WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That Washington Regional Medical Center, an Arkansas nonprofit corporation, (herein designated as "Grantor"), with its principal place of business at Fayetteville, Arkansas, in said State, for and in consideration of the sum of ten dollars ($10.00) and other good and valuable consideration, to it in hand paid by the City of Fayetteville, an Arkansas municipal corporation, (herein designated as "Grantee"), hereby grants, bargains, sells and conveys unto the said Grantee and unto its successors and assigns forever, the following lands and real estate situated in the County of Washington, and State of Arkansas, to-wit:

See Exhibit A Attached Hereto

TO HAVE AND TO HOLD the same unto the said Grantee and unto its sucessors and assigns forever, with all the privileges and appurtenances thereto belonging.

And the Grantor hereby covenants with the Grantee, its successors and assigns, that it is lawfully seized in fee of the aforegranted premises; that the said real estate is free from all encumbrances not herein mentioned; that it has a good right to sell and convey to the Grantee as aforesaid, and that it will forever warrant and defend the title to the said real estate against all lawful claims and demands whatsoever.

This conveyance is subject to recorded easements and rights-of-way and to restrictions, conditions and reservations of record as recorded in the Office of the Circuit Clerk and Ex-Officio Recorder for Washington County, Arkansas.

IN TESTIMONY WHEREOF, the name of the Grantor is hereto affixed by its President and its seal affixed by its Secretary this ___ day of July, 2011.

WASHINGTON REGIONAL MEDICAL CENTER

By: _____
William L. Bradley, President

Attest:

_____
Sharon Olmstead, Asst. Secretary

STATE OF ARKANSAS)
)ss
COUNTY OF WASHINGTON)

ACKNOWLEDGMENT

On this ___ day of July, 2011, before the undersigned, a notary public, duly commissioned, qualified and acting, within and for the said county and state, appeared in person the within named William L. Bradley who stated that he was the President and Chief Executive Officer of Washington Regional Medical Center and was duly authorized in his capacity to execute the foregoing Corporate Warranty Deed for and in the name and the behalf of said nonprofit corporation and further stated and acknowledged that he had so signed, executed and delivered said Corporate Warranty Deed for the consideration, uses and purposes therein mentioned and set forth.

IN TESITMONY WHEREOF, I have hereunto set my hand and official seal this ___ day of July, 2011.

(SEAL)

_____
Notary Public

My Commission Expires:

_____

NO REVENUE REQUIRED

Parcel No. _____

QUITCLAIM DEED

BE IT KNOWN BY THESE PRESENTS:

THAT WE, the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTOR, for and in conformance with its duties pursuant to the deeds from S.K. Stone and Amanda M. Stone to the City of Fayetteville conveying their property, for the public advantage to the citizens and City of Fayetteville of continuing and improved hospital and related care for Fayetteville Citizens and economic benefit inuring to our citizens and city, and for other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, convey and quitclaim unto Washington Regional Medical Center, an Arkansas nonprofit corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, all of our right, title and interest, in and to the following described land situated in the County of Washington, State of Arkansas, to-wit:

Block Thirty-seven (37) on the original plat of the town (now City) of Fayetteville, Arkansas, as per plat on the file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, LESS AND EXCEPT easements of record and street right-of-way.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said grantee and grantee's successors and assigns, forever.

The City of Fayetteville shall have the right of first refusal to purchase the real estate hereby conveyed. Should the Washington Regional Medical Center elect to sell all or any portion of said real estate to a third party, the City of Fayetteville shall have the right of first refusal to meet any such bona fide offer to purchase on the same terms and conditions as are set forth in such third party's bona fide offer to purchase. Upon the Grantor's failure to meet such bond fide offer of purchase within thirty (30) days after written notice thereof to Grantor from Grantee, Washington Regional Medical Center shall be free to sell or convey the said real estate or any portion thereof to such third party only in accordance with the terms and conditions of the third party's bona fide offer of sale as presented to the Grantor.

IN TESTIMONY WHEREOF, the name of the Grantor is hereto affixed by its Mayor and its seal affixed by its City Clerk this _____ day of October, 2011.

City of Fayetteville, Arkansas,
A municipal corporation

BY: _____
Lioneld Jordan, Mayor

ATTEST:

_____
Sondra Smith, City Clerk

[SEAL]

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
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 **Lioneld Jordan 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**, respectively, of **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 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 _____ day of October, 2011.

MY COMMISSION EXPIRES:

_____

_____
Notary Public

RESOLUTION NO. 67-11

A RESOLUTION TO DESIGNATE THE LOCATION OF WASHINGTON REGIONAL MEDICAL CENTER AS THE NEW LOCATION OF AND THE SUCCESSOR HOSPITAL OF THE CITY HOSPITAL, TO APPROVE AND AUTHORIZE THE MAYOR TO EXECUTE A QUIT CLAIM DEED TO CONVEY THE CURRENT SITE OF THE CITY HOSPITAL TO WASHINGTON REGIONAL MEDICAL CENTER, ALL CONTINGENT UPON THE CONCURRENT ACTION OF THE BOARD OF TRUSTEES OF THE CITY HOSPITAL TO DESIGNATE WASHINGTON REGIONAL MEDICAL CENTER AS THE SUCCESSOR CITY HOSPITAL AND THE DONATION OF APPROXIMATELY 1.1 ACRES BY WASHINGTON REGIONAL MEDICAL CENTER FOR CONSTRUCTION OF THE ROUNDABOUT AT NORTH HILLS BOULEVARD AND FUTRALL DRIVE.

WHEREAS, Mr. S.K. Stone and Mrs. Amanda M. Stone very generously deeded to Fayetteville a city block of land "to be by the said city, held in trust and maintained as a city hospital," in deeds of 1906 and 1909; and

WHEREAS, the citizens of Fayetteville taxed themselves to construct the City Hospital soon after the property was conveyed to Fayetteville in trust and this hospital has served our citizens well for over a century; and

WHEREAS, Washington Regional Medical Center was established in Fayetteville and has served Fayetteville citizens well as our primary, full service hospital for many decades, first at College and North and now at its current location on North Hills Boulevard; and

WHEREAS, because of the age and condition of the facilities on the land donated in trust by the Stones to the City, it is appropriate to designate Washington Regional Medical Center at North Hills Boulevard as successor City Hospital which is entitled to the current City Hospital's premises in trust "to be devoted exclusively to the establishment and maintenance of" the successor City Hospital (WRMC).

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 designates Washington Regional Medical Center as the successor to the Stone City Hospital at its location on North Hills Boulevard in Fayetteville.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves and authorizes Mayor Jordan to execute a Quit Claim Deed to Washington Regional Medical Center of the property donated to the City of Fayetteville by the Stones in 1906 and 1909 to be held by the City in trust until the location of the city hospital is changed and then "the entire

proceeds of the above described premises shall constitute a trust fund to be devoted exclusively to the establishment and maintenance of' the newly designated successor city hospital.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby expresses its intent to rapidly appoint sufficient successor trustees to the board of trustees named in Stones' 1906 deed to establish at least a quorum so that the Board of Trustees can determine whether to designate Washington Regional Medical Center as the successor to the Stone City Hospital at Washington Regional's address on North Hills Boulevard in Fayetteville.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby gratefully agrees to accept Washington Regional Medical Center's generous donation of approximately 1.1 acres of land needed for the Roundabout at the North Hills Boulevard and Futrall Drive intersection to alleviate congestion and provide better traffic flow for Washington Regional Medical Center's staff and patients and for other Fayetteville citizens.

PASSED and **APPROVED** this 19th day of April, 2011.

APPROVED: ATTEST:

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

RESOLUTION OF THE MEMBERS AND BOARD OF DIRECTORS OF FAYETTEVILLE CITY HOSPITAL

At a special meeting of the Members and Board of Directors of Fayetteville City Hospital, an Arkansas nonprofit corporation, ("the Corporation") duly called and held on July 18, 2011, the Members and Board of Directors for the Corporation did adopt the following Resolution, to-wit:

WHEREAS, the Corporation heretofore transferred, assigned and conveyed all of its personal property, non-tangible personal property and mixed property to Washington Regional Medicorp., an Arkansas nonprofit corporation, ("Medicorp") and further leased to Medicorp that real property physically located at 221 South School Avenue, in the City of Fayetteville, Arkansas and commonly known as the Fayetteville City Hospital, each of which transactions were completed pursuant to the terms of a certain Assignment and Lease Agreement dated July 26, 1991 made between the Corporation and Medicorp ("the Assignment and Lease Agreement"); and

WHEREAS, the Corporation has engaged in no corporate or business operations since July 26, 1991, the Assignment and Lease Agreement having resulted in Medicorp assuming the complete day-to-day authority and responsibility for the operation of the hospital and skilled nursing facility known as Fayetteville City Hospital from 1991 to present; and

WHEREAS, the Corporation, through its Members and Board of Directors, has determined that the best interests of the Corporation and the citizens of the City of Fayetteville will be served by liquidating and dissolving the Corporation and transferring all property owned by the Corporation, whether real, personal, non-tangible or mixed, to Washington Regional Medical Center, an Arkansas nonprofit corporation, and recognizing Washington Regional Medical Center as the successor nonprofit city hospital located within the city limits of the City of Fayetteville pursuant to the terms of that Plan of Complete Liquidation and Dissolution more fully described and set forth in Exhibit A to this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the Corporation be completely liquidated and dissolved pursuant to the Plan of Complete Liquidation and Dissolution as more fully described and set forth in Exhibit A hereto; and

BE IT FURTHER RESOLVED, that the Board of Directors shall sit as a liquidating committee and is hereby authorized, directed and empowered to do all things necessary and required to completely liquidate the Company. The Board of Directors is hereby authorized to sell the assets of the Company at such prices and upon such terms and conditions and under such provisions as it deems advisable and in the best interest of the Company; and

BE IT FURTHER RESOLVED, that the Board of Directors is authorized to discharge, or make provision for discharging, all of the liabilities and debts of the Company; to distribute the remaining property to Washington Regional Medical Center, an Arkansas nonprofit corporation, which is recognized as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code, as it is classified as a public charity pursuant to Section 509(a)(1) of the Internal Revenue Code by virtue of the fact that it owns and operates a hospital as defined in Section 170(b)(1)(A)(iii) of the Internal Revenue Code; and to perform every other act necessary to wind up and liquidate the business and affairs of the Company; and

BE IT FURTHER RESOLVED, that the Board of Directors is authorized to execute all instruments relating to, or incident to, the dissolution and liquidation of the Company and any other forms, certificates or any other instruments necessary to implement the Plan of Complete Liquidation and Dissolution.

IT BEING FURTHER RESOLVED that the President of the Board of Directors of Fayetteville City Hospital, as identified below, is hereby authorized to execute and deliver any and all documents necessary to effect the Plan of Complete Liquidation and Dissolution and matters evidenced in this Resolution.

Dated this 18th day of July, 2011.

CERTIFIED AND ATTESTED TO:

FAYETTEVILLE CITY HOSPITAL,
an Arkansas nonprofit corporation

By: _____
President of the Board of Directors and Member

By: _____
Vice President of the Board of Directors and Member

By: _____
Secretary of the Board of Directors and Member

By: _____
Treasurer of the Board of Directors and Member

By: _____
Member of the Board of Directors and Member

By: _____
Member of the Board of Directors and Member

AGENDA REQUEST

FOR: COUNCIL MEETING OF SEPTEMBER 20, 2011

FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Approve Revised Ward Boundaries To Equalize Ward Populations After The 2010 Federal Census And To Amend §32.03 Of The Fayetteville Code

APPROVED FOR AGENDA:

City Attorney — Date: 9-13-2011

Mayor — Date: 9/13/11

ENTERED 9-13-11 Kim G.

Left on Second Reading at the 9/20/11 CC Mtg.

Fayetteville
ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
City Council

FROM: **Kit Williams**, City Attorney

DATE: **September 21, 2011**

RE: **Effective Date of Ward Boundary Map**

The City Council should pass the Ordinance approving the revised Ward Boundary Map soon so that any possible legal challenge would be resolved long before the time to file for alderman in 2012. However, the ordinance could include a Section 2 for the effective date of the map to be July 1, 2012, as shown below:

> "Section 2: That the City Council of the City of Fayetteville, Arkansas hereby sets the effective date for the revised Ward Boundary Map to be July 1, 2012."

Please keep in mind that you will continue to represent the constituents that elected you from your existing Ward until the next election in 2012. Aldermen do not have any greater legal power within their wards although I realize that other aldermen sometimes defer to the ward's aldermen in zoning or development matters affecting only a single ward. Everyone remains a Fayetteville City Council Member with city-wide jurisdiction, powers and responsibilities.

Please amend the ordinance to add Section 2 if you desire the Ward Boundary Map to not be effective until July 1, 2012.

Fayetteville
ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
City Council

CC: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **September 13, 2011**

RE: **New Ward Boundary Map**

City Clerk Sondra Smith pointed out to me that the Ward Boundary Map is in the Fayetteville Code in §32.03 **Wards** as an exhibit. Therefore, the City Council needs to pass an **Ordinance** with the Ward Boundary Map as an exhibit rather than a Resolution in order to amend §32.03 to replace the old map with the new Ward Boundary Map. Attached is this new ordinance which bears a striking resemblance to the Resolution you wisely tabled to give us time to catch this mistake.

Please add this Ordinance to your Agenda for the September 20th City Council meeting, and, at the meeting, table the Resolution indefinitely so it can die honorably on December 31st.

ORDINANCE NO. _____

AN ORDINANCE TO APPROVE REVISED WARD BOUNDARIES TO EQUALIZE WARD POPULATIONS AFTER THE 2010 FEDERAL CENSUS AND TO AMEND §32.03 OF THE FAYETTEVILLE CODE

WHEREAS, if a federal census reveals that ward populations have become unbalanced with substantially more residents in some wards than other wards, cities are constitutionally required to redraw ward boundaries to achieve fairly equal population in all wards; and

WHEREAS, the 2010 Federal Census revealed substantial population differences among our wards; and

WHEREAS, GIS has proposed new ward boundaries that do not cross precinct lines and substantially equalize each ward's population.

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 approves the attached map as the new ward boundary map for Fayetteville which establishes substantially equal populations for each ward and amends §32.03 **Wards** by adopting the new ward boundary map attached as Exhibit "A" to replace all previous ward boundary maps.

PASSED and **APPROVED** this 20th day of September, 2011.

APPROVED: ATTEST:

By: _____ By: _____

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

City of Fayetteville

Ward Boundaries

September 20, 2011

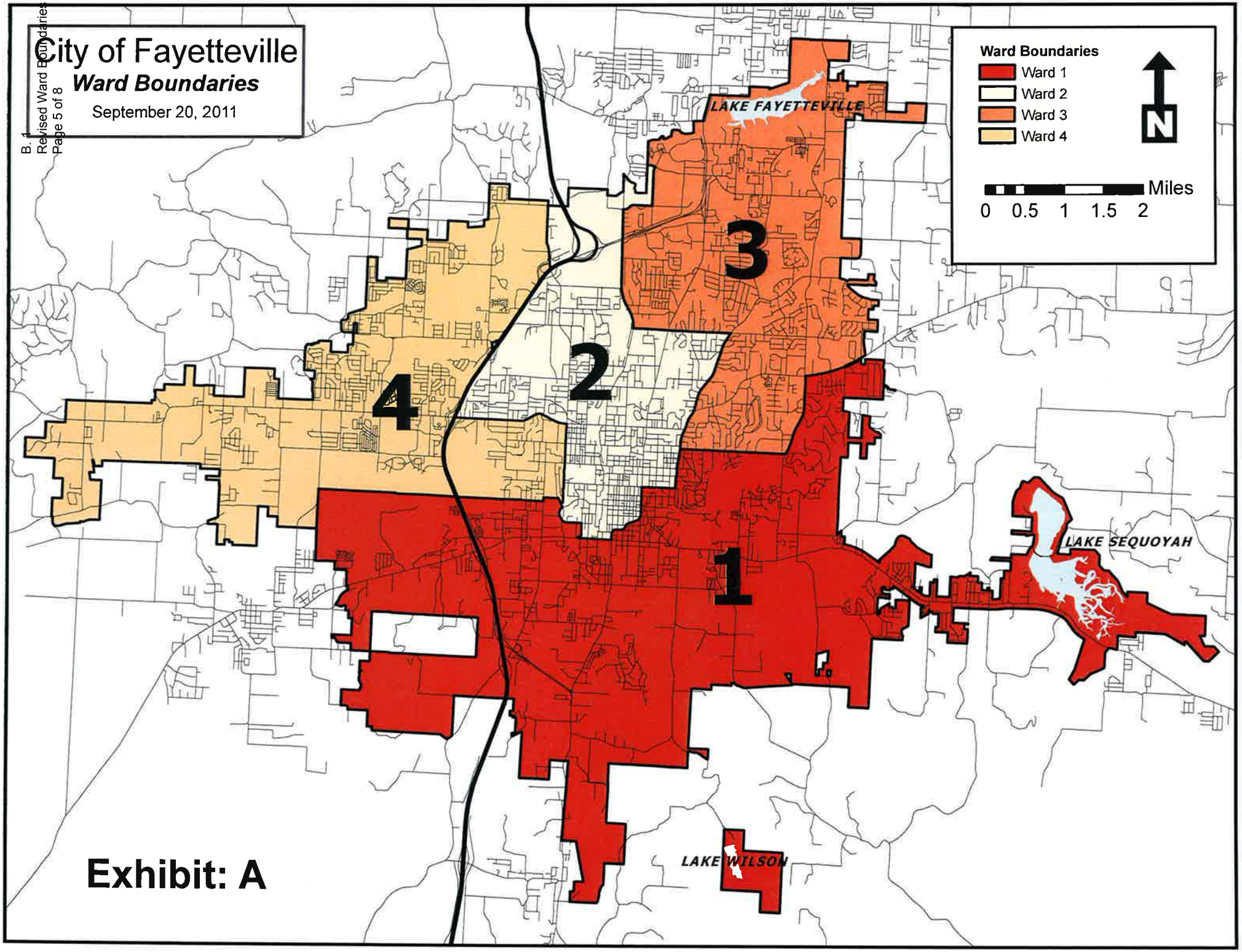


Exhibit: A

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan

Thru: Scott Huddleston

From: John Goddard

Date: 8/18/2011

Subject: Redistricting--determining new ward boundaries to reflect 2010 Census returns

DESCRIPTION: As a result of the 2010 Census, it has been found that the current City of Fayetteville wards have a significant difference in population, creating an imbalance of representation. Balancing ward population will bring the City into compliance with the "Equal Protection Clause" of the 14th Amendment.

2011 Population of Wards:

Ward 1	17,673
Ward 2	17,603
Ward 3	15,855
Ward 4	22,449

RECOMMENDATION:
Determine new ward boundaries to balance the population and Adopt a new map.

BUDGET IMPACT:

None

City of Fayetteville

Proposed Ward Boundary Changes

Current Ward Boundary

Proposed Wards

- Ward 1
- Ward 2
- Ward 3
- Ward 4

Hatch

Precincts that are to move into another Ward are represented with a hatch pattern.

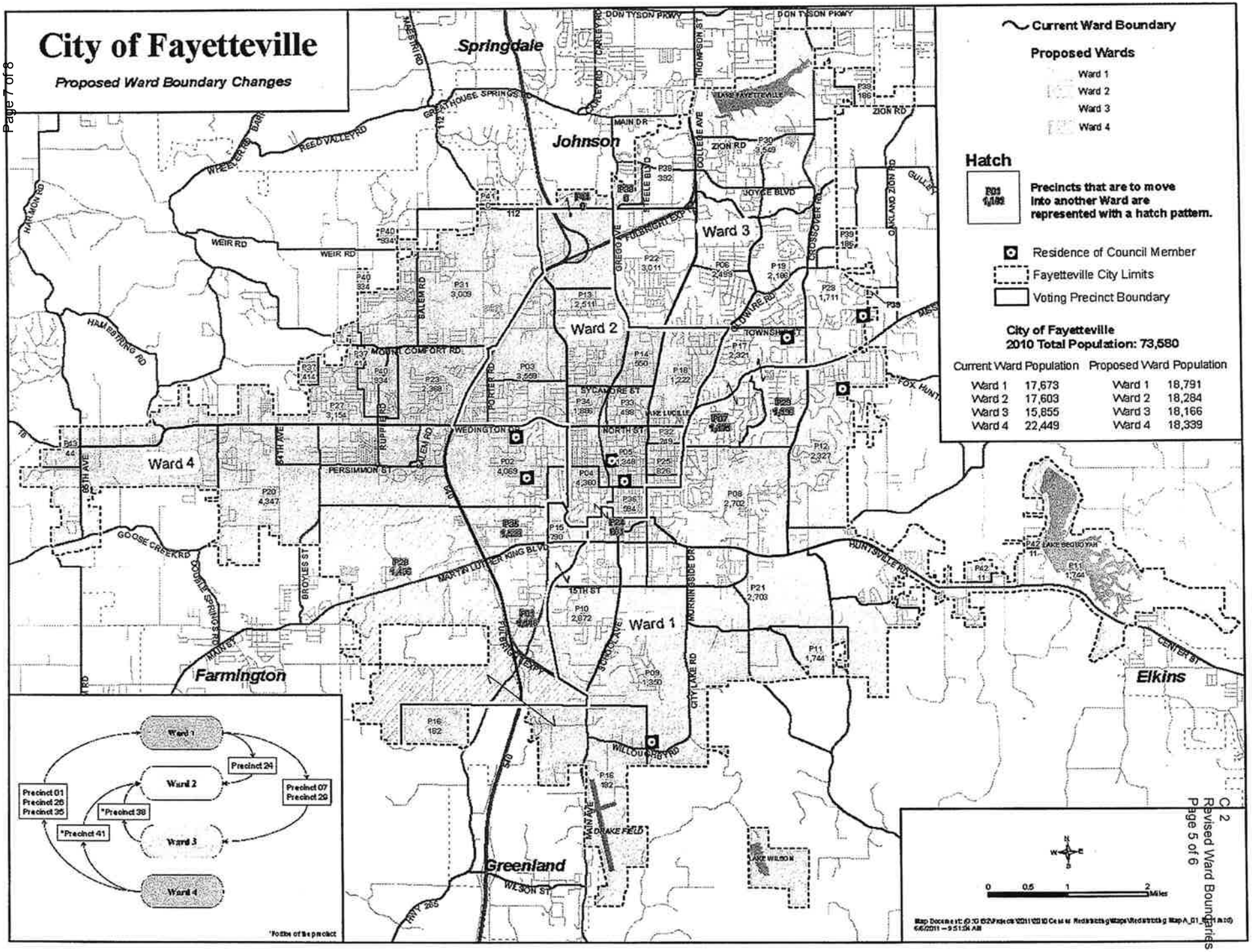
Residence of Council Member

Fayetteville City Limits

Voting Precinct Boundary

City of Fayetteville
2010 Total Population: 73,580

Current Ward	Population	Proposed Ward	Population
Ward 1	17,673	Ward 1	18,791
Ward 2	17,603	Ward 2	18,284
Ward 3	15,855	Ward 3	18,166
Ward 4	22,449	Ward 4	18,339



City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

9/20/2011
City Council Meeting Date
Agenda Items Only

Andrew Garner	Planning	Development Services
Submitted By	**Division**	**Department**

Action Required:

RZN 11-3866: (2013 E. Mission Blvd./Ruskin Heights, 370/371): Submitted by Jorgensen & Associates for property located at 2013 East Mission Boulevard. The property is zoned R-PZD, Residential Planned Zoning District and contains approximately 28.93 acres. The request is to rezone the subject property to CS, Community Services; NC, Neighborhood Conservation; and RSF-4, Residential Single-Family, 4 units per acre, subject to a Bill of Assurance.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date 09.01.2011

City Attorney — Date 9-1-11

Finance and Internal Services Director — Date 9-1-2011

Chief of Staff — Date 9-2-11

Mayor — Date 9/6/11

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 09-01-11 P04:20 RCVD

Received in Mayor's Office ENTERED 9/2/11

Comments:

Revised January 15, 2009

Left on Second Reading at the 9/20/11 CC Mtg.

Fayetteville ARKANSAS
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: Andrew Garner, Senior Planner

Date: August 30, 2011

Subject: RZN 11-3866 (Ruskin Heights)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to rezone the property from R-PZD, Residential Planned Zoning District to CS, Community Services; NC, Neighborhood Conservation; and RSF-4, Residential Single-Family, 4 units per acre, subject to a detailed Bill of Assurance offered by the applicant.

BACKGROUND

The subject property consists of approximately 28.93 acres located on the south side of Mission Boulevard (State Highway 45), approximately 0.5 miles west of Crossover Road. On March 20, 2007 the City Council approved the Ruskin Heights Residential Planned Zoning District on the subject property (R-PZD 06-2299). The property was originally zoned RSF-4, Residential Single Family Four Units Per Acre. The R-PZD zoning permitted a total of 295 attached and detached dwellings as well as 58,500 square feet of non-residential/commercial space. As part of the PZD approval a preliminary plat was approved for 68 lots. Construction permits for the preliminary plat was approved and a majority of the infrastructure for these 68 lots was installed. The final plat was never completed and the construction permits and the PZD have expired.

The applicant proposes to rezone the approximately 28.93-acre property from R-PZD 06-2299 Ruskin Heights to the following zoning districts:

- CS, Community Services (7.13 acres)
- NC, Neighborhood Conservation (16.83 acres)
- RSF-4, Residential Single Family Four Units Per Acre (4.96 acres)

A survey and legal descriptions showing the various areas to be rezoned is attached. The applicant has offered a Bill of Assurance along with this rezoning request that would limit the uses and density of various areas of the site.

DISCUSSION

This item was tabled at the three Planning Commission meetings (July 11th, July 25th, and August 8th) to give the applicant time to work with the surrounding neighborhood. The applicant conducted two neighborhood meetings outside of the regular Planning Commission meetings. After significant discussion, on August 22,

2011, the Planning Commission forwarded this item to the City Council with a recommendation of approval with the applicant's offered Bill of Assurance with a vote of 8-1-0 (Commissioner Hoskins voting 'no'). A copy of the meeting minutes from the August 22nd meeting are attached. The applicant has slightly changed the Bill of Assurance from that presented to the Planning Commission to permit church use within the Community Services zoning district.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 11-3866, FOR APPROXIMATELY 28.93 ACRES, LOCATED AT 2013 EAST MISSION BOULEVARD FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT (RPZD 06-2299 RUSKIN HEIGHTS), TO CS, COMMUNITY SERVICES; NC, NEIGHBORHOOD CONSERVATION; AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS/ACRE, SUBJECT TO A BILL OF ASSURANCE

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 R-PZD, Residential Planned Zoning District 06-2299 Ruskin Heights to CS, Community Services; NC, Neighborhood Conservation; and RSF-4, Residential Single-Family, 4 units per acre, 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.

Section 3: That this property is subject to a Bill of Assurance offered by the property owner and runs with the land, which limits the use and density of the property as shown in Exhibit "C" attached hereto and made a part thereof.

PASSED and **APPROVED** this day of , 2011.

APPROVED: ATTEST:

By: _____ By: _____

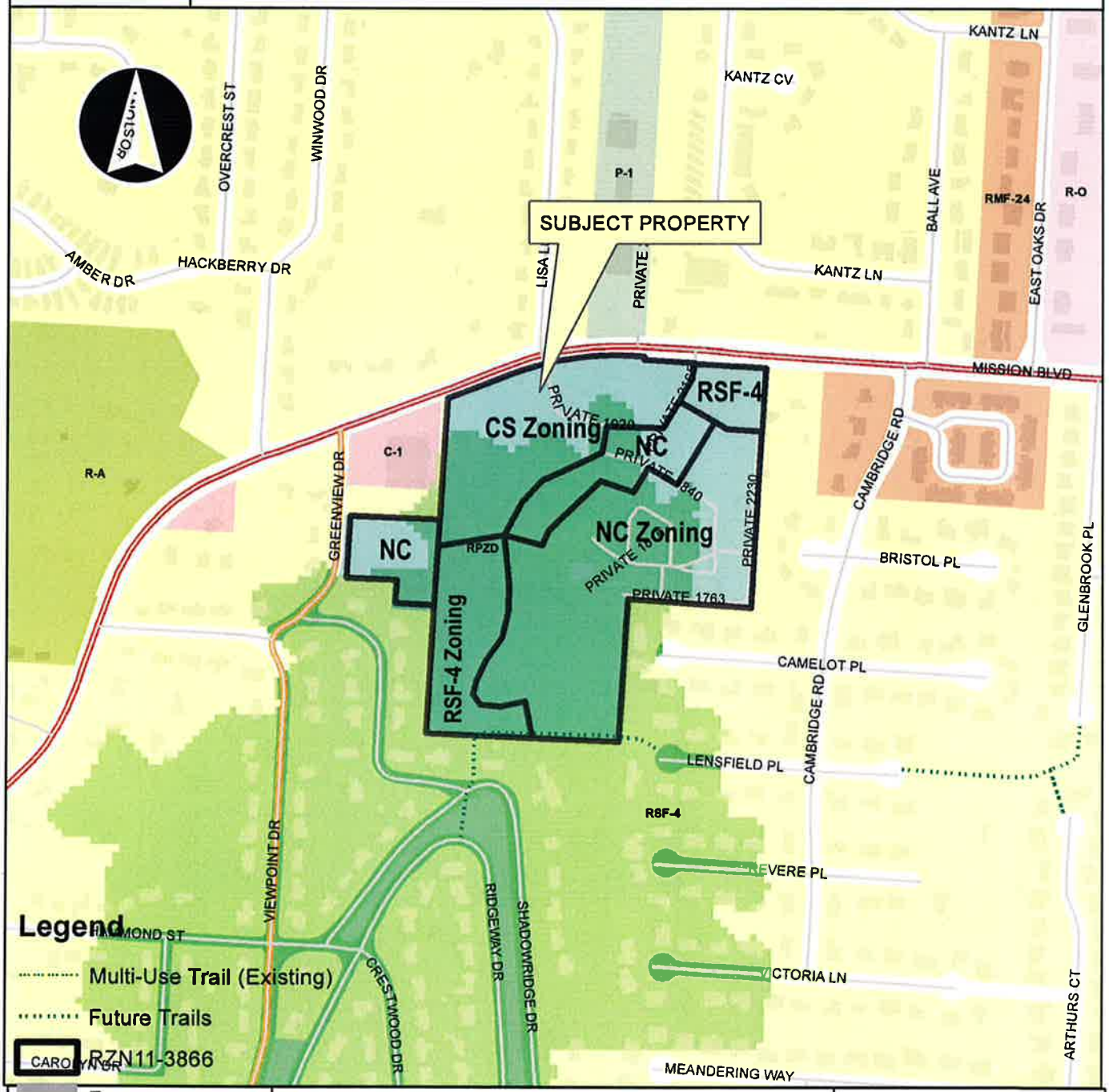
LIONELD JORDAN, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

EXHIBIT "A"

RZN11-3866

Close Up View

RUSKIN HEIGHTS



CS, Community Services (7.13 acres)
NC, Neighborhood Conservation (16.83 acres)
RSF-4, Residential Single Family Four Units Per Acre (4.96 acres)

EXHIBIT "B"
RZN 11-3866
Page 1 of 3

LEGAL DESCRIPTION: COMMUNITY SERVICES "AREA 1":

A PART OF THE SE1/4 OF THE SW1/4 AND A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 2, T-16-N, R-30-W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS; COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET, THENCE N03°38'07"E 441.29 FEET, THENCE N03°43'13"E 201.84 FEET TO THE P.O.B., THENCE N03°43'13"E 91.83 FEET, THENCE N03°42'38"E 417.42 FEET TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIIGHWAY 45 (MISSION BLVD) THENCE ALONG SAID RIGHT-OF-WAY N69°23'34"E 249.34 FEET, THENCE ALONG A CURVE TO THE RIGHT 108.99 FEET, SAID CURVE HAVING A RADIUS OF 970.00 FEET AND A CHORD BEARING AND DISTANCE OF N72°36'42"E 108.93 FEET, THENCE ALONG A CURVE TO THE RIGHT 335.03 FEET, SAID CURVE HAVING A RADIUS OF 978.84 FEET AND A CHORD BEAGING AND DISTANCE OF N85°38'10"E 333.40 FEET, THENCE S01°04'05"W 12.27 FEET, THENCE S86°22'14"E 166.88 FEET, THENCE S03°35'31"W 52.51 FEET, THENCE S29°39'59"W 198.65 FEET, THENCE N88°12'58"W 191.48 FEET, THENCE S09°15'37"W 90.52 FEET, THENCE S63°52'00"W 117.08 FEET, THENCE S65°15'19"W 105.97 FEET, THENCE S42°52'30"W 104.57 FEET, THENCE S28°15'21"W 126.68 FEET, THENCE S80°27'37"W 232.53 FEET TO THE P.O.B. CONTAINING 7.13 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD.

LEGAL DESCRIPTION: RESIDENTIAL SINGLE FAMILY FOUR UNITS PER ACRE "AREA 2":

A PART OF THE SE1/4 OF THE SW1/4 AND A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 2, T-16-N, R-30-W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS; COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET, THENCE S87°31'58"E 657.93 FEET, THENCE N03°45'46"E 491.63 FEET, THENCE S85°48'23"E 422.74 FEET, THENCE N03°29'46"E 606.14 FEET TO THE P.O.B., THENCE N85°59'44"W 123.24 FEET, THENCE N59°37'43"W 189.62 FEET, THENCE N29°39'59"E 91.56 FEET, THENCE N03°35'36"E 50.56 FEET TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIGHWAY 45 (MISSION BLVD), THENCE ALONG SAID RIGHT-OF-WAY S86°28'21"E 252.00 FEET, THENCE S03°29'46"W 219.46 FEET TO THE P.O.B. CONTAINING 1.22 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD.

EXHIBIT "B"
RZN 11-3866
Page 2 of 3

LEGAL DESCRIPTION: NEIGHBORHOOD CONSERVATION "AREA 3":

A PART OF THE SE1/4 OF THE SW1/4 AND A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 2, T-16-N, R-30-W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS; COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET, THENCE S87°31'58"E 657.93 FEET, THENCE N03°45'46"E 491.63 FEET, THENCE S85°48'23"E 422.74 FEET, THENCE N03°29'46"E

606.14 FEET, THENCE N85°59'44"W 123.24 FEET, THENCE N59°37'43"W 48.28 FEET TO THE P.O.B., THENCE S30°58'43"W 249.83 FEET, THENCE N59°11'32"W 114.32 FEET, THENCE S30°17'20"W 99.57 FEET, THENCE N70°02'28"W 115.43 FEET, THENCE S45°50'43"W 244.27 FEET, THENCE S23°37'24"W 56.87 FEET, THENCE N74°41'46"W 134.40 FEET, THENCE N28°15'21"E 126.68 FEET, THENCE N42°52'30"E 104.57 FEET, THENCE N65°15'19"E 105.97 FEET, THENCE N63°52'00"E 117.08 FEET, THENCE N09°15'37"E 90.52 FEET, THENCE S88°12'58"E 191.48 FEET, THENCE N29°39'59"E 106.90 FEET, THENCE S59°37'43"E 141.34 TO THE P.O.B. CONTAINING 2.56 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD.

LEGAL DESCRIPTION: NEIGHBORHOOD CONSERVATION "AREA 4":

A PART OF THE SE1/4 OF THE SW1/4 AND A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 2, T-16-N, R-30-W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS; COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET, THENCE S87°31'58"E 367.85 FEET TO THE P.O.B., THENCE N11°19'02"W 128.71 FEET, THENCE S77°56'44"W 86.21 FEET, THENCE N85°00'50"W 70.46 FEET, THENCE N35°18'19"W 44.34 FEET, THENCE N15°52'10"E 50.93 FEET, THENCE N26°01'06"E 76.20 FEET, THENCE N35°29'48"E 94.06 FEET, THENCE N12°32'12"E 97.53 FEET, THENCE N01°04'52"E 87.70 FEET, THENCE N05°35'35"W 169.55 FEET, THENCE S74°41'46"E 134.40 FEET, THENCE N23°37"24"E 56.87 FEET, THENCE N45°50'43"E 244.27 FEET, THENCE S70°02'28"E 115.43 FEET, THENCE N30°17'20"E 99.57 FEET, THENCE S59°11'32"E 114.32 FEET, THENCE N30°58'43"E 249.83 FEET, THENCE S59°37'43"E 48.28 FEET, THENCE S85°59'44"E 123.24 FEET, THENCE S03°29'46"W 606.14 FEET, THENCE N85°48'23"W 422.74 FEET, THENCE S03°45'46"W 491.63 FEET, THENCE N87°31'58"W 290.08 FEET TO THE P.O.B. CONTAINING 12.51 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD.

EXHIBIT "B"
RZN 11-3866
Page 3 of 3

LEGAL DESCRIPTION: RESIDENTIAL SINGLE FAMILY FOUR UNITS PER ACRE "AREA 5":

A PART OF THE SE1/4 OF THE SW OF SECTION 2, T-16-N, R-30-W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS; COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET TO THE P.O.B., THENCE N03°38'07"E 441.29 FEET, THENCE N03°43'13"E 201.84 FEET, THENCE N80°27'37"E 232.53 FEET, THENCE S05°35'35"E 169.55 FEET, THENCE S01°04'52"W 87.70 FEET, THENCE S12°32'12"W 97.53 FEET, THENCE S35°29'48"W 94.06 FEET, S26°01'06"W 76.20 FEET, THENCE S15°52'10"W 50.93 FEET, THENCE S35°18'19"E 44.34 FEET, THENCE S85°00'50"E 70.46 FEET, N77°56'44"E 86.21 FEET, THENCE S11°19'02"E 128.71 FEET, THENCE N87°31'58"W 367.85 FEET TO THE P.O.B. CONTAINING 3.74 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD.

LEGAL DESCRIPTION: NEIGHBORHOOD CONSERVATION "AREA 6":

A PART OF THE SE1/4 OF THE SW OF SECTION 2, T-16-N, R-30-W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS; COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET, THENCE N03°38'07"E 441.29 FEET TO THE P.O.B., THENCE N87°33'26"W 135.00 FEET, THENCE N03°42'40"E 80.00 FEET, THENCE N87°33'28"W 175.00 FEET, THENCE N03°42'40"E 212.30 FEET, THENCE S87°48'42"E 310.08 FEET, THENCE S03°43'13"W 293.67 TO THE P.O.B. CONTAINING 1.76 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD.

EXHIBIT "C"

RZN 11-3866
Page 1 of 4

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") _____, 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 uses and densities as shown and described in the attached "Exhibit A" and "Exhibit B".

2. Other restrictions including number and type of structures upon the property are limited to_____
_____.

3. Specific activities will not be allowed upon petitioner's property include
_____
_____.

4. (Any other terms or conditions) _____
_____.

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

EXHIBIT "C"

RZN 11-3866

Page 2 of 4

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, Chris Elkins / Metropolitan Bank, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

8-29-11
Date

Chris Elkins
Printed Name
VP of Commercial Relationship Management

Address

Signature

NOTARY OATH

STATE OF ARKANSAS }
} .ss
COUNTY OF WASHINGTON }

And now on this the 29 day of August, 2011, appeared before me, Chris Elkins, 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.

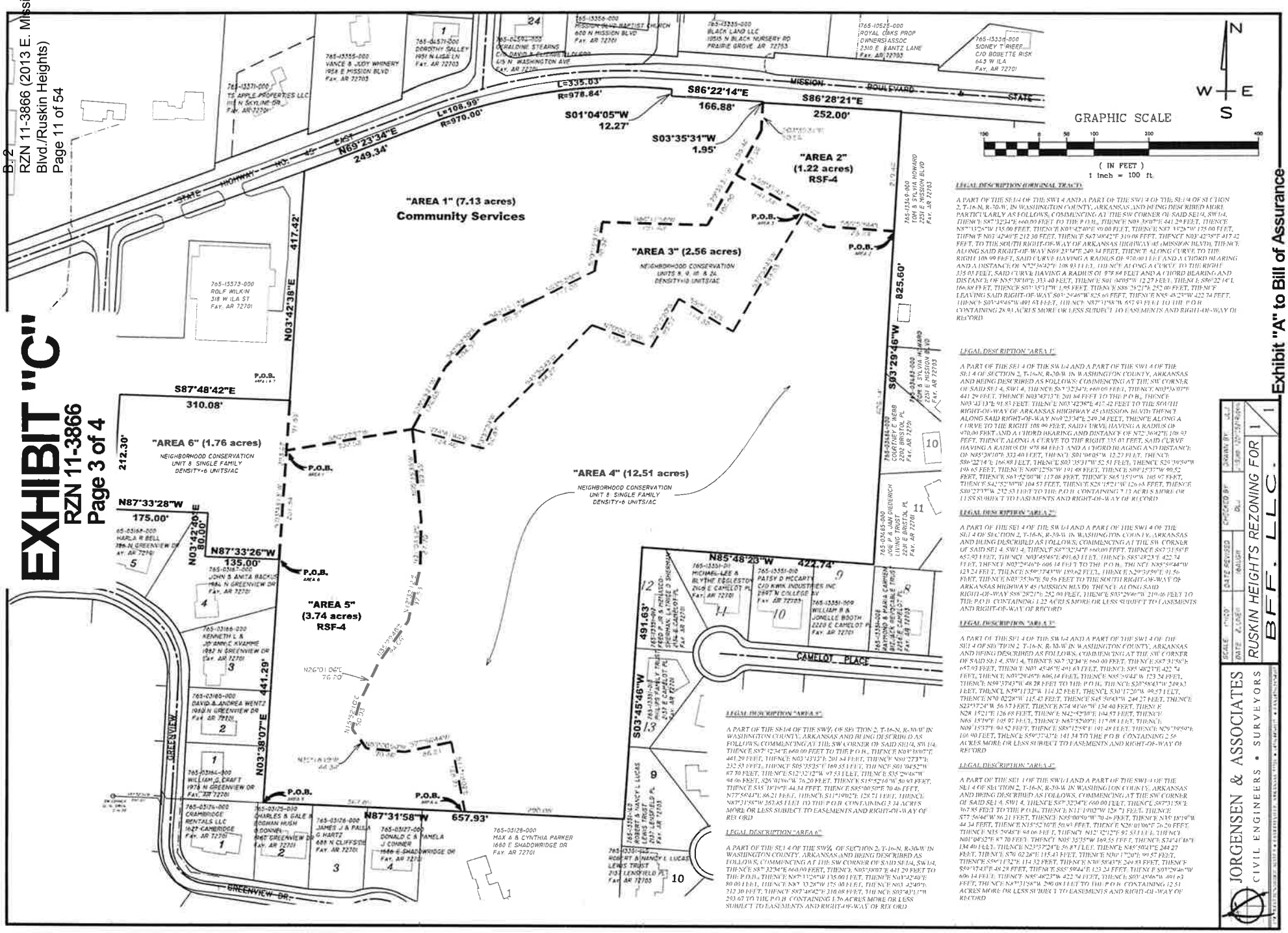
Megan Hudgens
NOTARY PUBLIC

My Commission Expires:

10/4/20

MEGAN HUDGENS
NOTARY PUBLIC
ARKANSAS
WASHINGTON COUNTY
12378658 EXPIRES 10-4-2020

EXHIBIT "C"
RZN 11-3866
Page 3 of 4



LEGAL DESCRIPTION (ORIGINAL TRACT)

A PART OF THE SE1/4 OF THE SW1/4 AND A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 2, T-16-N, R-30-W, IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS, COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET TO THE P.O.B., THENCE N03°38'07"E 441.29 FEET, THENCE N87°33'26"W 135.00 FEET, THENCE N03°42'40"E 90.00 FEET, THENCE N87°33'26"W 175.00 FEET, THENCE N03°42'40"E 212.30 FEET, THENCE S87°38'42"E 310.08 FEET, THENCE N03°42'38"E 417.42 FEET, TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIGHWAY 45 (MISSION BLVD), THENCE ALONG SAID RIGHT-OF-WAY N69°23'34"E 249.34 FEET, THENCE ALONG CURVE TO THE RIGHT 108.99 FEET, SAID CURVE HAVING A RADIUS OF 970.00 FEET AND A CHORD BEARING AND A DISTANCE OF N72°36'42"E 108.93 FEET, THENCE ALONG A CURVE TO THE RIGHT 335.03 FEET, SAID CURVE HAVING A RADIUS OF 978.84 FEET AND A CHORD BEARING AND DISTANCE OF N85°38'10"E 333.40 FEET, THENCE S01°04'05"W 12.27 FEET, THENCE S86°22'14"E 166.88 FEET, THENCE S03°35'31"W 1.95 FEET, THENCE S86°28'21"E 252.00 FEET, THENCE LEAVING SAID RIGHT-OF-WAY S03°29'46"W 825.60 FEET, THENCE N85°48'23"W 422.74 FEET, THENCE S03°45'46"W 491.63 FEET, THENCE N87°31'58"W 657.93 FEET TO THE P.O.B. CONTAINING 26.93 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD.

LEGAL DESCRIPTION "AREA 1"

A PART OF THE SE1/4 OF THE SW1/4 AND A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 2, T-16-N, R-30-W, IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET, THENCE N03°38'07"E 441.29 FEET, THENCE N03°38'07"E 201.84 FEET TO THE P.O.B., THENCE N03°42'40"E 91.83 FEET, THENCE N03°42'38"E 417.42 FEET TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIGHWAY 45 (MISSION BLVD) THENCE ALONG SAID RIGHT-OF-WAY N69°23'34"E 249.34 FEET, THENCE ALONG A CURVE TO THE RIGHT 108.99 FEET, SAID CURVE HAVING A RADIUS OF 970.00 FEET AND A CHORD BEARING AND DISTANCE OF N72°36'42"E 108.93 FEET, THENCE ALONG A CURVE TO THE RIGHT 335.03 FEET, SAID CURVE HAVING A RADIUS OF 978.84 FEET AND A CHORD BEARING AND DISTANCE OF N85°38'10"E 333.40 FEET, THENCE S01°04'05"W 12.27 FEET, THENCE S86°22'14"E 166.88 FEET, THENCE S03°35'31"W 52.51 FEET, THENCE S29°39'59"W 198.45 FEET, THENCE N88°12'56"W 191.49 FEET, THENCE S09°15'37"W 90.52 FEET, THENCE S63°52'00"W 117.08 FEET, THENCE S65°15'10"W 105.97 FEET, THENCE S42°52'00"W 104.57 FEET, THENCE S28°18'21"W 126.68 FEET, THENCE S80°27'37"W 212.53 FEET TO THE P.O.B. CONTAINING 7.13 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD

LEGAL DESCRIPTION "AREA 2"

A PART OF THE SE1/4 OF THE SW1/4 AND A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 2, T-16-N, R-30-W, IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS, COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET, THENCE S87°31'58"E 657.93 FEET, THENCE N03°45'46"E 491.63 FEET, THENCE S85°48'23"E 422.74 FEET, THENCE N03°29'46"E 606.14 FEET TO THE P.O.B., THENCE N85°50'44"W 123.24 FEET, THENCE N50°37'43"W 189.62 FEET, THENCE S29°39'59"E 91.56 FEET, THENCE N03°35'36"E 50.56 FEET TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIGHWAY 45 (MISSION BLVD) THENCE ALONG SAID RIGHT-OF-WAY S86°28'21"E 252.00 FEET, THENCE S03°29'46"W 219.46 FEET TO THE P.O.B. CONTAINING 1.22 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD

LEGAL DESCRIPTION "AREA 3"

A PART OF THE SE1/4 OF THE SW1/4 AND A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 2, T-16-N, R-30-W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS, COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET, THENCE S87°31'58"E 657.93 FEET, THENCE N03°45'46"E 491.63 FEET, THENCE S85°48'23"E 422.74 FEET, THENCE N03°29'46"E 606.14 FEET, THENCE N85°50'44"W 123.24 FEET, THENCE N50°37'43"W 189.62 FEET TO THE P.O.B., THENCE S30°58'43"W 249.83 FEET, THENCE N59°11'32"W 114.32 FEET, THENCE S30°17'20"W 99.57 FEET, THENCE N70°02'28"W 115.43 FEET, THENCE S45°50'43"W 244.27 FEET, THENCE S23°57'24"W 56.57 FEET, THENCE N74°41'06"W 134.40 FEET, THENCE N28°15'21"E 126.68 FEET, THENCE N42°52'00"E 104.57 FEET, THENCE N65°15'10"E 105.97 FEET, THENCE N63°52'00"E 117.08 FEET, THENCE N09°15'37"E 90.52 FEET, THENCE S88°12'56"E 191.49 FEET, THENCE N29°39'59"E 108.90 FEET, THENCE S50°37'43"E 141.34 TO THE P.O.B. CONTAINING 2.56 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD

LEGAL DESCRIPTION "AREA 4"

A PART OF THE SE1/4 OF THE SW1/4 AND A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 2, T-16-N, R-30-W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS, COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET, THENCE S87°31'58"E 657.93 FEET, THENCE N03°45'46"E 491.63 FEET, THENCE S85°48'23"E 422.74 FEET, THENCE N03°29'46"E 606.14 FEET, THENCE N85°50'44"W 123.24 FEET, THENCE N50°37'43"W 189.62 FEET TO THE P.O.B., THENCE S30°58'43"W 249.83 FEET, THENCE N59°11'32"W 114.32 FEET, THENCE S30°17'20"W 99.57 FEET, THENCE N70°02'28"W 115.43 FEET, THENCE S45°50'43"W 244.27 FEET, THENCE S23°57'24"W 56.57 FEET, THENCE N74°41'06"W 134.40 FEET, THENCE N28°15'21"E 126.68 FEET, THENCE N42°52'00"E 104.57 FEET, THENCE N65°15'10"E 105.97 FEET, THENCE N63°52'00"E 117.08 FEET, THENCE N09°15'37"E 90.52 FEET, THENCE S88°12'56"E 191.49 FEET, THENCE N29°39'59"E 108.90 FEET, THENCE S50°37'43"E 141.34 TO THE P.O.B. CONTAINING 2.56 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD

LEGAL DESCRIPTION "AREA 5"

A PART OF THE SE1/4 OF THE SW1/4, OF SECTION 2, T-16-N, R-30-W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS, COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET, THENCE N03°38'07"E 441.29 FEET, THENCE N03°42'40"E 201.84 FEET, THENCE N03°27'37"E 232.53 FEET, THENCE S05°35'25"E 169.55 FEET, THENCE N01°04'52"W 87.70 FEET, THENCE S12°32'12"W 53.11 FEET, THENCE S35°29'46"W 94.06 FEET, S26°01'06"W 76.20 FEET, THENCE S15°52'10"W 60.93 FEET, THENCE S38°19'07"E 44.34 FEET, THENCE S55°00'50"E 70.46 FEET, N77°56'47"E 86.21 FEET, THENCE S11°19'02"E 128.71 FEET, THENCE N87°31'58"W 363.85 FEET TO THE P.O.B. CONTAINING 3.74 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD

LEGAL DESCRIPTION "AREA 6"

A PART OF THE SE1/4 OF THE SW1/4, OF SECTION 2, T-16-N, R-30-W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS, COMMENCING AT THE SW CORNER OF SAID SE1/4, SW1/4, THENCE S87°32'34"E 660.00 FEET, THENCE N03°38'07"E 441.29 FEET TO THE P.O.B., THENCE N87°33'26"W 135.00 FEET, THENCE N03°42'40"E 80.00 FEET, THENCE N87°33'28"W 175.00 FEET, THENCE N03°42'40"E 212.30 FEET, THENCE S87°38'42"E 310.08 FEET, THENCE S03°43'17"W 293.67 TO THE P.O.B. CONTAINING 1.76 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT-OF-WAY OF RECORD

EXHIBIT "C"
RZN 11-3866
Page 4 of 4

Zoning: ***Community Services: Area 1***

The following uses shown in Chapter 161.19 of the City of Fayetteville's Zoning Regulations **SHALL NOT** be allowed in the area shown on the Rezoning Plat (Exhibit A) as Community Services:

- *Unit 4*: Cultural & recreational facilities, everything excluded except churches.
- *Unit 18*: Gasoline stations & drive – in/drive through restaurants.
- *Unit 3*: Public protection and utility facilities.
- *Under Use Unit 14*, Hotel, motel and amusement services: Everything is permitted except Hotel & Motel.
- *Under Use Unit 16*, Shopping Goods: Transportation Services.
- *Unit 17*: Transportation, trades & services.
- *Unit 28*: Center for recycle materials.
- *Unit 34*: Liquor stores.
- *Unit 35*: Outdoor music establishments.
- *Unit 36*: Wireless communication facilities.
- *Unit 42*: Clean technologies.

Zoning: ***Neighborhood Conservation: Area 3-6***

The areas shown on the Rezoning Plat (Exhibit A) as Neighborhood Conservation **SHALL BE LIMITED TO** the following uses and densities:

1. Area 3 (2.56 acres): Max Density of 10 units/acre
   a. Permitted Uses
      - *Unit 8*: Single-family dwellings
      - *Unit 9*: Two-family dwellings
   b. Conditional Uses
      - *Unit 10*: Three-family dwellings
      - *Unit 24*: Home occupations
2. Area 4 & Area 6 (14.27 acres): Max Density of 6 units/acre
   a. Permitted Uses
      - *Unit 8*: Single-family
3. Area 5 (3.74 acres): Max Density of 4 units/acre
   a. Permitted Uses
      - *Unit 8*: Single-family

STAFF REPORT
PLANNING COMMISSION MEETING
AUGUST 22, 2011

Fayetteville
ARKANSAS

PC Meeting of August 22, 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:	Andrew Garner, Senior Planner
THRU:	Jeremy Pate, Development Services Director
DATE:	~~June 30, 2011~~ *Updated August 29, 2011*

RZN 11-3866: Rezone (2013 E. MISSION BLVD./RUSKIN HEIGHTS, 370/371): Submitted by JORGENSEN & ASSOCIATES for property located at 2013 EAST MISSION BOULEVARD. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 28.93 acres. The request is to rezone the property to CS, COMMUNITY SERVICES; NC, NEIGHBORHOOD CONSERVATION; AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS/ACRE, subject to a Bill of Assurance. Planner: Andrew Garner

BACKGROUND:

Planning Commission Meetings: This item has been tabled at the three previous Planning Commission meetings (July 11th, July 25th, and August 8th). The applicant has submitted a slightly revised rezoning request and associated Bill of Assurance that are attached to and described in this report.

Property Description: The subject property consists of approximately 28.93 acres located on the south side of Mission Boulevard (State Highway 45), approximately 0.5 miles west of Crossover Road. The approximately 29-acre site contains 18.6 acres within the Hillside/Hilltop Overlay district, comprising 62% of the land area. Tree canopy varies dramatically over the site, with a majority of the tree canopy on the perimeter property lines or old fence rows, and along the south and west portion of the property which is primarily sloped. Other portions of the property, especially that near Mission Boulevard, is clear of tree canopy altogether. Part of the property is developed with streets, water, sewer, and storm drainage related to a previous development that was never completed. The property is surrounded by a variety of uses, including a church, plant nursery, single family residences, multi-family residences and a commercial strip center. This site is located approximately ½ mile from one of the larger commercial nodes in the City of Fayetteville, the development that surrounds the intersection of Highway 45 (Mission Blvd) and Highway 265 (Crossover Road). The surrounding land use and zoning are listed in *Table 1.*

Table 1
Surrounding Land Use/Zoning

Direction	Land Use	Zoning
North	Mission Boulevard Baptist Church; Westwood Gardens Plant Nursery; Single family residences	P-1; RSF-4
South	Single family residences	RSF-4

East	Single family, multi-family	RSF-4, RMF-24
West	Single-family residential (Broadview Subdivision); Commercial shopping center	C-1; RSF-4

History: On March 20, 2007 the City Council approved the Ruskin Heights Residential Planned Zoning District on the subject property (R-PZD 06-2299). The property was originally zoned RSF-4, Residential Single Family Four Units Per Acre. The R-PZD zoning permitted a total of 295 attached and detached dwellings as well as 58,500 square feet of non-residential/commercial space. As part of the PZD approval a preliminary plat was approved for 68 lots. Construction permits for the preliminary plat was approved and a majority of the infrastructure for these 68 lots was installed. The final plat was never completed and the construction permits and the PZD have expired.

PZD Revocation: If an approved PZD expires the property does not automatically revert back to the original zoning. The property is unable to be developed or subdivided until a new, valid zoning district is assigned.

Current Proposal: The applicant proposes to rezone the approximately 28.93-acre property from R-PZD 06-2299 Ruskin Heights to the following zoning districts:

- CS, Community Services (7.13 acres)
- NC, Neighborhood Conservation (16.83 acres)
- RSF-4, Residential Single Family Four Units Per Acre (4.96 acres)

A survey and legal descriptions showing the various areas to be rezoned is attached. The applicant has offered a Bill of Assurance along with this rezoning request that would limit the uses and density of various areas of the site.

Previous Proposal: The applicant's previous rezoning request that was discussed at the July 11, 2011 meeting was as follows:

- CS, Community Services (7.67 acres)
- NC, Neighborhood Conservation (18.40 acres)
- RSF-4, Residential Single Family Four Units Per Acre (2.86 acres)

Public Comment: City staff has received a few emails about this rezoning request, and there were eight people that commented at the July 11th Planning Commission meeting. The applicant has had meetings with the neighborhood discussing the proposed rezoning and has modified their original request and included a detailed Bill of Assurance to try and address the neighbor's concerns. The written public comments provided to the City and the meeting minutes from July 11th meeting have been attached to this report.

RECOMMENDATION:

Staff recommends forwarding **RZN 11-3866 (Ruskin Heights)** to the City Council with a recommendation for approval of the requested zoning based on the findings stated herein.

PLANNING COMMISSION ACTION: **Required** **YES**

Date: July 11, 2011 **X Tabled** ☐ **Forwarded** ☐ **Denied**
Motion: Earnest **Second: Bunch** **Vote: 7-1-0 (Griffin voting 'no')**

Date: July 25, 2011 **X Tabled** ☐ **Forwarded** ☐ **Denied**
Motion: Chesser **Second: Cook** **Vote: 7-1-0 (Griffin voting 'no')**

Date: August 8, 2011 **X Tabled** ☐ **Forwarded** ☐ **Denied**
Motion: Cook **Second: Chesser** **Vote: 5-2-0 (Griffin and Hoskins voting 'no')**

Date: August 22, 2011 ☐ **Tabled** **X Forwarded** ☐ **Denied**
Motion: Winston **Second: Earnest** **Vote: 8-1-0 (Hoskins voting 'no')**

CITY COUNCIL ACTION: **Required** **YES**
☐ **Approved** ☐ **Denied**
Date:

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as* ***Residential Neighborhood Area****, which "promotes walkable, cyclist-friendly road designs with slow design speeds; utilizes principles of traditional residential urban design to create compatible, livable and accessible neighborhoods; site new residential areas accessible to roadway, alternative transportation modes, community amenities, schools, infrastructure, and retail and commercial goods and services."*

INFRASTRUCTURE:

Streets: The site has access to Mission Boulevard which was fully improved in this location with the development of the preliminary plat for Ruskin Heights including an off-site sidewalk connection to Crossover Road. Streets have been constructed throughout the development.

The infrastructure installed with the Ruskin Heights preliminary plat has not been accepted by the City of Fayetteville. An inspection of the infrastructure will be required and work may be required to bring the infrastructure into compliance with current regulations. The future developer will also need to submit as-built construction plans, construction cost estimates, surveyor's certification of compliance, detention pond verification and maintenance bonds for the public infrastructure prior to acceptance by the City of Fayetteville.

There are sections of the curb that were installed without city approval, specifically exposed aggregate. At time of development, this item must be addressed, either by remove and replace with standard curb or obtain approval by city council.

Water and Sewer: Public water and sewer are available to the property. There are 8-inch water and sewer mains installed throughout the development. Additional water and sewer improvements may be required if lot lines are changed or if a large increase in density is proposed.

Drainage: This property is not affected by the 100-year floodplain or the Streamside Protection Zones.

Police: Staff did not receive objections from the Police Department to this rezoning.

Fire: Staff did not receive objections from the Fire Department to this rezoning. This property is covered by Engine 5 at Old Wire/Crossover Road with an expected response time of four minutes.

FINDINGS OF THE STAFF

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

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced the number of guiding policies for Residential Areas this proposal meets including Residential Area Policy G to:

> "*Site new residential areas accessible to roadway, alternative transportation modes, community amenities, schools, infrastructure, and retail and commercial goods and services.*"

The proposed rezoning is also highly consistent with the six major goals of City Plan 2025 as follows:

City Plan 2025 Goals	RZN 11-3866 Compliance With City Plan 2025
Goal 1: We will make appropriate infill and revitalization our highest priorities.	This proposed rezoning would allow infill in a well-developed area of Fayetteville. The property is surrounded by existing development and infrastructure. The development of this site with the Ruskin Heights preliminary plat has revitalized the existing infrastructure and street system in the immediate vicinity. Future development of this site permitted under the proposed zoning districts would provide the opportunity for additional improvements.
Goal 2: We will discourage suburban sprawl.	By permitting infill development, the proposed rezoning discourages suburban sprawl, and keeps greenfields on the perimeter of the City. Future development allowed because of this rezoning would be able to take advantage of proximity to a larger existing pool of potential employees, transit, and utility infrastructure, than a sprawling development on the periphery.
Goal 3: We will make traditional town form the standard.	This proposed zoning districts would encourage development in a traditional town form. The zoning districts would allow for a variety of uses within a neighborhood creating the ability to live, work, shop, and have daily needs and services met within walking distance. The mix of uses allowed under the proposal is adaptable for change over time.
Goal 4: We will grow a livable transportation network.	This development of the Ruskin Heights preliminary plat and continued development of this site allowed under the rezoning will provide an opportunity to improve the existing street system and sidewalks on Mission Boulevard and Greenview Drive. The proposed rezoning would allow the potential for concentrated development near one of the busiest intersections in the City at the intersection of two state highways/principal arterials. The proposed rezoning would help define a node, or concentration of development in this vicinity of the City, helping towards the goal of public transit.
Goal 5: We will assemble an enduring green network.	This proposed rezoning would be consistent with the intent of this policy to maintain community character, quality of life, and contribute to the economic success of the City. Preservation of greenspace would be reviewed and required during development.
Goal 6: We will create attainable housing.	The variety of lot sizes and residential products allowed because of the rezoning could lead to a mixed-income neighborhood. Consistent with the intent of this goal, the proposed rezoning is not an isolated attainable housing project all under one zoning district, but rather reflects the opportunity to create a more traditional urban neighborhood with households of varying types, sizes, and economic means.

Rezoning the property will accommodate both the future land use plan for residential uses, and also allow for a variety of uses and housing types, sizes and development pattern, thus providing more choices for more citizens. The proposed zoning is also compatible with the existing land uses and zoning in the immediate area including a mix of multi-family and single-family dwellings to the east, along with commercial and non-residential uses and zonings to the west and north.

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

Finding: **The proposed zoning is needed at this time as the existing R-PZD zoning has expired and the property is unable to be developed in any manner, including minor applications such as a lot split or single family residence, until the expired PZD zoning is revoked and a new zoning district is assigned. As discussed in Finding No. 1, the proposed zoning is justified as it is compatible with the surrounding zoning and land uses and consistent with the City's Future Land**

Use Plan.

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

Finding: **Mission Boulevard has been fully improved with the development of the Ruskin Heights preliminary plat including widening both sides of the road, center turn lane, curb, gutter, storm drainage, and sidewalk connection to Crossover Road approximately 0.5 mile to the east. The proposed rezone would not appreciably increase traffic danger and congestion. With future development and build-out of this site under the proposed rezoning additional street improvements would be evaluated and reviewed in compliance with City ordinance. Examples of some typical street improvements that have occurred with development of similarly-sized sites including widening, curb and gutter, traffic signals, bridge assessments, trails and sidewalks.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **Staff finds that the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property.**

Increased load on public services were taken into consideration and comments from the Engineering, Fire, and Police Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

    a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

    b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **Not applicable. Staff recommends in favor of the request.**

PROPOSED ZONING DISTRICTS

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(F) *Building height regulations.*

Building Height Maximum	45 ft.

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

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10)

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.

(Ord. 5312, 4-20-10; Ord. 5339, 8-3-10)

161.26 Neighborhood Conservation

(A) *Purpose.* The *Neighborhood Conservation* zone has the least activity and a lower density than the other zones. Although *Neighborhood Conservation* is the most purely residential zone, it can have some mix of uses, such as civic buildings. *Neighborhood Conservation* serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 10	Three-family dwellings
Unit 12	Limited Business *
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities

(C) *Density.* 10 Units Per Acre.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single Family	40 ft.
Two Family	80 ft.
Three Family	90 ft.

(2) *Lot area minimum.* 4,000 Sq. Ft.

(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	5 ft.
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Minimum buildable street frontage.* 40% of lot width.

(G) *Height regulations.* Maximum height is 3 stories or 45 feet which ever is less.

(Ord. 5128, 4-15-08; Ord. 5312, 4-20-10

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 11-3866: (2013 E. Mission Blvd. / Ruskin Heights, 370/371): Submitted by Jorgensen & Associates for property located 2013 E. Mission 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 28.93 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,

R. Turberville
Fayetteville Police Department

CITY ENGINEERING COMMENTS

RZN 11-3866: Rezone (2013 E. MISSION BLVD./RUSKIN HEIGHTS, 370/371): Submitted by JORGENSEN & ASSOCIATES for property located at 2013 EAST MISSION BOULEVARD. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 28.93 acres. The request is to rezone the property to CS, COMMUNITY SERVICES; NC, NEIGHBORHOOD CONSERVATION; AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS/ACRE. Planner: Andrew Garner

Public water and sewer are available to the property. There are 8" water and sewer mains installed throughout the development. Additional water and sewer improvements may be required if lot lines are changed or if a large increase in density is proposed.

The site has access to Mission Blvd. which was fully improved in this location with the development of this property. Streets are currently constructed throughout the development.

The infrastructure installed on this project has not yet been accepted by the City of Fayetteville. An inspection of the infrastructure will be required and work may be required to bring the infrastructure into compliance with current regulations. The developer will also need to submit as-built construction plans, construction cost estimates, surveyor's certification of compliance, detention pond verification and maintenance bonds for the public infrastructure prior to acceptance by the City of Fayetteville.

There are sections of the curb that were installed without city approval, specifically exposed aggregate. At time of development, this item must be addressed, either by remove and replace with standard curb or obtain approval by city council.

This property is not affected by the 100-year floodplain and the Streamside Protection Zones.

Condominium flats will be located near the entrance to the Ruskin Heights neighborhood. These units will be very convenient to shopping as well as to the community organic gardens and major waterscapes on the site. These units will include mixed use on the lower floors with residential units on the upper floors.

While a specific building type has not yet been chosen for these units, parking to the interior or rear of the site, unseen from adjoining neighborhoods and streets is expected.

The designers are not asking for development approval of these units at this time, as architectural standards and specific building designs and unit sizes are not currently detailed. Instead, platting only is being requested at this time, with this Planning Area to be re-submitted to the city platting process as a Large Scale Development at a future date.

A. Permitted Uses by Unit

Unit 1	City wide uses by right
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Professional offices
Unit 26	Multi family dwellings

B. Conditional Uses by Right

Unit 2	City-wide uses by conditional use permit
Unit 17	Trades and services
Unit 24	Home occupation
Unit 34	Liquor store
Unit 35	Outdoor music establishments

C. Residential Density

Acreage	4.98
Dwelling units	94
Density	19 units/acre

Intensity

Acreage	4.98
Non -Residential	22,500 ft.^{2} total or 4,518/acre

D. Lot Width Minimum

0 ft.

E. Lot Area Minimum

320 ft.^{2}

F. Land Area per Dwelling

900 ft.^{2}

G. Setback Requirements

Front	0 ft.
Side	0 ft
Rear	0 ft

Encroachments

Encroachments into the public right-of-way shall follow the recommendations set forth in chapter 3, section 3201 of the International Building Code.

External Property Boundary Setback

All buildings in the Ruskin Heights neighborhood will be set back a minimum of ten (10) feet from all perimeter site property lines.

H. Height Regulation

Shall not exceed 60 Ft.

I. Building Area

Shall not exceed 95%

J. Landscaping

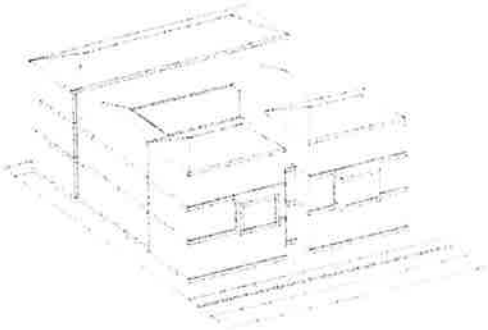
Landscaping for the site will be grass, trees, shrubs, and other plantings to be determined by the designers. It will also include water features, stone and other hard surface walls, and, in some cases, cobblestone, brick, and other hard surface materials for pedestrian use. Some grassy areas may be engineered to be useable by automotive traffic without doing damage to the underlying vegetation. In general, all landscaping will be in accord with the requisite portions of the Fayetteville UDC. The development will comply with the landscape plan included with the plats submitted.

K. Parking

All parking shall comply with regulations set forth in the unified development code.

L. Architectural Design Standards

Architectural design standards throughout the project will be of the highest caliber. Durable exterior materials such as brick, stone, stucco, hardi plank and wood will be used for exteriors. A strong and coherent architectural style reminiscent of Arts and Crafts neighborhoods will be used throughout the project. Where individuals are building single family homes, while creativity will be encouraged in order to add to the eclectic nature of the community, designers and builders will be required to adhere to a strict design code and a materials list provided by the developers which will include natural materials such as those described above. The architectural design shall be consistent with the building elevations and concepts presented in the PZD booklet. Foundation plans shall be engineered per condition of approval 40 under "Additional Conditions" in the City Council's Amended Conditions of Approval dated March 20, 2007.

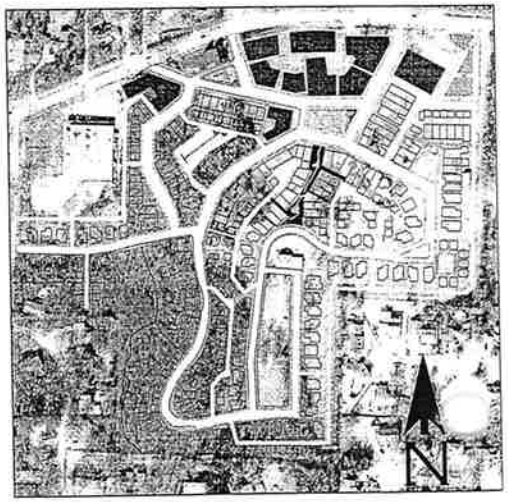


M. Signage

All signage will fully comply with the Fayetteville sign ordinance and the relevant portions of the UDC. The developer may wish to use unique street signs which would better fit with the neighborhood's overall character. Additionally, some signs which designate areas of the neighborhood such as the Spanish Steps and other landmarks and districts may be employed. All proposed signs will be subject to the approval of the Fayetteville Transportation Department.

Part of Phases 1, 5 & 6

Parcels will be created in phases 1, 5 and 6. However, these parcels will be required to be re-submitted to the city as large scale developments before development approval is granted.



Requesting Development Approval at this time?

NO

Planning Area 1 -

B. 2
RZN 11-3866 (2013 E. Mission Blvd./Ruskin Heights)
Page 26 of 54

EXHIBIT
ZONING
Pg. 1

As the global economy changes, more and more Americans are working from home as opposed to travelling to and from an outside location for work each day. While this situation works fine for individuals telecommuting to a separate, existing business from home, most housing is not zoned to allow actual businesses to be run out of the home.

Small, startup businesses could benefit greatly from the ability to combine business building costs and housing costs. Further, this model of business/home combination is similar to traditional old world and early american business structures - where shop owners often ran businesses out of the bottom or front of their homes and lived above and behind them.

The Live/Work Town house Planning Area is designed exactly with this type of business ownership in mind. Small business owners will find it much easier to handle start-up costs if they are able to work out of their houses. Additionally, business owners will make far fewer trips each day, lowering vehicle emissions. Lastly, the neighborhood benefits, as small shops, offices and cafes will be intermingled into the community, increasing variety and making the neighborhood more walkable.

A. Permitted Uses by Unit

Unit 1	*City wide uses by right*
Unit 5	*Government facilities*
Unit 8	*Single family dwellings*
Unit 9	*Two family dwellings*
Unit 10	*Three family dwellings*
Unit 12	*Offices, studios and related services*
Unit 13	*Eating places*
Unit 15	*Neighborhood shopping goods*
Unit 16	*Shopping goods*
Unit 19	*Commercial recreation, small sites*
Unit 25	*Professional offices*
Unit 26	*Multi family dwellings*

B. Conditional Uses by Right

Unit 2	*City-wide uses by conditional use permit*
Unit 17	*Trades and services*
Unit 24	*Home occupation*
Unit 34	*Liquor store*
Unit 35	*Outdoor music establishments*
	Detached second dwelling units

C. Residential Density

Acreage	*7.71*
Dwelling units	*98*
Density	*13 units/acre*
Intensity	
Acreage	*7.71*
Non -Residential	*36,000 ft.² total, or 4,669 ft.²/acre*

D. Lot Width Minimum

12 ft.

E. Lot Area Minimum

500 ft.²

F. Land Area per Dwelling

1500 ft.²

G. Setback Requirements

Front	*0 ft.*
Side	*0 ft.*
Rear	*0 ft.*
When Rear Faces Alley	*3 ft.*

In the event that a garage is detached from a Live/Work unit and is located on a lot not contiguous with the lot on which its parent Live/Work unit is located, garage openings facing an alleyway shall be considered the front of the garage structure. In this event, at least three (3) feet of clear space must still be maintained between the edge of pavement of the alley and the garage front.

Encroachments

Encroachments into the public right-of-way shall follow the recommendations set forth in chapter 3, section 3201 of the International Building Code.

External Property Boundary Setback

All buildings in the Ruskin Heights neighborhood will be set back a minimum of ten (10) feet from all perimeter site property lines.

H. Height Regulation

Shall not exceed 45 Ft.

I. Building Area

Shall not exceed 95%

J. Landscaping

Landscaping for the site will be grass, trees, shrubs, and other plantings to be determined by the designers. It will also include water features, stone and other hard surface walls, and, in some cases, cobblestone, brick, and other hard surface materials for pedestrian use. Some grassy areas may be engineered to be useable by automotive traffic without doing damage to the underlying vegetation. In general, all landscaping will be in accord with the requisite portions of the Fayetteville UDC. The development will comply with the landscape plan included with the plats submitted.

K. Parking

All parking shall comply with regulations set forth in the unified development code.

L. Architectural Design Standards

Architectural design standards throughout the project will be of the highest caliber. Durable exterior materials such as brick, stone, stucco, hardi plank and wood will be used for exteriors. A strong and coherent architectural style reminiscent of Arts and Crafts neighborhoods will be used throughout the project. Where individuals are building single family homes, while creativity will be encouraged in order to add to the eclectic nature of the community, designers and builders will be required to adhere to a strict design code and a materials list provided by the developers which will include natural materials such as those described above. The architectural design shall be consistent with the building elevations and concepts presented in the PZD booklet. Foundation plans shall be engineered per condition of approval 40 under "Additional Conditions" in the City Council's Amended Conditions of Approval dated March 20, 2007.

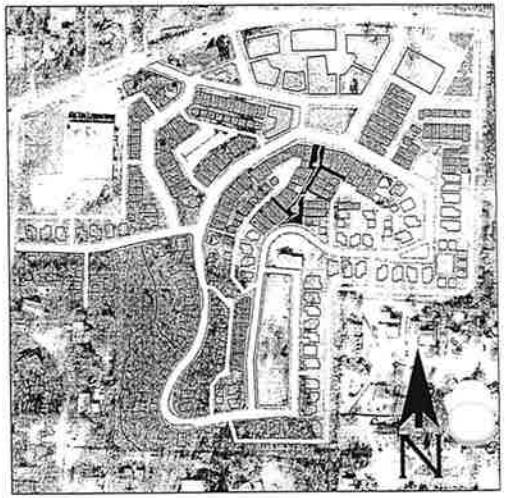
M Signage

All signage will fully comply with the Fayetteville sign ordinance and the relevant portions of the UDC. The developer may wish to use unique street signs which would better fit with the neighborhood's overall character. Additionally, some signs which designate areas of the neighborhood such as the Spanish Steps and other landmarks and districts may be employed. All proposed signs will be subject to the approval of the Fayetteville Transportation Department.

Part of Phases 1,2,3,5 & 6

Requesting Development Approval at this time?

YES



Existing Zoning Pg. 2

Planning Area 2 -

Tree Houses will represent one of the most interesting residential formats, not only within the Ruskin Heights neighborhood, but in the City of Fayetteville. Inspired by the Hillside Overlay District, the Tree Houses offer a unique opportunity to build housing in a wooded, sloped environment with minimal impact to tree canopy.

By making footprints much smaller than usual, encouraging first floor or other creative garage spaces, and allowing slightly taller structures to be built, impacts to the natural environment can be minimized while creating an architecturally unique and interesting Planning Area.

The Tree Houses will be located on single family lots which have been given special setback regulations to allow houses to be located in such a way as to minimize impact to the natural environment.

A. Permitted Uses by Unit

Unit 1	*City wide uses by right*
Unit 5	*Government facilities*
Unit 8	*Single family dwellings*

B. Conditional Uses by Right

Unit 2	*City-wide uses by conditional use permit*
Unit 17	*Trades and services*
Unit 24	*Home occupation*
	Detached second dwelling units

C. Residential Density

Acreage	*2.91*
Dwelling units	*20*
Density	*7 units/acre*

D. Lot Width Minimum

Single family	*30 ft.*

E. Lot Area Minimum

Single family	*2,500 ft.²*

F. Land Area per Dwelling

Single family	*6,197 ft.²*

G. Setback Requirements

Front	*0 ft.*
Side	*2 ft.*
Side (detached garage)	*0 ft.*
Rear	*0 ft.*
Rear (alley loaded garages)	*3 ft.*

Encroachments

Encroachments into the public right-of-way shall follow the recommendations set forth in chapter 3, section 3201 of the International Building Code. Encroachments into the setbacks must follow the rules set forth by ordinance in the city of fayetteville and must adhere to all rules set forth by the international builder's code.

External Property Boundary Setback

All buildings in the Ruskin Heights neighborhood will be set back a minimum of ten (10) feet from all perimeter site property lines.

H. Height Regulation

Shall not exceed 45 Ft.

I. Building Area

Shall not exceed 65%

J. Landscaping

Landscaping for the site will be grass, trees, shrubs, and other plantings to be determined by the designers. It will also include water features, stone and other hard surface walls, and, in some cases, cobblestone, brick, and other hard surface materials for pedestrian use. Some grassy areas may be engineered to be useable by automotive traffic without doing damage to the underlying vegetation. In general, all landscaping will be in accord with the requisite portions of the Fayetteville UDC. The development will comply with the landscape plan included with the plats submitted.

K. Parking

All parking shall comply with regulations set forth in the unified development code.

L. Architectural Design Standards

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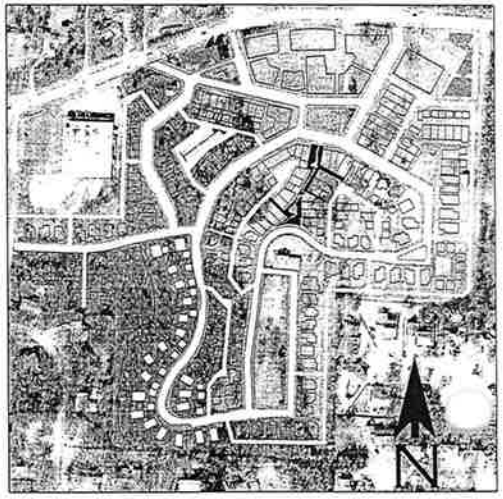
M. Signage

All signage will fully comply with the Fayetteville sign ordinance and the relevant portions of the UDC. The developer may wish to use unique street signs which would better fit with the neighborhood's overall character. Additionally, some signs which designate areas of the neighborhood such as the Spanish Steps and other landmarks and districts may be employed. All proposed signs will be subject to the approval of the Fayetteville Transportation Department.

Part of Phase 5

Requesting Development Approval at this time?

NO



EXISTING ZONING P9.3

Planning Area 3 -

Traditionally, single family lots are the backbone of the American Dream. Like other TND neighborhoods, Ruskin Heights will have many lots available for single family living. Allowances for this type of lot will provide for residents who wish to be part of the Ruskin Heights neighborhood but who might want a more traditional home.

Single family lots in Ruskin Heights will vary widely in size, so the setbacks and other lot restrictions will be set to make sure that the smaller lots remain buildable. Larger lots may have some restrictions placed on them. Covenants may restrict building areas to more traditional house lot placements but, in the spirit of keeping the neighborhood interesting and ensuring variety, some houses (even when on large lots) may be allowed to use some of the small lot setbacks. The idea is to allow houses to be placed in differing locations on each lot, with some right up to the sidewalk, with porches and stoops overlooking public spaces. It is hoped that by doing this, the neighborhood can enjoy a character typical of communities like Eureka Springs, and other, more historic Fayetteville neighborhoods such as those found on Mt. Sequoyah where residents, sitting on their front porches, may speak to their neighbors who pass by on the street. This type of intimacy between neighbors is instrumental in creating community.

A. Permitted Uses by Unit

Unit 1	*City wide uses by right*
Unit 5	*Government facilities*
Unit 8	*Single family dwellings*

B. Conditional Uses by Right

Unit 2	*City-wide uses by conditional use permit*
Unit 17	*Trades and services*
Unit 24	*Home occupation*
	Detached second dwelling units

C. Residential Density

Acreage	*10.14*
Dwelling units	*83*
Density	*9 units/acre*

D. Lot Width Minimum

Single family	*20 ft.*

E. Lot Area Minimum

Single family	*900 ft.^{2}*

F. Land Area per Dwelling

Single family	*4,380 ft.^{2}*

G. Setback Requirements

Front	*0 ft.*
Side	*2 ft.*
Side (detached garage)	*0 ft.*
Rear	*0 ft.*
Rear (alley loaded garages)	*3 ft.*

Encroachments

Encroachments into the public right-of-way shall follow the recommendations set forth in chapter 3, section 3201 of the International Building Code. Encroachments into the setbacks must follow the rules set forth by ordinance in the city of fayetteville and must adhere to all rules set forth by the international builder's code.

External Property Boundary Setback

All buildings in the Ruskin Heights neighborhood will be set back a minimum of ten (10) feet from all perimeter site property lines.

H. Height Regulation

Shall not exceed 45 Ft.

I. Building Area

Shall not exceed 90%

J. Landscaping

Landscaping for the site will be grass, trees, shrubs, and other plantings to be determined by the designers. It will also include water features, stone and other hard surface walls, and, in some cases, cobblestone, brick, and other hard surface materials for pedestrian use. Some grassy areas may be engineered to be useable by automotive traffic without doing damage to the underlying vegetation. In general, all landscaping will be in accord with the requisite portions of the Fayetteville UDC. The development will comply with the landscape plan included with the plats submitted.

K. Parking

All parking shall comply with regulations set forth in the unified development code.

L. Architectural Design Standards

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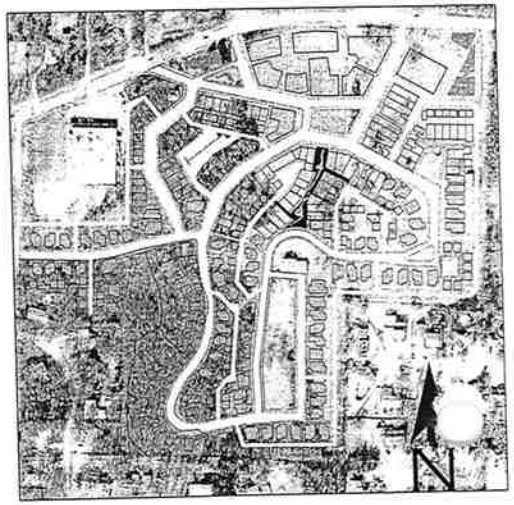
M. Signage

All signage will fully comply with the Fayetteville sign ordinance and the relevant portions of the UDC. The developer may wish to use unique street signs which would better fit with the neighborhood's overall character. Additionally, some signs which designate areas of the neighborhood such as the Spanish Steps and other landmarks and districts may be employed. All proposed signs will be subject to the approval of the Fayetteville Transportation Department.

Part of Phases 2, 3, 4, 5, & 6

Requesting Development Approval at this time?

YES



Existing Zoning
P9.4

Planning Area 4 -

Description

To fulfill the parks requirement, $260,000 will be donated to the City of Fayetteville to build parks in the appropriate area of the city.

The green and open space at Ruskin Heights will be designed for quality rather than quantity. Small pocket parks will be located throughout the neighborhood for the enjoyment of residents and guests of the neighborhood. The green and open spaces will be carefully maintained for high aesthetic value. Games and other activities areas such as horseshoe pits and lawn bowling areas will be available.

In addition to the more manicured green and open spaces, the most heavily wooded section of the neighborhood, located at the southwest of the site, will remain wooded and natural and open for pedestrian and other uses. The trail corridor mentioned below will be located within this area, as well as natural water features.

On site storm water will be collected and used throughout the neighborhood for waterscapes and other features of interest. These water scapes will ebb and flow with storm events as would a natural stream. Waterscapes are planned for many of the sections of open and green space in the community.

- A trail corridor to be located near the western boundary of the site through the tree preservation area will be put into a permanent public access easement with the Property Owners Association retaining ownership. The developers shall work closely with the Trails Coordinator and the Urban Forester to develop this connection.
- A public access easement for the Spanish Steps, which will lead from the Market Pavilion near the entrance to the neighborhood, up the hill through the more commercial area of the neighborhood and terminate at the summit of Ruskin Heights
- A public access easement for the village green; the central green space of Ruskin Heights.

A. Permitted Uses by Unit

Unit 1:	*City wide uses by right*
Unit 4:	*Cultural and recreational facilities*

B. Conditional Uses by Right

Unit 2	*City-wide uses by conditional use permit*

C. Residential Density

Acreage	*3.11*
Dwelling Units	*None*
Density	*N/A*

D. Lot Width Minimum

N/A

E. Lot Area Minimum

N/A

F. Land Area per Dwelling

N/A

G. Setback Requirements

Front	*5 ft.*
Side	*5 ft.*
Rear (Alley Side)	*0 ft.*

External Property Boundary Setback

All buildings in the Ruskin Heights neighborhood will be set back a minimum of ten (10) feet from all perimeter site property lines.

H. Height Regulation

45 ft.

I. Building Area

<30%

J. Landscaping

Landscaping for the site will be grass, trees, shrubs, and other plantings to be determined by the designers. It will also include water features, stone and other hard surface walls, and, in some cases, cobblestone, brick, and other hard surface materials for pedestrian use. Some grassy areas may be engineered to be useable by automotive traffic without doing damage to the underlying vegetation. In general, all landscaping will be in accord with the requisite portions of the Fayetteville UDC. The development will comply with the landscape plan included with the plats submitted.

K. Parking

Parking will be in accord with section 172 of the UDC

L. Architectural Design Standards

Architectural design standards throughout the project will be of the highest caliber. Durable exterior materials such as brick, stone, stucco, hardi plank and wood will be used for exteriors. A strong and coherent architectural style reminiscent of Arts and Crafts neighborhoods will be used throughout the project. Where individuals are building single family homes, while creativity will be encouraged in order to add to the eclectic nature of the community, designers and builders will be required to adhere to a strict design code and a materials list provided by the developers which will include natural materials such as those described above. The architectural design shall be consistent with the building elevations and concepts presented in the PZD booklet. Foundation plans shall be engineered per condition of approval 40 under "Additional Conditions" in the City Council's Amended Conditions of Approval dated March 20, 2007.

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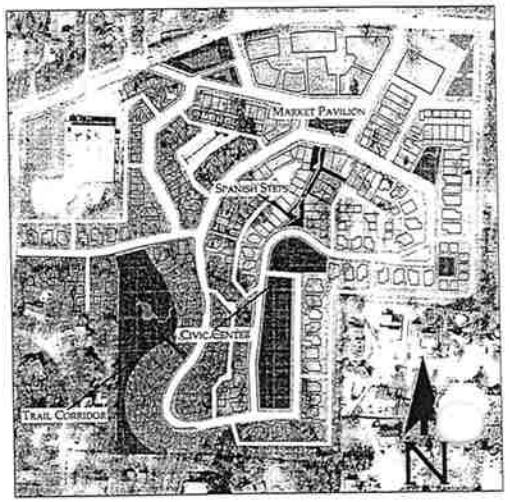
Part of Phases 1, 2, 3, 4, 5, & 6

Requesting Development Approval at this time?

NO



Planning Area 5 - Green space/Civic Space

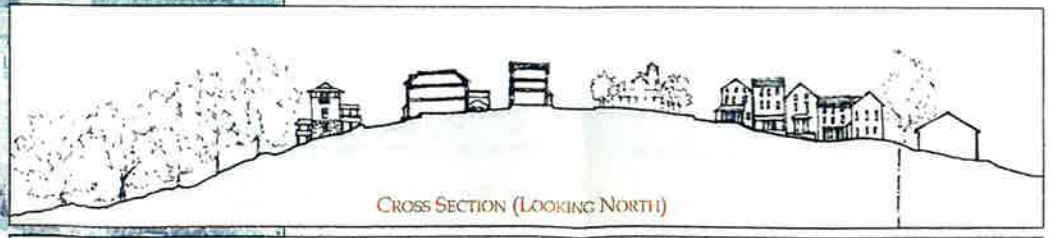
Existing Zoning Pg. 5

E & F) Proposed Planning Areas and Development Standards for Each Planning Area

Please see following pages 6-21 for details.

Existing Zoning

- PA-1 Mixed Use/Flats
- PA-2 Live/Work Town Houses
- PA-3 Tree Houses
- PA-4 Single Family
- PA-5 Green Space/Civic Space
- Spanish Steps
- Market Square
- Civic Building
- Public Green Space



MEETING MINUTES
PLANNING COMMISSION
JULY 11, 2011
AUGUST 22, 2011

RZN 11-3866: Rezone (2013 E. MISSION BLVD./RUSKIN HEIGHTS, 370/371): Submitted by JORGENSEN & ASSOCIATES for property located at 2013 EAST MISSION BOULEVARD. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 28.93 acres. The request is to rezone the property to CS, COMMUNITY SERVICES; NC, NEIGHBORHOOD CONSERVATION; AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS/ACRE.

Andrew Garner, Senior Planner, presented the staff report and recommendation.

Justin Jorgensen, applicant, gave background for the rezoning and requested that the planning commission table this item for two weeks to allow them to provide a Bill of Assurance and other issues to be worked out.

Public Comment:

JoAnne Kvamme, neighbor, discussed that that are concerned about the bank getting a rezoning. There has been no contact at all about the rezoning. She discussed hillside, erosion, tree conservation, traffic on Mission. There is no place to walk, no reference to access onto Greenview. We want a smooth gradual transition from our neighborhoods.

Pamela Conner, 1686 Shadowridge, discussed that there is no plan, nothing to look at, we don't know the developer. Would you want this?

Don Conner, 1686 Shadowridge, discussed that this needs to have RSF-4 adjacent to all other RSF-4, including the Greenview entrance. This needs to be brought back to the original zone until a developer presents a plan. Neighborhood Conservation would allow duplexes all the way through. Four-story apartments are permitted in Community Services.

Fred Sherman, 2134 Camelot, didn't agree with the previous Planning Commission's decision on Ruskin Heights. The previous decision waived a lot of hillside and grading ordinances. There are 75 stores within a half mile of Park Place, 10 stores are vacant. Put sidewalks on both sides of Mission so we can walk to these businesses. He doesn't want to see the backs of businesses or apartments.

Aubrey Shepherd, discussed watershed, hillside, and erosion issues. A zoning consideration should be tied to development.

Brad Booth, 2220 Camelot, agreed that the rezoning should be tied to an actual plan, what will be there.

Mike Eggleston, 2146 Camelot, his bedroom is 10 yards from Ruskin Heights. Leave it like it is or allow a similar development.

Janelle Booth, 2220 Camelot, this is not a walking community on Mission, we need sidewalks on Mission. This should go back to the previous zoning of RSF-4.

No more public comment was presented.

Commissioner Griffin asked why they are requesting this be tabled.

Justin Jorgensen, applicant, discussed that there is a potential buyer for a portion of this site and they want to make sure the zoning boundary matches the area the potential buyer is looking at.

Kit Williams, City Attorney, discussed that the law requires that zoning should be decided basing the decision on a proposal without development. You should look at what types of uses and densities the proposed zoning would allow.

Commissioner Hoskins discussed that this is similar to the recent rezoning for Summit on Township on a hillside. He has always been a fan of a PZD and discussed the reasons for a PZD. He asked about the street improvements on Mission.

Jeremy Pate, Development Services Director, reviewed the various street improvements that were required and have been completed with the first phase of the Ruskin Heights development. The next development will be reviewed and similar street improvements may be required as were previously required with Ruskin Heights.

Commissioner Hoskins asked about administrative approval for a form-based code.

Pate discussed that a subdivision would require planning commission approval of a preliminary plat, which would likely be the first step after a rezoning of this site.

Commissioner Hoskins asked if PZDs could be reinstated as they were.

Williams answered, no, and explained why a PZD cannot be reinstated. He discussed that the previous owners committed to things in the PZD, but these are different owners. The only way a PZD is legal is because it is an option. A PZD cannot be forced. To force someone to do a PZD would be contract zoning which is not legal.

Commissioner Honchell discussed that the proposed zoning that he is looking at is very similar to what the previous Ruskin Heights proposed. Do members of the public have a way to see what the Planning Commissioners have seen?

Garner discussed that all of the Ruskin Heights rezoning application materials have been posted on the City's FTP site and the neighbors have been emailed the website link.

Commissioner Earnest asked the applicant to work with the neighbors.

Justin Jorgensen, applicant, discussed that they will be happy to work with the neighbors.

Williams discussed that the previous variances for Ruskin Heights are not grandfathered for the next development on this site.

Motion:

Commissioner Earnest made a motion to table RZN 11-3866 until the July 25, 2011 Planning Commission meeting. **Commissioner Bunch** seconded the motion. **Upon roll call the motion passed with a vote of 7-1-0 (Commissioner Griffin voting 'no').**

There being no further business, the meeting was adjourned at 6:46 PM.

Old Business:

RZN 11-3866: Rezone (2013 E. MISSION BLVD./RUSKIN HEIGHTS, 370/371): Submitted by JORGENSEN & ASSOCIATES for property located at 2013 EAST MISSION BOULEVARD. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 28.93 acres. The request is to rezone the property to CS, COMMUNITY SERVICES; NC, NEIGHBORHOOD CONSERVATION; AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS/ACRE, subject to a Bill of Assurance.

Andrew Garner, Senior Planner, gave the staff report.

Justin Jorgensen, applicant, discussed reasons for tabling this item at the previous three meetings. He presented a signed Bill of Assurance to the Planning Commission and reviewed the Bill of Assurance in detail.

Public Comment:

JoAnne Kvamme, thanked the developers for meeting with the neighbors and stated that the developer has been listening to the neighbors. She read a comment from the Fayetteville Natural Heritage Commission discussing the value of hilltops and west facing drainages. The comment she read discussed that this wooded area is attractive to the general public. The property to the east, offsite, has had erosion and invasive species. She discussed erosion problems on the site. Please consider impacts to downslope neighbors. Will this Bill of Assurance be binding and enforceable to future land owners?

Kit Williams, City Attorney, discussed the legal requirements of a Bill of Assurance and confirmed that the Bill of Assurance will affect future landowners. He discussed the Bill of Assurance's relation to the zoning of the land and that the Bill of Assurance may be changed or removed only by City Council approval. Normally Bills of Assurances are never changed unless the zoning changes. He also stated that zoning is never locked in place forever and that it could change over time.

Fred Sherman, 2134 E. Camelot, directly adjacent to the property. He discussed that they have discussed the zoning with Mitchell Massey and Jorgensen and Associates and stated that he thinks the zoning is adequate and that the developer has been willing to make some compromises. He discussed that when Ruskin Heights went through the first time the City Council changed the project substantially. He discussed the hillside ordinances and an inadequate parking situation for the Ruskin Heights development. He would like to see all parking off-street. He discussed impacts in winter weather. The historic grade is extremely important including the height limitation. We want to see engineered foundations. If you can pass this ordinance and tie it to the hillside ordinance I don't think we will have very many problems.

Malcolm Cleveland, University of Arkansas professor, Bachelor and Masters in Forestry, PhD in Geosciences and work in watershed management. He walked the property. He described steep slopes on the property and that the City's slope ordinance is not adequate for this property. Sometimes the ordinance is not enforced. He discussed density on steep slopes. Erosion has occurred and will get work when construction proceeds. There will be a lot of impermeable surfaces. The small area for runoff will be inadequate. It will take some really good hydrodynamic engineering to solve the problem but that will not occur. Traffic, a left turn off of Greenview is hazardous. Traffic will get worse with this project. The intersection at Crossover is already congested at times. The City has never hired a competent traffic engineer.

Tamara Bishop, 1825 N. Cambridge, had questions about the Bill of Assurance. Are they similar to covenants?

Kit Williams, responded that, no, they are not similar to covenants. He described the differences between a Bill of Assurance and covenants. Covenants are a private agreement. A Bill of Assurance is an agreement offered to the City Council or Planning Commission. He discussed that a Bill of Assurance is enforceable and the injunctive relief is possible. A Bill of Assurance is much stronger than a restrictive covenant and a Bill of Assurance is what the City will enforce.

Tamara Bishop, asked about amending the Bill of Assurance.

Kit Williams described how a Bill of Assurance can be modified only by the City Council.

Tamara Bishop, thanked the developer and engineers have been very gracious in meeting with us and they seem very open to hearing our concerns. It sounds like they are accommodating our concerns. As a neighbor I understand that if you own property you have a right to use it and don't want to impede their responsible development of their property. This Bill of Assurance is a great way to address problems with developing this site. She discussed evaluation of the City's ordinance to ensure good development.

Mike Wiggleston, 2146 E. Camelot, he agreed with what Tamara said. Let's don't come here every month to grant developer variances to accommodate a developer. I'm a citizen of Fayetteville and if anyone deserves to be accommodated it's me.

Don Conner, 1686 E. Shadow Ridge, directly adjacent to the property. I appreciate the developer's having worked with us; it's a nice welcome change. We've all learned more about the form-based development and we're a lot more comfortable with the density. He stated that he would like to see no money taken in lieu of trees. What is the status of the Fayetteville municipal improvement district #29 that was part of Ruskin Heights, where they sold bonds to build infrastructure? Is it still attached to this development?

Commissioner Cabe stated that the improvement district is not a part or related to this rezoning.

Kit Williams responded that you could go to the court and see who set up that district and who are the commissioners of that district. As the chairman commissioner indicated this is not something to be considered with this rezoning.

Don Conner asked if future residents would have to pay into that district. Would this be a hidden cost?

Kit Williams described the process for establishing an improvement district and discussed that the City doesn't get involved and the City Council has no authority one way or another on these improvement districts. It has not bearing on the rezoning of this property.

Gale O'Donnell, 1960 N. Greenview Drive, am I right that no economic decisions can be considered regarding the rezoning of this property?

Kit Williams discussed that the highest and best use of the property can be considered by the Planning Commission and City Council for a rezoning. There are many other considerations, primarily compatibility is the number one consideration, but you can consider the highest and best use of the property which would be an economic consideration.

Gale O'Donnell, what does highest and best use mean?

Kit Williams answered that the owner of the property could refer to the highest and best use of the property

which could mean highest dollar value, or some other reason, that the owner would like to argue.

Gale O'Donnell, what does compatibility mean?

Kit Williams discussed compatibility in terms of adjacent and nearby neighbors that will not degrade or diminish the property. That does not mean that property cannot be developed.

Gale O'Donnell asked about the economic interests of the Planning Commission related to this development or bank of this property.

Kit Williams, discussed conflict of interest rules and that if any one had a direct financial interest they would recuse. He discussed various reasons why a commissioner would recuse or be required to recuse.

Gale O'Donnell stated that comparison of future zoning to the defunct Ruskin Heights property should not be made. The previous development damaged the property because of so many variances. Please consider the hillside, trees, and highest and best use.

Cathy Wait, 1775 Cambridge, thanked the developer and engineers for all of the time they took in listening to us, we are most appreciative. They did take our comments into consideration as obviously shown in the Bill of Assurance that was changed. People are concerned with height and the views that they have currently and they are concerned about their property value being diminished by a taller structure impeding their view. Is their something in the code that restricts height?

Kit Williams discussed that if someone built a house next to yours; even if it was taller than yours if it was allowed under the zoning it would be permitted.

Garner discussed that the maximum height for single family homes in the proposed zoning is 45 feet in height and 4 stories or 56 feet in height for multi-family or non-residential in the Community Services zoning.

Jeremy Pate, Development Services Director, explained how height is measured to make sure it meets the requirement.

Cathy Wait discussed traffic concerns along Mission Boulevard and the concern is that this will be putting a lot of traffic on a two-way highway that does not have curb and gutter or shoulders on Highway 45.

Kit Williams discussed the previous improvements required with Ruskin Heights including a turn lane on Mission. He discussed a traffic signal and the warrants being met before a signal could be installed.

Gale O'Donnell discussed that Highway 265 is being widened, which was not in consideration when this was originally approved.

After a request for final comments by the Planning Commission Chair Matthew Cabe, no more public comment was presented and public comment was closed.

Commissioner Earnest complimented this rezoning and public process that has resulted in a proposal that is moving towards something that is acceptable to the community. He described the compromises that resulted as a result of the meetings.

Commissioner Winston asked how this rezoning and future development tied to the hillside ordinance.

Kit Williams discussed that the hillside hilltop ordinance is tied to the development and he discussed and described the grading and tree preservation ordinances. That does not mean variances could not be granted. He discussed the development review process. He discussed the intent of the tree preservation ordinance.

Commissioners Winston asked of the engineering department found that the foundation for construction on this site were not adequate can they require more.

Kit Williams discussed that the hillside hilltop overlay district ordinance requires a foundation to be stamped by an engineer and if that is provided by a developer in accordance with ordinance then the City will likely approve the plan.

Commissioner Winston asked about taking money in lieu of tree preservation.

Kit Williams discussed the priority and intent of the tree preservation. The first priority is preservation of trees; the next step if it cannot be preserved is to plant trees onsite, the next step is to pay money in lieu or plant trees offsite. He discussed the hierarchy of the ordinance.

Commissioner Hoskins asked about the infrastructure on the project.

Pate discussed that the first phase has been installed but a majority of the site does not have infrastructure installed. Pate also described the improvements along Mission that were completed and the tree canopy that has been removed during the first phase. There was very little tree canopy removed during the first phase. Development of the southern areas of the site will be much more difficult to develop because of the higher tree canopy numbers.

Fred Sherman, 2134 E. Camelot, asked to speak.

Commissioner Earnest stated that he would allow Mr. Sherman to speak.

Fred Sherman, 2134 E. Camelot, discussed the hillside hilltop overlay district ordinance.

Commissioner Cabe officially closed public comment again.

Commissioner Chesser asked about the tree preservation requirements in the HHOD.

Pate responded that there is a 5% increase in tree preservation in the HHOD. He also discussed the minimum undisturbed area.

Commissioner Chesser asked about on-street parking.

Garner responded that on-street parking is permitted to count towards required parking spaces at the determination of the Zoning Development Administrator.

Commissioner Chesser asked about a traffic study for the signal on Mission.

Justin Jorgensen, applicant, discussed that the traffic study has not been updated. It may be required when it comes through for development.

Motion:

Commissioner Winston made a motion to forward RZN 11-3866 to the City Council with a recommendation of approval subject to the applicant's Bill of Assurance. **Commissioner Earnest** seconded the motion. **Upon roll call the motion passed with a vote of 8-1-0 (Commissioner Hoskins voting 'no').**

CORRESPONDENCE AND PUBLIC COMMENT

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.
JUSTIN L. JORGENSEN, P.E.
BLAKE E. JORGENSEN, P.E.

11/03/09

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: Ruskin Heights Rezoning

This letter is in regards to the above referenced proposed rezoning and the following required information:

A. The current owner of this site is Metropolitan National Bank, P.O. Box 8010, Little Rock, AR. 72203
B. The current goal is to retrofit the first phases of Ruskin Heights that have been constructed but not finalized. The hope is to get some single family detached dwelling units in this area and the N-C zoning is going to allow for the best utilization of the existing utilities and infrastructure. In order to rezone the first phases for development the rest of the property needs to be addressed as a whole. Without any long term goals or development plan for that at this time, we are proposing zonings that we feel will be compatible with the surrounding property as well as stay in line with the City's goals for the City Plan 2025.
C. Although the requested zonings along the southeast property (N-C) line will allow for slightly more density than the existing subdivisions to the south and east, we are trying to take advantage of the existing infrastructure & utililties from the Ruskin Heights project. The N-C zoning will be less dense than the previously approved PZD. The requested density along the southwest property line is the same except for a portion in the very southwest corner that is being proposed as RSF-4 to allow for bigger lots and utilize the terrain better in this area. The portion of the N-C zoning adjacent to the south and southeast subdivisions will only be allowed to be single family housing guaranteed through a bill of assurance. The proposed zoning for the rest of the property all the way to Mission was chosen to allow for a transition from only single family to a mixed use along Mission. Once again, there is no defined development plan for the entire, property but we feel the requested zoning will allow for the needed flexibility to obtain the City's goals while at the same time trying to compliment the surrounding property.
D. On the portion on the east side that has been constructed there is an 8" sewer and 8" water main that will serve this area and will connect to the rest of the site in the future. There are also existing water and sewer lines along Mission as well as Green View Drive.
E. We feel the requested zonings are in line with the goals of the The City Plan 2025 for rezoning and development in the future.
F. Because Ruskin Heights was a PZD and suffered a setback due to the poor economy, the PZD zoning has run out and needs to be rezoned for any future development.

G. With the portion that is planned to be built out now, (First phases of Ruskin Heights) we don't feel the small number of single family homes will create a detrimental increase in traffic in this area. We understand that the development of the rest of the property in the future will appreciably increase traffic in this area and know that some amount of money (to be determined) will need to be given for a traffic light at a time when a certain number of lots have been developed that is consistent with what was planned for the Ruskin Heights project.
H. Development of the whole property will increase the load on public services and will be dealt with at the time of development.
I. Currently the property has no zoning so it can't be developed.

We ask that you please consider our request and keep in mind that the focus currently is on retro fitting the portion that has been constructed in order to not only enhance the aesthetics of this area but alleviate any erosion problems that currently exists. We feel the proposed zonings are a necessity for utilizing existing infrastructures while also allowing for flexibility of future development that can tie the surrounding property together with a mixed use development that encompasses the goals of the City Plan 2025.

Thank you.

Sincerely;

Justin L. Jorgensen, P.E.

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.
JUSTIN L. JORGENSEN, P.E.
BLAKE E. JORGENSEN, P.E.

August 8, 2011

Re: Ruskin Heights Rezoning Planning Commission Meeting

To Planning Commissioners:

It has been brought to my attention today from Dara Sanders that some of you are requesting clarification to why we are asking to be tabled to the August 22nd Planning Commission. Unfortunately, we will not be able to attend the meeting tonight but hope this letter will suffice in clearing this issue up.

After the first Planning Commission meeting we contacted Fred Sherman and Don Conner with the idea of arranging a public meeting on Monday July 25, 2011 at the office of Jorgensen & Associates. With about 25 people in attendance the meeting lasted for about two hours and was very beneficial for us to hear their thoughts and concerns in what will be proposed for the next meeting. We hope to make enough changes that everyone feels like their concerns have been heard. We are in the process of making these changes and are going to have another meeting with the surrounding property owners later this week to show everyone the changes that have been made and what is being proposed in moving forward. The August 22nd meeting gives us time to meet with neighbors, make changes and get it to city staff in order to get it to you with plenty of time to review before the meeting.

Once again we apologize for any confusion regarding the tabling but hope you understand why we are requesting the extra time.

Thank you.

Sincerely;

Justin L. Jorgensen, P.E.

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

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JUSTIN L. JORGENSEN, P.E.
BLAKE E. JORGENSEN, P.E.

August 8, 2011

Re: Ruskin Heights Rezoning Neighborhood Meeting

To whom it may concern:

The purpose of this letter is to invite all surrounding property owners to attend a second public meeting on Monday August 15 @ 5:30 p.m. at "1" East Center Street (The old Bank of America building) on the first floor. The goal of the meeting is to review changes made after the previous meeting and the proposed request that will be turned in for the Planning Commission Meeting on August 22nd at the City of Fayetteville.

We ask that you consider coming to this meeting and thank you for your time.

Thank you.

Sincerely;

Justin L. Jorgensen, P.E.

From: "Justin Jorgensen" <justin@jorgensenassoc.com>
To: "'Andrew Garner'" <agarner@ci.fayetteville.ar.us>
Date: 7/19/2011 1:57 PM
Subject: Ruskin Heights Rezoning

Andrew,

The owner would like to request that the Ruskin Heights Rezoning be tabled in order to give us time to meet with surrounding property owners to listen to their concerns. We would like to be tabled until the August 8th Meeting.

Thanks,

Jorgensen & Associates

124 W. Sunbridge, Sulte 5

Fayetteville, AR. 72703

phone: (479) 442-9127

fax: (479) 582-4807

From: Jeremy Pate
To: Garner, Andrew
Date: 7/25/2011 9:29 AM
Subject: Fwd: Ruskin Heights

Public comment.

>>> <cpcmm007@aol.com> 7/24/2011 7:04 PM >>>

Jeremy, I live at 1663 Viewpoint. When Ruskin Heights pzd was approved we were supportive of the plan. One of things that we were most concerned about was the traffic flow on Viewpoint for people leaving Ruskin heights who were turning left on Greenview and then on to Viewpoint. Through all the negotiations there was agreement to create a separation in lanes much like a boulevard so that cars leaving Ruskin Heights on Greenview would have to turn right to Mission.
Could you help to ensure this stays as a boulevard or another option Greenview could be one way from the intersection of Viewpoint and Greenview to Mission this would ensure traffic moves to Mission.
Appreciate you taking a look at this. It was seen as an important issue for the original project so that issue should remain a point that needs to be resolved.

Thanks, Philip Cameron
1663 Viewpoint

Cindy Monreal - Fwd: Former Ruskin Height property

From: Andrew Garner
To: Monreal, Cindy
Date: 6/13/2011 4:56 PM
Subject: Fwd: Former Ruskin Height property

Cindy,
Please convert this email to a PDF and save in the Ruskin Heights Public Comments folder.

Thanks,
Andrew

Andrew M. Garner, AICP
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701
Tel.479.575.8262
Fax.479.575.8202
agarner@ci.fayetteville.ar.us
www.accessfayetteville.org

Telecommunications Device for the Deaf: (479) 521-1316

>>> Jeremy Pate 6/13/2011 4:53 PM >>>
Andrew,
Please see that this letter makes it to the file for the staff report.

thanks,
Jeremy

>>> JoAnn Kvamme <joann.kvamme@gmail.com> 6/13/2011 4:49 PM >>>
Dear Mr. Pate,
I would like to address the new request for rezoning of the former development referred to as Ruskin Heights. I also believe the comments I send today effect many of our older neighborhoods in Fayetteville and I hope some of these ideas will be used as a template for future development in Fayetteville.

I believe that people move to Fayetteville for many reasons but a major reason is the small town atmosphere and stable neighborhoods. Many of our neighborhoods are over 50 years old and still maintain stable populations of home owners who possess a strong community spirit. These neighborhoods are the backbone of our community and they need to be protected from what some call urban decay.

I think it is first important to remember that many people living in our urban neighborhoods could move to those outer rings of urban sprawl our city keeps saying it wants to avoid. The reason they do not move to these new neighborhoods is that they live in stable neighborhoods that they feel confident will remain that way.

In our haste to develop every scrap of nonbuilt up land in the city we must stop and think. If we destabilize these neighborhoods we will be encouraging exactly what we say we want to avoid (flight to the suburbs). A quick example, if we want people to remain in town the best way to do that is for them to feel that the neighborhood they have bough5t into will remain with the same qualities they chose when purchasing the home. I feel this could be achieved and still allow growth but the crucial point is we must maintain the integrity of the neighborhoods we will impact with this development. This is to say if the neighborhood has houses spaced every half acre then the development that abuts that space must mirror that design. That is not to say that there would be no other density or use on the entire property but an adequate buffer of like residence must abut the existing neighborhood with the transitions totally within the new development area and removed from the older neighborhoods. This will do three things 1) it will stop the urban decay of older neighborhoods, 2) it will keep home prices more stable since people will know if they bought into a neighborhood for certain aesthetics that they will remain into the future, and 3) it will reduce the number of residents moving to the suburbs.

Rather than view concerned neighbors as NIMBYs or a pain in the rear. Our neighbors that choose to take the time to come out should be viewed as the long term residents of our community that care enough to want to protect it as opposed to those who are totally unengaged and just move further out as they see the need.

Please do not rezone this former Ruskin area without the neighbors input and PLEASE encourage the developer to work with the neighbors. They may see we are not as unreasonable as they think if they truly want to add to our great community that already exists. If they are just in the market it to make money at our expense and run that is where the problems arises and do we want those types of developers in our community anyway?

Thank you for any help you may offer.

Sincerely,

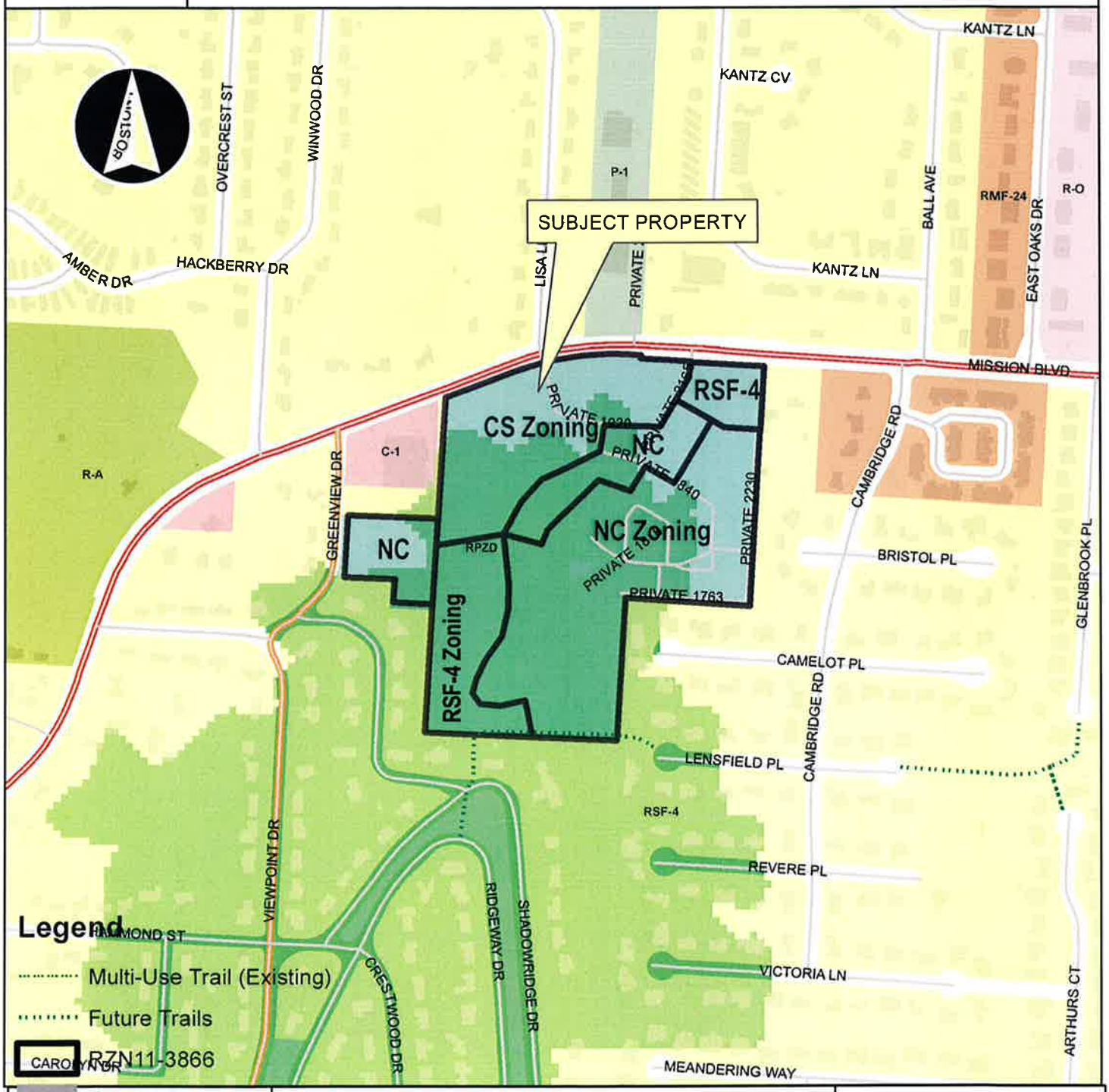
Jo Ann Kvamme
Resident Root School Neighborhood Association

MAPS

RZN11-3866

Close Up View

RUSKIN HEIGHTS



CS, Community Services (7.13 acres)

NC, Neighborhood Conservation (16.83 acres)

RSF-4, Residential Single Family Four Units Per Acre (4.96 acres)

RZN11-3866

Close Up View

RUSKIN HEIGHTS

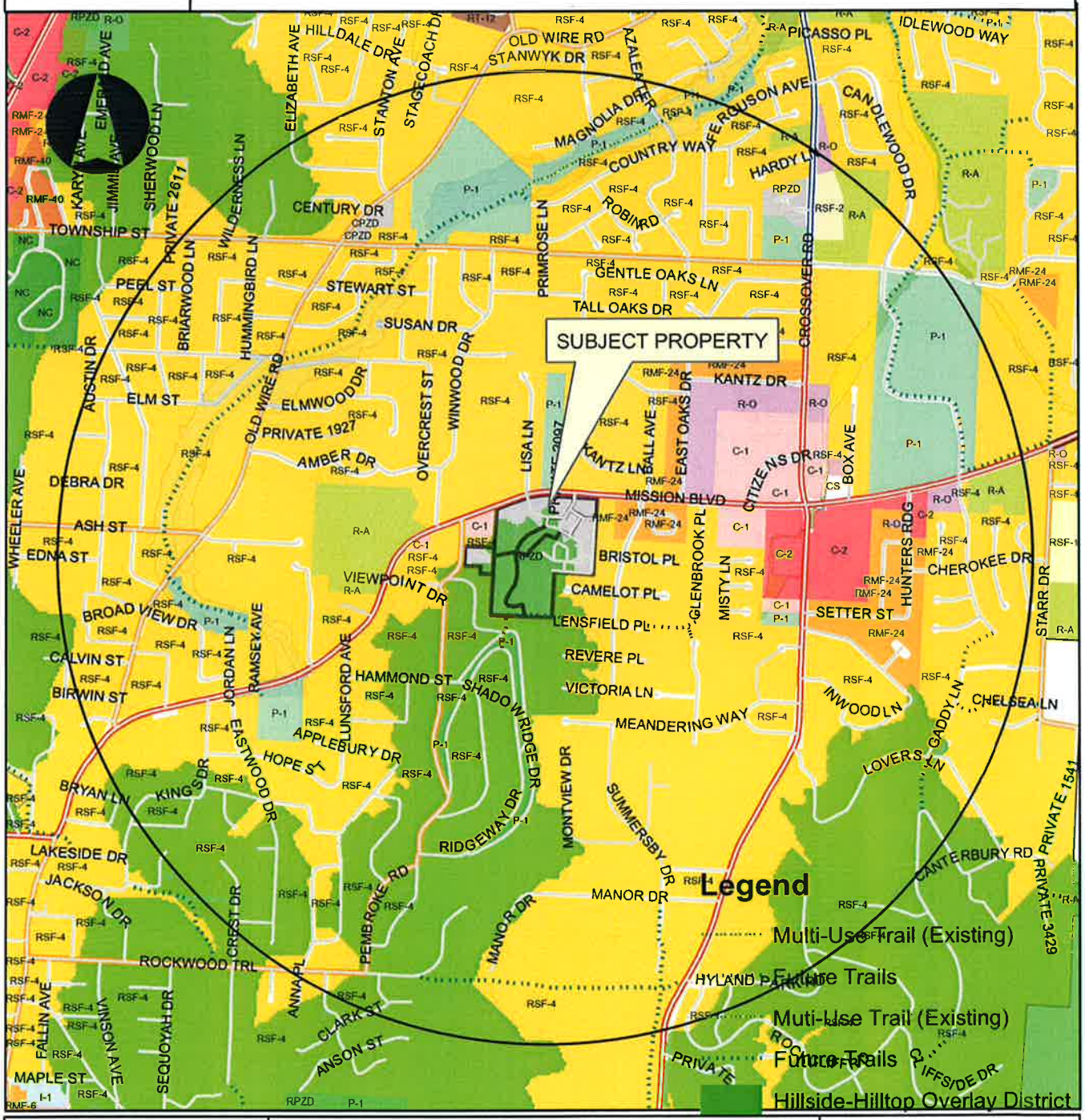
Overview
- RZN11-3866
- Footprints 2010
- Design Overlay District
- Design Overlay District
- Planning Area
- Fayetteville

0 200 400 800 1,200 1,600 Feet

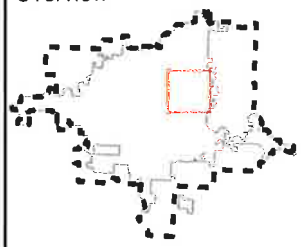
RZN11-3866

One Mile View

RUSKIN HEIGHTS



Overview



Legend

Subject Property

RZN11-3866

Boundary

RZN11-3866

Design Overlay District

Planning Area

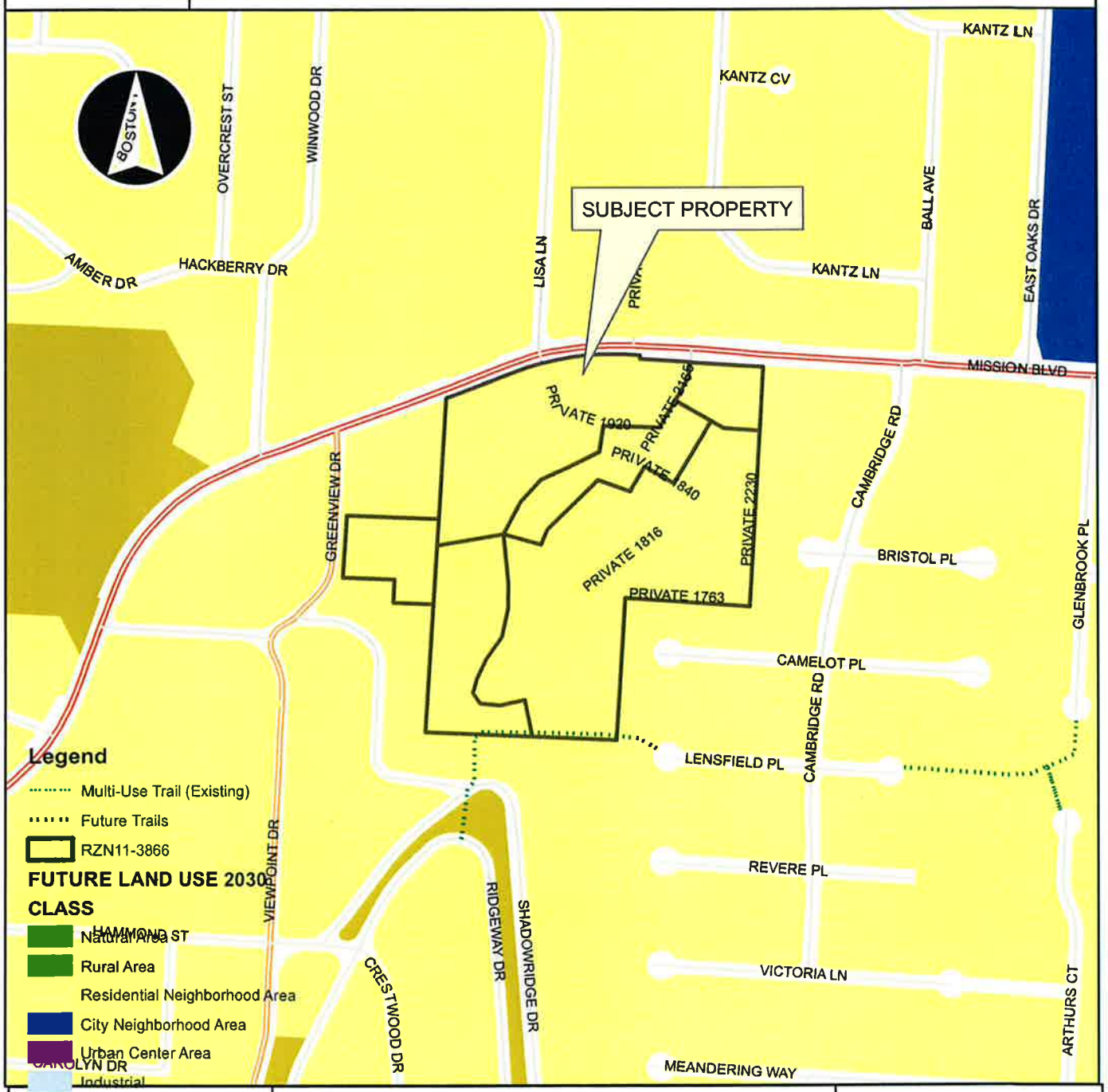
Fayetteville

0 0.25 0.5 1 Miles

RZN11-3866

Future Land Use

RUSKIN HEIGHTS



City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

10/4/2011
City Council Meeting Date
Agenda Items Only

Dara Sanders	Planning	Development Services
Submitted By	**Division**	**Department**

Action Required:

RZN 11-3892: (FAYETTE JUNCTION MASTER PLAN, 599): Submitted by the City of Fayetteville Planning Division for property located within The Fayette Junction Master Plan Area. The properties are zoned RMF-24, Residential Multi-Family, 24 units per acre; C-1, Neighborhood Commercial; C-2, Thoroughfare Commercial; and I-1, Heavy Commercial/Light Industrial. The request is to rezone select properties within the Fayette Junction Master Plan area to NS, Neighborhood Services; CS, Community Services; UT, Urban Thoughfare; P-1, Institutional; and I-1, Heavy Commercial/Light Industrial.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date 09-16-2011

City Attorney — Date 9-16 2011

Finance and Internal Services Director — Date 9-16-2011

Chief of Staff — Date 9-16-11

Mayor — Date 9/19/11

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 09-15-11 P02:28 RCVD

Received in Mayor's Office ENTERED 9/16/11 BEP

Comments:

Fayetteville ARKANSAS
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: Dara Sanders, Current Planner

Date: September 15, 2011

Subject: RZN 11-3892 (Fayette Junction Rezoning)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to rezone select properties to NS, Neighborhood Services; CS, Community Services; UT, Urban Thoroughfare; P-1, Institutional; and I-1, Heavy Commercial/Light Industrial. Currently, these properties are zoned RMF-24, Residential Multi-family, 24 dwelling units per acre; C-1, Neighborhood Commercial; C-2, Thoroughfare Commercial; and I-1, Heavy Commercial/Light Industrial. Staff has included in this staff report two exhibits that show the current zoning and the proposed zoning for these subject properties.

BACKGROUND

The City Council adopted City Plan 2025 on July 17, 2006. City Plan 2025 set a goal of using a charrette process to generate a complete neighborhood plans over the next five years for key areas of the City. These plans were intended to incorporate key principles of City Plan 2025, including appropriate infill and revitalization, traditional neighborhood development, growing a livable transportation network, assembling an enduring green network, and attainable housing. On June 3, 2008, the City of Fayetteville began the planning process for the Fayette Junction Master Plan, a complete neighborhood plan that incorporates the key principles, goals, and objects of City Plan 2025. During the week of September 13 - 18, 2008, over 100 citizens offered input on the vision for the Fayette Junction Master Plan area during a charrette process that included a hands-on design session, an open design studio, and a work-in-progress session.

Through this collaborative process, Fayette Junction is envisioned as an area that integrates the built and natural environment to support a clean tech cluster, a multi-modal transit hub, and supports the protection of and expansion to the neighborhoods within the Fayette Junction area. Stakeholders repeatedly mentioned the extensive floodplains and significant hillsides that flank the entrance into Fayetteville and the need for effective and innovative stormwater management techniques. The vision document provides implementations steps for the short-term (0-5 years), mid-term (6-10 years) and long-term (10 years +). One of the first short-term goals identified as crucial for the implementation of the Fayette Junction vision is a city-initiated rezoning in key locations to enable development in traditional form and to enhance opportunities for protection of the natural environment, responsible growth, and revitalization within the area. The Illustrative Master Plan is included in this staff report.

When beginning the planning process for the rezoning proposal, Planning staff identified all large properties containing more than one acre, in addition to those properties identified in the map associated with the first short-term project recommendation, and reviewed City data and conducted several site visits to identify the existing zoning, land use, and development of each property. Staff found that several of the properties were regulated by zoning districts that are not consistent with the Fayette Junction Master Plan, the current use of the property, and/or the surrounding properties. Based on this information, staff determined the most appropriate zoning district(s) that

would either bring the property into conformance with the underlying regulations or allow for redevelopment in accordance with the Fayette Junction Master Plan and the goals of City Plan 2030.

Planning staff sent an initial letter via certified mail to each subject property owner, summarizing the key elements of the Fayette Junction Master Plan and describing staff's rezoning proposal for the specific property. A sample letter is included in this staff report. Additionally, Planning staff notified all subject property owners and property owners adjacent to the subject properties of the proposal and public hearing information, in accordance with the City's notification requirements, and public notice signs were posted at major intersections. Planning staff received a response from several of the subject property owners and adjacent property owners, detailing concerns or questions. Most of these concerns, if not all, were addressed in the final rezoning proposal, as recommended in this staff report.

DISCUSSION

On September 12, 2011, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 9-0-0.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 11-3892, FOR SELECT PROPERTIES LOCATED WITHIN THE FAYETTE JUNCTION MASTER PLAN AREA TOTALLING APPROXIMATELY 225 ACRES

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 zoning classification of the following properties from RMF-24, Residential Multi-Family, 24 units per acre; C-1, Neighborhood Commercial; C-2, Thoroughfare Commercial; and I-1, Heavy Commercial/Light Industrial to NS, Neighborhood Services; CS, Community Services; UT, Urban Thoroughfare; P-1, Institutional; and I-1, Heavy Commercial/Light Industrial, as shown on Exhibit "A" 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:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

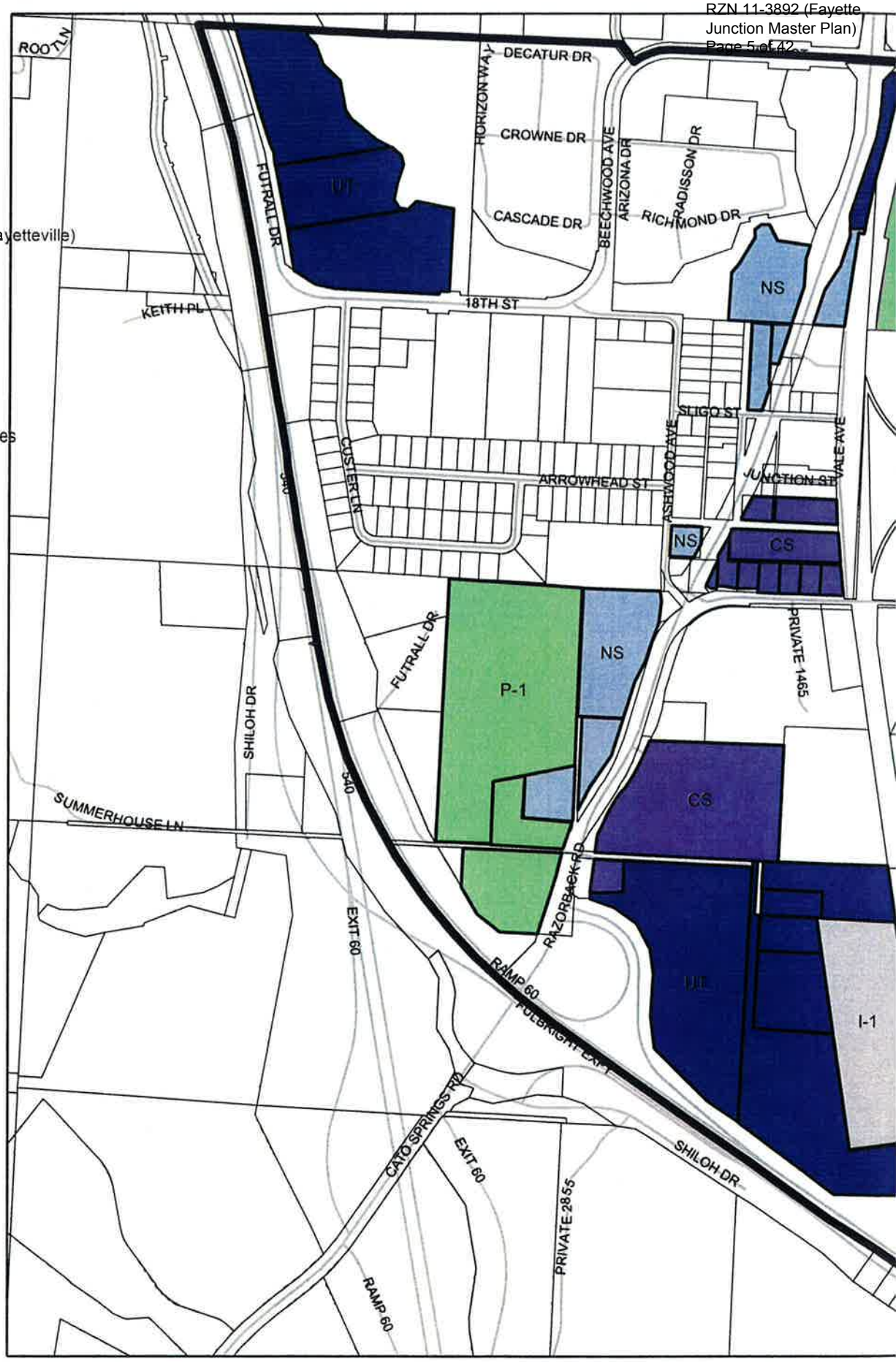
EXHIBIT A

Legend

- County Parcels
- xxxWash Co Parcels (Fayetteville)
- Fayette_Junction

Proposed Zoning

- UT, Urban Thoroughfare
- CS, Community Services
- NS, Neighborhood Services
- P-1, Institutional
- I-1, Light Industrial



Fayette Junction

PLANNING COMMISSION MEETING MINUTES

RZN 11-3892: Rezone (FAYETTE JUNCTION MASTER PLAN, 599): Submitted by THE CITY OF FAYETTEVILLE PLANNING DIVISION for property located WITHIN THE FAYETTE JUNCTION MASTER PLAN AREA. The properties are zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 DU/ACRE; C-1, NEIGHBORHOOD COMMERCIAL; C-2, THOROUGHFARE COMMERCIAL; and I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL. The request is to rezone select properties within the Fayette Junction Master Plan area to NS, NEIGHBORHOOD SERVICES; CS, COMMUNITY SERVICES; UT, URBAN THOROUGHFARE; P-1, INSTITUTIONAL; AND I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL.

Dara Sanders, Current Planner, gave the staff report.

No public comment was presented.

Commissioner Winston congratulated staff on the project.

Motion:

Commissioner Winston made a motion to forward RZN 11-3892 to the City Council with a recommendation for approval. **Commissioner Chesser** seconded the motion. **Upon roll call the motion passed with a vote of 9-0-0.**

RZN 11-3892: Rezone (FAYETTE JUNCTION MASTER PLAN, 599): Submitted by THE CITY OF FAYETTEVILLE PLANNING DIVISION for property located WITHIN THE FAYETTE JUNCTION MASTER PLAN AREA. The properties are zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 DU/ACRE; C-1, NEIGHBORHOOD COMMERCIAL; C-2, THOROUGHFARE COMMERCIAL; and I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL. The request is to rezone select properties within the Fayette Junction Master Plan area to NS, NEIGHBORHOOD SERVICES; CS, COMMUNITY SERVICES; UT, URBAN THOROUGHFARE; P-1, INSTITUTIONAL; AND I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL.

Dara Sanders, Current Planner, presented the staff report and recommendation.

Public Comment:

David Druding owns property in the Fayette Junction Master Plan Area that is proposed to be rezoned from C-1, Neighborhood Commercial, to CS, Community Services. He discussed the Cato Springs widening project, and he expressed his concern that staff's proposal would eliminate the uses currently permitted on his property by the C-1 zoning district.

Dawn Sparks owns property in the Fayette Junction Master Plan Area that is proposed to be rezoned from C-1, Neighborhood Commercial, to CS, Community Services. She explained that she didn't understand the impact of this proposal on her property and requested clarification on the reason for rezoning large areas at one time.

Marcy Benham-Bliss owns property in the Fayette Junction Master Plan that is not proposed to be rezoned at this time. She expressed concern with density, access, and flooding in her area of the Fayette Junction neighborhood.

No more public comment was presented.

Commissioner Cabe asked staff to address the question of large rezoning actions.

Sanders discussed the neighborhood planning and implementation processes.

Jeremy Pate, Development Services Director, explained further and stated that staff is not proposing to rezone property in the area located near Ms. Benham-Bliss' neighborhood.

Commissioner Griffin compared the permitted use in the C-1 and CS zoning districts and explained that staff's proposal would provide more flexibility for Ms. Spark's property for the short- and long-term.

Ms. Sparks stated that she did not have any objections to the proposal considering this information.

Commissioner Griffin, Mr. Williams, and Mr. Pate discussed the issue of nonconforming uses with Mr. Druding.

Commissioner Chesser thought that some citizens might feel that more time is needed and preferred to table the proposal.

Motion:

Commissioner Chesser made a motion to table RZN 11-3892 until the next Planning Commission staff to allow more time for public comment. **Commissioner Cabe** 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 9:15 PM.

Fayetteville
ARKANSAS

PC Meeting of September 12, 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:	~~September 1, 2011~~ *Updated September 16, 2011*

RZN 11-3892: Rezone (FAYETTE JUNCTION MASTER PLAN, 599): Submitted by THE CITY OF FAYETTEVILLE PLANNING DIVISION for property located WITHIN THE FAYETTE JUNCTION MASTER PLAN AREA. The properties are zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 DU/ACRE; C-1, NEIGHBORHOOD COMMERCIAL; C-2, THOROUGHFARE COMMERCIAL; and I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL. The request is to rezone select properties within the Fayette Junction Master Plan area to NS, NEIGHBORHOOD SERVICES; CS, COMMUNITY SERVICES; UT, URBAN THOROUGHFARE; P-1, INSTITUTIONAL; AND I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL. Planner: Dara Sanders

BACKGROUND:

August 22, 2011 Planning Commission Meeting: This rezoning proposal was discussed by the Planning Commission during the regularly scheduled meeting on August 22, 2011, at which three members of the public presented questions and comment. Two owners of properties included in this rezoning proposal requested information in addition to previous correspondence regarding staff's proposal for their properties. The third member of the public was a property owner within the Fayette Junction Master Plan boundary whose property is not included in the rezoning proposal. She expressed concerns with high density housing, access, and flooding.

The Planning Commission voted unanimously to table the rezoning proposal to the September 12th meeting in order to extend the opportunity for property owners to comment on staff's proposal. To date, the Planning Division has not received additional inquiry or comment on this item.

Fayette Junction Master Plan: The City Council adopted City Plan 2025 on July 17, 2006. City Plan 2025 set a goal of using a charrette process to generate a complete neighborhood plans over the next five years for key areas of the City. These plans were intended to incorporate key principles of City Plan 2025, including appropriate infill and revitalization, traditional neighborhood development, growing a livable transportation network, assembling an enduring green network, and attainable housing. On June 3, 2008, the City of Fayetteville began the planning process for the Fayette Junction Master Plan, a complete neighborhood plan that

incorporates the key principles, goals, and objects of City Plan 2025. During the week of September 13 - 18, 2008, over 100 citizens offered input on the vision for the Fayette Junction Master Plan area during a charrette process that included a hands-on design session, an open design studio, and a work-in-progress session.

Through this collaborative process, Fayette Junction is envisioned as an area that integrates the built and natural environment to support a clean tech cluster, a multi-modal transit hub, and supports the protection of and expansion to the neighborhoods within the Fayette Junction area. Stakeholders repeatedly mentioned the extensive floodplains and significant hillsides that flank the entrance into Fayetteville and the need for effective and innovative stormwater management techniques. The vision document provides implementations steps for the short-term (0-5 years), mid-term (6-10 years) and long-term (10 years +). One of the first short-term goals identified as crucial for the implementation of the Fayette Junction vision is a city-initiated rezoning in key locations to enable development in traditional form and to enhance opportunities for protection of the natural environment, responsible growth, and revitalization within the area. The Illustrative Master Plan is included in this staff report.

Research and Planning Process: Following both the Downtown Master Plan and the Walker Park Master Plan, the City of Fayetteville rezoned all properties within the project boundary to zoning districts that were consistent with the vision and goals of each plan. The Fayette Junction Master Plan area contains a significantly larger area with approximately 636 acres and several hundred individual properties. Most of these properties are small and developed for single- and multi-family structures, are not a risk for redevelopment, and are regulated by zoning districts that are consistent with the current land use; therefore, the first short-term project recommendation is to seek zoning changes for select properties that will contribute to Fayetteville's identity, built environment, and viewshed. Staff has included this recommendation in the staff report.

When beginning the planning process for the rezoning proposal, Planning staff identified all large properties containing more than one acre, in addition to those properties identified in the map associated with the first short-term project recommendation, and reviewed City data and conducted several site visits to identify the existing zoning, land use, and development of each property. Staff found that several of the properties were regulated by zoning districts that are not consistent with the Fayette Junction Master Plan, the current use of the property, and/or the surrounding properties. Based on this information, staff determined the most appropriate zoning district(s) that would either bring the property into conformance with the underlying regulations or allow for redevelopment in accordance with the Fayette Junction Master Plan and the goals of City Plan 2030.

Proposal: In accordance with the Fayette Junction Master Plan, staff proposes to rezone select properties to NS, Neighborhood Services; CS, Community Services; UT, Urban Thoroughfare; P-1, Institutional; and I-1, Heavy Commercial/Light Industrial. Currently, these properties are zoned RMF-24, Residential Multi-family, 24 dwelling units per acre; C-1, Neighborhood Commercial; C-2, Thoroughfare Commercial; and I-1, Heavy Commercial/Light Industrial. Staff has included in this staff report two exhibits that show the current zoning and the proposed zoning for these subject properties.

Staff also proposes to rezone Washington County Government properties located adjacent to the Fayette Junction Master Plan Area to the east in this rezoning proposal. These properties are zoned RMF-24, Residential Multi-family, 24 dwelling units per acre and I-1, Heavy Commercial/Light Industrial and are developed for a variety of Washington County Government offices and the Washington County Jail. While Washington County Government property and development is not required legally to meet the zoning and development requirements established by the City of Fayetteville, Planning staff finds that the proposed P-1, Institutional, zoning district will more accurately reflect the current use of the subject properties for both zoning map and City land records purposes. In a discussion with County official, they agreed that this would be a recommendation that they would support.

Notification and Public Comment: Planning staff sent an initial letter via certified mail to each subject property owner, summarizing the key elements of the Fayette Junction Master Plan and describing staff's rezoning proposal for the specific property. A sample letter is included in this staff report. Planning staff received a response from several of the subject property owners, detailing concerns or questions. Most of these concerns, if not all, were addressed in the final rezoning proposal, as recommended in this staff report.

RECOMMENDATION:
Based on the findings herein, staff recommends that the Planning Commission forward **RZN 11-3892** to the City Council with a recommendation for approval.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 12, 2011	**☐ Tabled**	**x Forwarded**	**☐ Denied**
Motion: Winston **Second: Chesser** **Vote: 9-0-0**			
CITY COUNCIL ACTION:	**Required**	**YES**	
	Approved	**☐ Denied**	☐
Date:			

INFRASTRUCTURE:

Streets: Street improvements will be evaluated for each property at the time of development submittal.

Water: Public water is available throughout the area. At the time of development, water main locations and size will be evaluated to best serve the properties for fire and domestic water service.

Sewer: Public sewer is available throughout the area. At the time of development, sewer main locations and size will be evaluated to best serve the properties.

Drainage: Standard improvements and requirements for drainage will be required for any development. This area is affected by the 100-year floodplain and the Streamside Protection Zones.

Police: The Fayetteville Police Department does not believe this rezoning will affect calls for service.

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

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as the* ***Fayette Junction Master Plan Area****. This area integrates the built and natural environment to support a clean tech cluster, a multi-modal transit hub, and supports the protection of and expansion to the neighborhoods within the Fayette Junction 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: **Planning staff finds that this rezoning proposal is consistent with the Fayette Junction Master Plan guiding principles, which include integrating the built and natural environments, creating a clean tech cluster, and supporting multi-modal transit. The zoning districts included in this proposal promote all of these principles in both form and use.**

<u>Integrate the built and natural environments</u>. The Fayette Junction area has a wide variety of topography, landform types, soil classifications, and floodplain. The majority of the proposed zoning districts are designed with a "build-to zone" that requires buildings to be located adjacent to the public street instead of setback a considerable distance from the street. This type of development form often increases the buildable area on a property affected by natural physical features, such as floodplain or steep changes in topography. Staff finds that the proposal would promote context sensitive development along the City's southern gateway and within a vulnerable natural environment.

<u>Create a clean tech cluster</u>. The expansion of the Arkansas Research and Technology Park, the construction of the BioBased Companies headquarters and the development of the Crowne Apartments serve as harbingers for the potential of the Fayette Junction Area. Connecting this area to downtown and ultimately Northwest Arkansas serves as a catalyst for economic development and supports the principles of a sustainable community. There

are several properties in the central area of the Fayette Junction neighborhood that are currently regulated by the I-1, Heavy Commercial/Light Industrial, zoning district, which would support clean tech operations. Staff finds that rezoning properties in the southwestern area of the Fayette Junction area to the proposed UT, Urban Thoroughfare, zoning district would complement these industrial areas and allow for large office complexes, transportation trades and services, manufacturing, warehousing, and clean technologies, which support the goal of creating a clean tech cluster.

Support multi-modal transit. Supporting a multi-modal transit system requires the implementation of transit-oriented development, a mixed use or commercial area that is designed to maximize access to public transportation. First, the appropriate tools must be in place to allow for and encourage mixed use development. The majority of the proposed zoning districts (NS, Neighborhood Services; CS, Community Services; and UT, Urban Thoroughfare) are mixed use zoning districts that would allow for a variety of residential and nonresidential uses to occur on the subject properties. These districts incorporate the components of transit oriented design, which include a walkable environment, increased density, and compact development form. Staff finds that the proposal would provide the tools necessary for the Fayette Junction area to support multi-modal transit in the future.

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 as the first step of implementation for the Fayette Junction Master Plan, as adopted by the Fayetteville City Council, to allow for the continuance of the existing land uses, and to encourage the future redevelopment of specific properties in accordance with the City's planning policies and objectives.**

Fayette Junction Master Plan implementation. The first short-term project is to "seek zoning changes along the Razorback Road corridor from I-540 to 15th Street", as development along this corridor forms a first impression of Fayetteville. The development form associated with "urban", form-based zoning districts will contribute to Fayetteville's identity and potentially preserve the hillsides at the entrance of this corridor. The proposed zoning would require that the majority of development occur at Razorback Road, thus contributing to a pedestrian-friendly environment that promotes mixed-use, infill development and the preservation of natural land features.

For example, the properties located at the northeast corner of the intersection of Shiloh Drive and 18th Street are zoned C-2 and are affected by the floodway and floodplain at the rear of the property. The form and

setback requirements of the C-2 zoning district significantly limit the use and development opportunities for this property. The proposed UT, Urban Thoroughfare, zoning district would allow for a variety of residential types, offices, and commercial businesses that are located adjacent to the street instead of within the floodplain area.

Existing land use. Staff has identified several developed properties that are considered nonconforming as a result of the regulations associated with the underlying zoning districts. This proposal would bring those properties into conformance to allow for the continued use of these properties as they are currently developed and, in some cases, allow for more flexibility in the continued and future uses of these properties.

For example, there are four single family homes located at the northeast corner of the intersection of Razorback Road and Cato Springs Road that are currently regulated by the C-1, Neighborhood Commercial, zoning district, which does not allow for the primary use of the property for residential purposes. Planning staff proposes to rezone these properties to CS, Community Services, which would allow for the continued use and improvement of these residential structures but would retain the same nonresidential uses by-right.

Additionally, staff proposes to include Washington County Government properties located adjacent to the Fayette Junction Master Plan Area to the east in this rezoning proposal. These properties are zoned RMF-24, Residential Multi-family, 24 dwelling units per acre and I-1, Heavy Commercial/Light Industrial and are developed for a variety of Washington County Government offices and the Washington County Jail. While Washington County Government property and development is not required legally to meet the zoning and development requirements established by the City of Fayetteville, Planning staff finds that the proposed P-1, Institutional, zoning district will more accurately reflect the current use of the subject properties for both zoning map and City land records purposes. A letter of support from Washington County Judge Marilyn Edwards is included in this staff report.

Staff also proposes to include University of Arkansas properties located near the southeast corner of the intersection of Razorback Road and 15th Avenue in this rezoning proposal. These properties are currently zoned I-1, Heavy Commercial/Light Industrial, and are developed for an RV Park utilized during University of Arkansas sporting events. Planning staff proposes to rezone the subject property to P-1, Institutional, which would accurately reflect the current land use of the property.

Finally, the property located at the southwest corner of Razorback Road and Dowell Drive is developed for the Dowell Cemetery and is currently zoned

RMF-24, Residential Multi-family, 24 dwelling units per acre, which allows a cemetery (Use Unit 4, Cultural and Recreational Facilities) by conditional use. This current use of the property could be brought into conformance with the current underlying zoning district through Planning Commission approval of a conditional use permit application; however, future expansion or improvement to the cemetery would likely require additional review by staff and the Planning Commission. Planning staff's proposal to rezone the subject to P-1, Institutional, is consistent with the historic, current, and anticipated long-term future use of the property and would allow for the property owners to continue to maintain and expand the cemetery in accordance with the regulations of the Unified Development Code.

Future development and redevelopment. There are 14 undeveloped properties included in this rezoning proposal that are regulated by the RMF-24, Residential Multi-family, 24 dwelling units per acre, zoning district and the C-2, Thoroughfare Commercial, zoning district. Planning staff proposes to rezone the majority of these properties to UT, Urban Thoroughfare, zoning district, which is mixed-use, form-based equivalent to the C-2 district. This proposal would allow for the existing permitted uses under the C-2 district, as well as a variety of residential options, in an urban form that is consistent with the goals of the Fayette Junction Master Plan and City Plan 2030.

Staff also proposes to rezone one of these properties from RMF-24 to I-1, Heavy Commercial/Light Industrial. This property is located adjacent to an existing heavy rail infrastructure and is envisioned in the Fayette Junction Illustrative Plan as a clean technology cluster, which would be permitted by-right in the proposed I-1 zoning district.

Finally, staff proposes to rezone several properties along Razorback Road from RMF-24, Residential Multi-family, 24 dwelling units per acre, to NS, Neighborhood Services. This proposal would retain the permitted uses of single-, two-, and three-family dwellings and allow for multi-family dwellings as a conditional use permit, but it would also grant the property owners Use Unit 12, Limited Business, as a permitted use for the opportunity to improve these properties for nonresidential uses in the future. Planning staff has reviewed the size and physical limitations of each property proposed to be rezoned from RMF-24 to NS and found that it would be difficult to impossible to develop these properties with multi-family buildings due to the parking and land area per dwelling requirements associated with this use. This has been communicated to those property owners who responded to staff's notification, and these property owners have not objected to the proposal.

3. A determination as to whether the proposed zoning would create or appreciably increase

traffic danger and congestion.

Finding: **Several of the subject properties are vacant or are developed for single-family residences; therefore, future development or redevelopment of these properties would likely result in an increase in traffic; however, staff does not find that the request would create or increase traffic danger and congestion due to the City's current access and development regulations. Access to and from these properties will be reviewed for compliance with the regulations of Chapter 166.08, Street Design and Access Management, at the time of development request.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **Staff does not find that the proposal 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.**

Date 8/10/11

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 comments on the proposed RZN 11-3892: (Fayette Junction Master Plan, 559), submitted by The City of Fayetteville Planning Division, for property located within the Fayette Junction Master Plan Area.

It is the opinion of the Fayetteville Police Department that this RZN will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This RZN will not create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

RZN 11-3892: Rezone (FAYETTE JUNCTION MASTER PLAN, 599): Submitted by THE CITY OF FAYETTEVILLE PLANNING DIVISION for property located WITHIN THE FAYETTE JUNCTION MASTER PLAN AREA. The properties are zoned RMF-24, RESIDENTIAL; C-1, NEIGHBORHOOD COMMERCIAL; C-2, THOROUGHFARE COMMERCIAL; and I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL. The request is to rezone select properties within the Fayette Junction Master Plan area to NS, NEIGHBORHOOD SERVICES; CS, COMMUNITY SERVICES; UT, URBAN THOROUGHFARE; P-1, INSTITUTIONAL; AND I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL.

Planner: Dara Sanders

Public water is available throughout the area. At the time of development, water main locations and size will be evaluated to best serve the properties for fire and domestic water service.

Public sewer is available throughout the area. At the time of development, sewer main locations and size will be evaluated to best serve the properties.

Street improvements will be evaluated for each property at the time of development submittal.

Standard improvements and requirements for drainage will be required for any development. This area is affected by the 100-year floodplain and the Streamside Protection Zones.

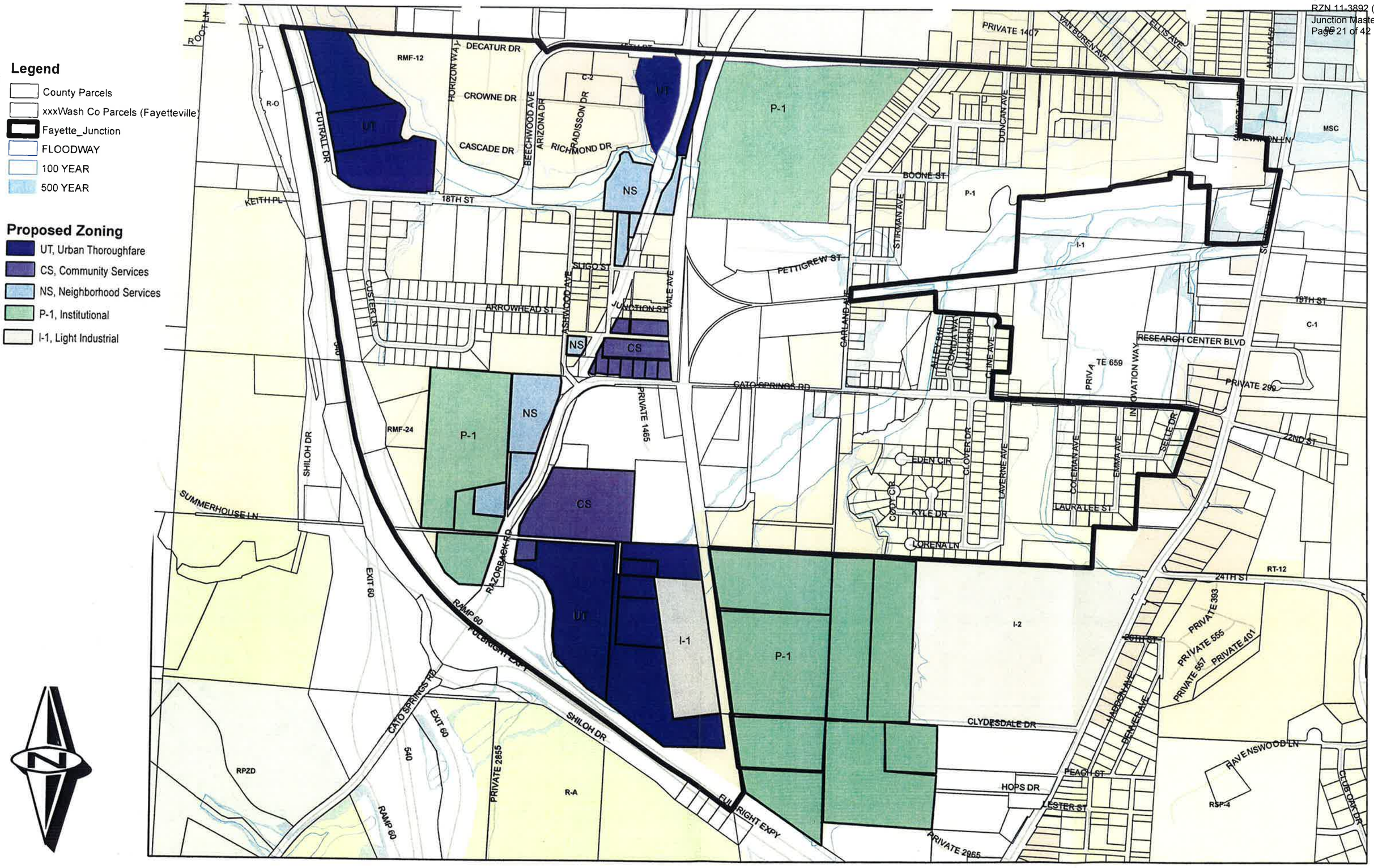
Implementation

The ultimate success of any planning document depends upon the willingness and capacity of all stakeholder groups to implement the vision. The implementation of the Fayette Junction Master Plan will only occur through cooperative efforts among the City, residents, business owners, the non-profit sector and the private sector. The following steps outline projects that will help achieve the goals of the Master Plan and are broken down into a series of short-term projects (0-5 years), mid-term projects (6-10 years) and long-term projects. Short-term steps include regulation changes and projects that require little infrastructure or cost. Long-term projects are those that require more significant capital investment. The ultimate timing of implementation will reflect the overall commitment to the realization of the vision developed by the community.

Short-term Projects

1. Seek zoning changes along the Razorback Road corridor from I-540 to 15th Street.

Development along the Razorback Road corridor forms a first impression of Fayetteville. The form of this development will affect property values and contribute to Fayetteville's identify. The Master Plan recommends preserving the hillsides at the entrance and zoning for an urban development form along the rest of the corridor. This zoning will promote continuous frontage of buildings near the street, contributing to a pedestrian-friendly environment that enhances property values and promotes infill development where infrastructure can support urban densities and intensities.



Fayette Junction Rezoning (Draft)

07.14.2011

Legend

- County Parcels_xxx
- Fayette_Junction
- FLOODWAY
- 100 YEAR
- 500 YEAR

Zoning

RESIDENTIAL SINGLE-FAMILY

- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8

RESIDENTIAL MULTI-FAMILY

- RT-12 Residential Two and Three-family
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL

- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION

- E-1

COMMERCIAL

- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS

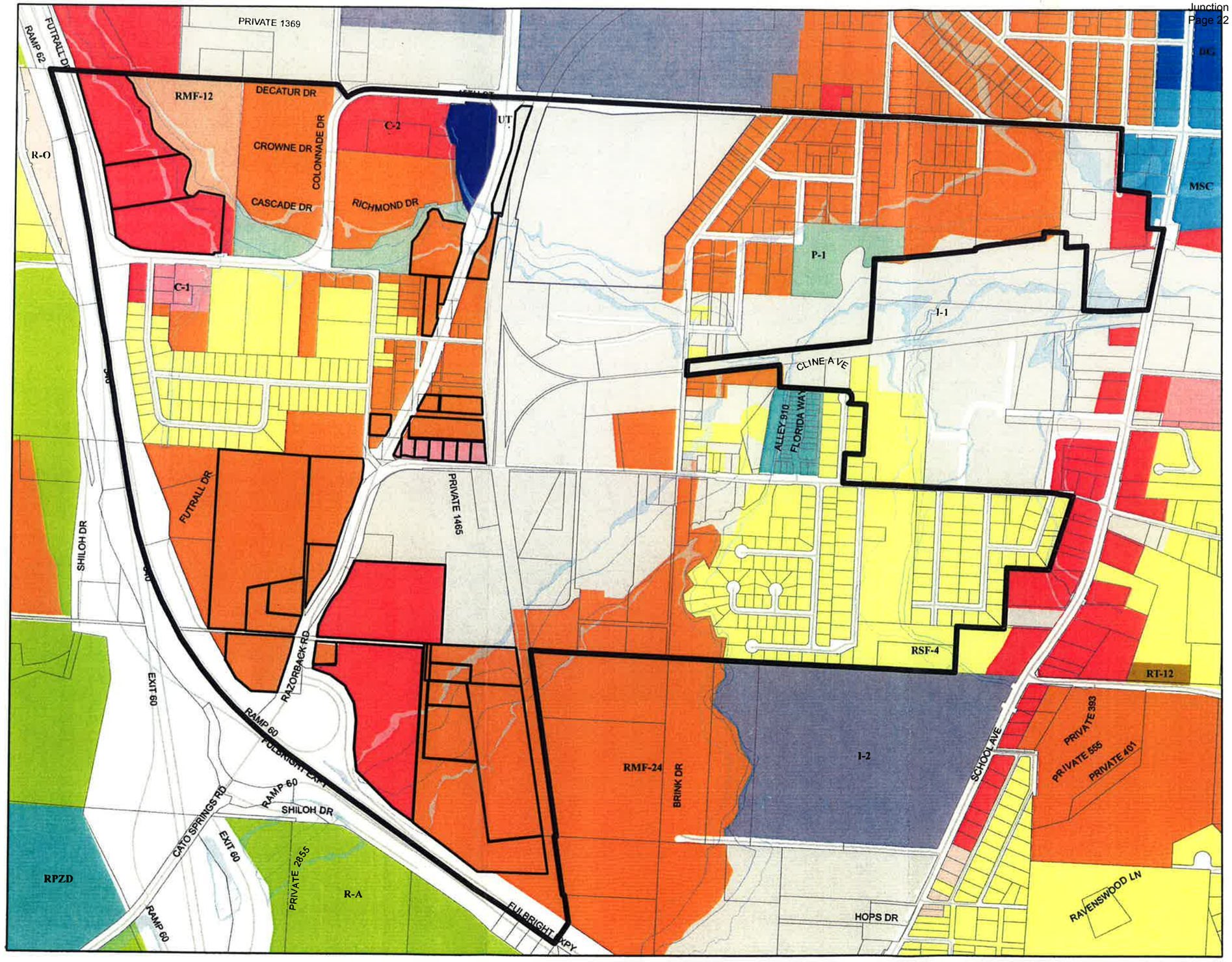
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

PLANNED ZONING DISTRICTS

- Commercial, Industrial, Residential

INSTITUTIONAL

- P-1
- Street



Fayette Junction Current Zoning

CURRENT ZONING REGULATIONS

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.

161.20 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None

Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

161.27 District I-1, Heavy Commercial And Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 13	Eating places
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Offices, studios and related services
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 42	Clean technologies

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front, when adjoining A or R districts	50 ft.
Front, when adjoining C, I, or P districts	25 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I, or P districts	10 ft.
Rear, when adjoining C, I, or P districts	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) *Building area.* None.

PROPOSED ZONING DISTRICT REGULATIONS

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.

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.

161.16 Neighborhood Services

(A) *Purpose.* The Neighborhood Services district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(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 12	Limited Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units

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
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk cafes

(C) *Density.*

Units per acre	10 or less

(D) *Bulk and Area*

(1) *Lot width minimum*

Single-family	35 feet
Two-family	70 feet
Three or more	90 feet
All other uses	None

(2) *Lot area minimum.*

Single-family	4,000 sq. ft.
Two-family or more	3,000 sq. ft. of lot area per dwelling unit
All other permitted and conditional uses	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 15 feet from the front property line.
Side	5 feet
Rear	15 feet

(F) *Building height regulations.*

Building Height Maximum	45 ft.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of the lot.

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.

161.21 Urban Thoroughfare

(A) *Purpose.* The Urban Thoroughfare District is designed to provide goods and services for persons living in the surrounding communities. This district encourages a concentration of commercial and mixed use development that enhances function and appearance along major thoroughfares. Automobile-oriented development is prevalent within this district and a wide range of commercial uses is permitted. For the purposes of Chapter 96: Noise Control, the Urban Thoroughfare 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 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor store
Unit 41	Accessory 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 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 33	Adult live entertainment club or bar
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 38	Mini-storage units
Unit 40	Sidewalk cafes
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None

(D) *Bulk and area regulations.*

(1) Lot width minimum

Single-family dwelling	18 feet
All other dwellings	None
Non-residential	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	15 feet

residential district:	

(F) *Height regulations.* A building or a portion of a building that is closer than 15 feet from the front property line shall have a maximum height of 4 stories or 56 feet, whichever is less. A building or portion of a building that is located 15 feet or greater from the front property line or the Master Street Plan right-of-way shall have a maximum height of 6 stories or 84 feet, whichever is less. Any building that exceeds the height of 20 feet shall be set back from any boundary line of a single-family residential district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Minimum buildable street frontage.* 50% of the lot width.

161.27 District I-1, Heavy Commercial And Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 13	Eating places
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Offices, studios and related services
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 42	Clean technologies

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front, when adjoining A or R districts	50 ft.
Front, when adjoining C, I, or P districts	25 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I, or P districts	10 ft.
Rear, when adjoining C, I, or P districts	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) *Building area.* None.

161.29 District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) Setback regulations.

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	20 ft.
Side, when contiguous to a residential district	25 ft.
Rear	25 ft.
Rear, from center line of public alley	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 60 % of the total area of such lot.

SUBJECT PROPERTY OWNER NOTIFICATION EXAMPLE

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
CITY PLANNING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

May 25, 2011

Kayvan Joh Enterprises, Inc
14350 South Mountain Road
Lowell, AR 72745

RE: Fayette Junction Rezoning

Dear Property Owner,

This letter is in reference to your property, parcel number 765-08375-000, located near the intersection of Sligo Street and Razorback Road within the Fayette Junction Master Plan area. On June 3, 2008, the City of Fayetteville began the planning process for the Fayette Junction Master Plan, a complete neighborhood plan that incorporates the key principles, goals, and objects of City Plan 2025. During the week of September 13 - 18, 2008, over 100 citizens offered input on the vision for the Fayette Junction Master Plan area during a charrette process that included a hands-on design session, an open design studio, and a work-in-progress session.

Fayette Junction is envisioned as an area that integrates the built and natural environment to support a clean tech cluster, a multi-modal transit hub, and has the protection of and expansion to the neighborhoods within the Fayette Junction area. Stakeholders repeatedly mentioned the extensive floodplains and significant hillsides that flank the entrance into Fayetteville and the need for effective and innovative stormwater management techniques. The vision document provides implementations steps for the short-term (0-5 years), mid-term (6-10 years) and long-term. The first short-term goal identified as crucial for the implementation of the Fayette Junction vision is a city-initiated rezoning in key locations to an urban zoning district that would promote continuous frontage of buildings near the street and as-of-right development.

The Planning staff will bring forward a rezoning proposal to the Planning Commission this year and plans to include your property in the proposal with a recommendation for the NS, Neighborhood Services zoning district. Included in this letter are the uses and criteria for the current zoning district (RMF-24, Residential Multi-family 24 dwelling units/acre) and the proposed zoning district (NS, Neighborhood Services). Should you have any questions or concerns about this information, please contact the Planning Division at (479) 575-8267 <u>within 30 days of your receipt of this letter</u> to further discuss this matter with the Planning staff. Prior to the rezoning being discussed by the Planning Commission, you will receive another letter from our office notifying you of the meeting details.

Thank you,

Dara Sanders
Current Planner
City of Fayetteville
dasanders@ci.fayetteville.ar.us

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.

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.

161.16 Neighborhood Services

(A) *Purpose.* The Neighborhood Services district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(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 12	Limited Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units

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
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk cafes

(C) *Density.*

Units per acre	10 or less

(D) *Bulk and Area*

(1) *Lot width minimum*

Single-family	35 feet
Two-family	70 feet
Three or more	90 feet
All other uses	None

(2) *Lot area minimum.*

Single-family	4,000 sq. ft.
Two-family or more	3,000 sq. ft. of lot area per dwelling unit
All other permitted and conditional uses	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 15 feet from the front property line.
Side	5 feet
Rear	15 feet

(F) *Building height regulations.*

Building Height Maximum	45 ft.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of the lot.

WRITTEN PUBLIC COMMENT

MARILYN EDWARDS
County Judge

280 North College, Suite 500
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

June 13, 2011

Dara Sanders
Current Planner
City of Fayetteville Planning Division
125 W. Mountain
Fayetteville, AR 72701

Re: Fayette Junction rezoning

Dear Ms. Sanders:

The County is in receipt of your June 8, 2011, letter regarding the rezoning of County parcels located on Brink Drive and Clydesdale Drive.

Even though, as mentioned in your letter, the County is not subject to the City's zoning and development regulations, the proposed rezoning to category of *P-1, Institutional* seems to much more accurately reflect our current and future land uses for these properties.

As the County feels it is important for the City's maps to accurately reflect the County service uses on these properties, I am in support of the zoning change.

Thank you for the detailed information that you provided.

Sincerely,

Marilyn Edwards
Washington County Judge

ME/jr

Telephone: 479 / 444-1700 • FAX: 479 / 444-1889

Dara Sanders
Current Planner
Planning Department
113 W. Mountain
Fayetteville,AR 72701

RE: Proposed Property Rezoning
2506 Treat Dr.
8.43 Ac Marvin & Doris Treat
10.28 Ac Martin Treat

Dear Dara:

As per our meeting, we cannot stress strongly enough our oposition to the proposed rezoning of our properties to I-1, Heavy Commercial and Light Industrial.

We would accept a rezoning to Urban Thoroughfare as proposed for the adjoining property on the west side of our properties.

Ourproperties are currently on the market and have already been seriously devalued by past events. A rezoningof I-1 would be the final death blow and lower the standards for land at the City's south entrance.

We ask that the Planners reconsider the currently proposed rezoning.

Thank you,

Marvin Treat
Doris Treat
Martin Treat

Marvin Treat
Doris Treat
Martin Treat

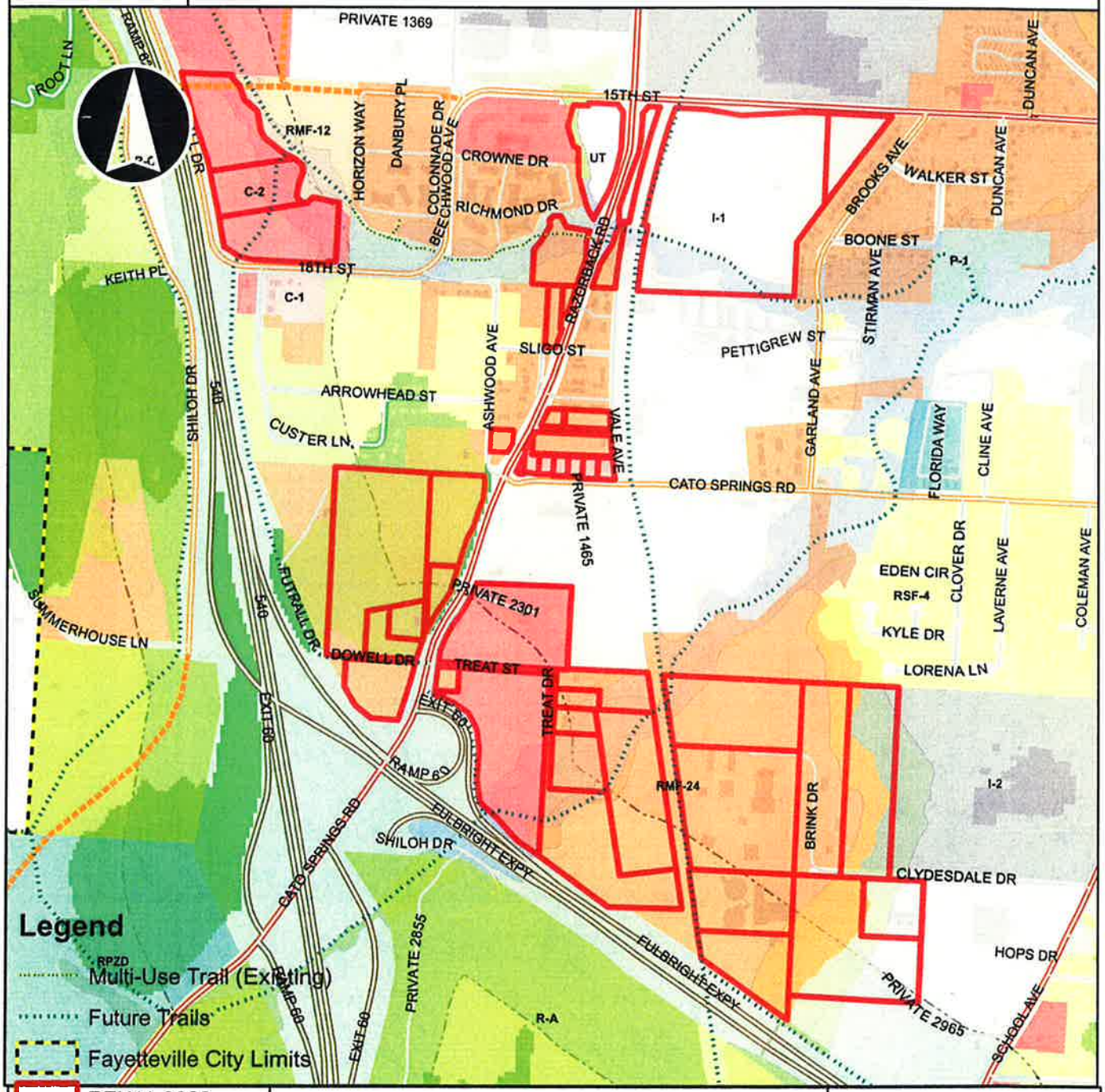
2506 Treat Dr. 72701
587-8707

Dara - Under I-1, we could not sell our home as a residence. Doris

RZN11-3892

Close Up View

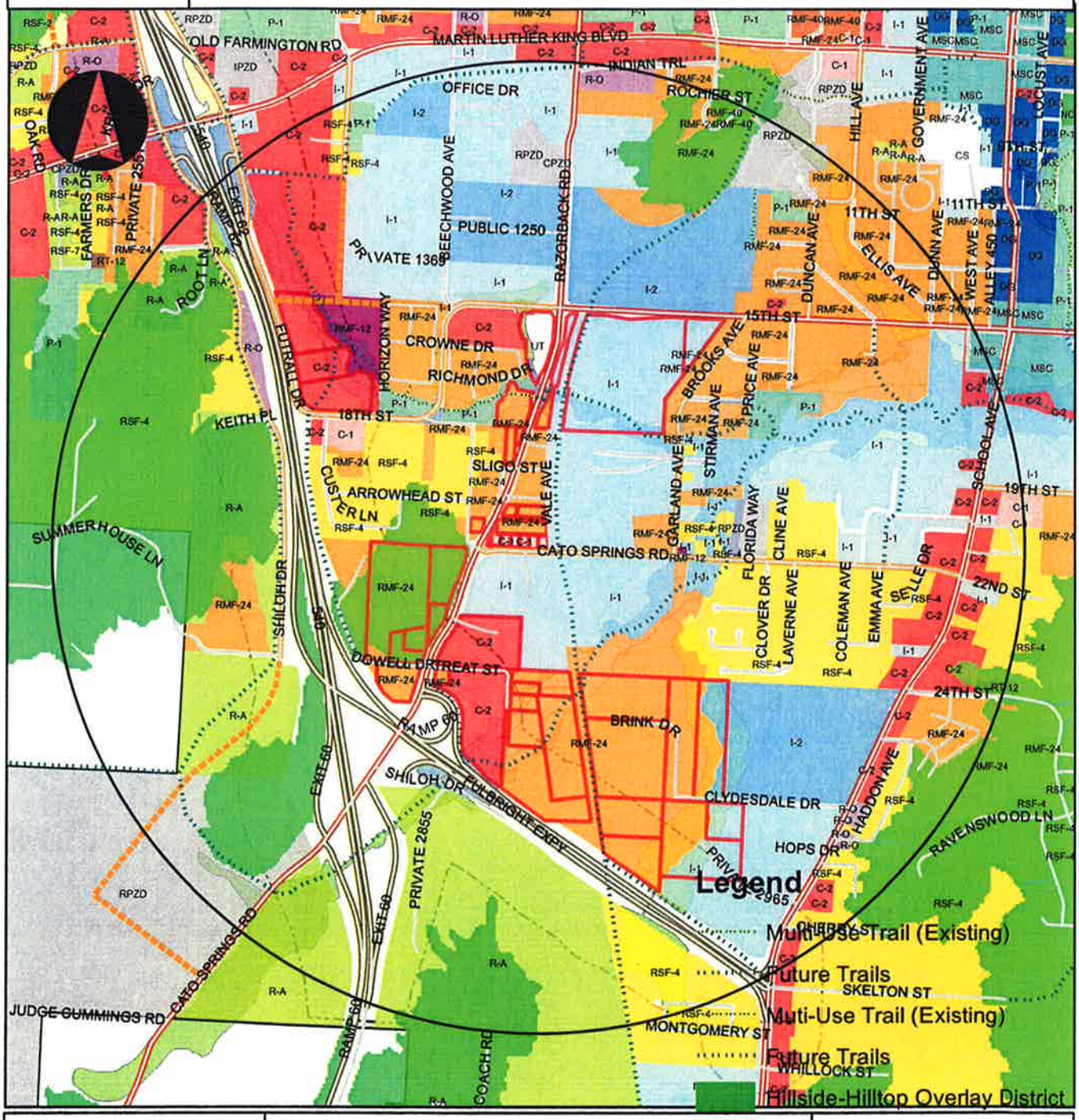
FAYETTE JUNCTION MASTER PLAN



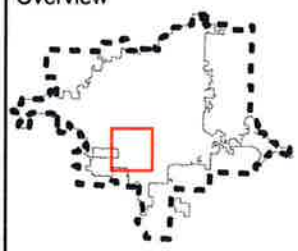
RZN11-3892

One Mile View

FAYETTE JUNCTION MASTER PLAN



Overview



Legend

Subject Property

RZN11-3892

Boundary

RZN11-3892

Design Overlay District

Planning Area

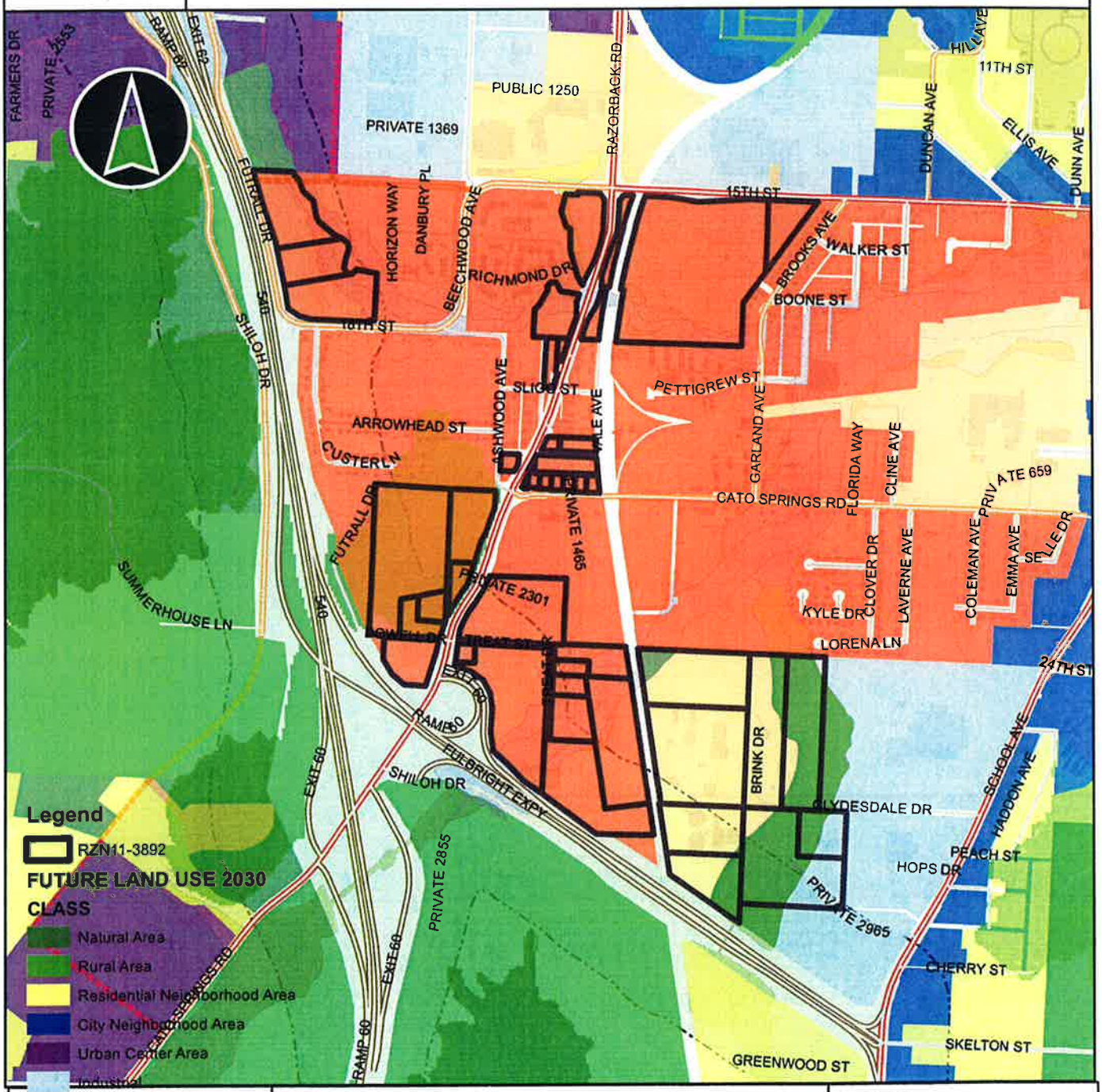
Fayetteville

0 0.25 0.5 1 Miles

RZN11-3892

Future Land Use

FAYETTE JUNCTION MASTER PLAN



City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

10/4/2011
City Council Meeting Date
Agenda Items Only

Jesse Fulcher	Planning	Development Services
Submitted By	**Division**	**Department**

Action Required:

RZN 11-3916: (HOLCOMB HEIGHTS PZD/TTO LLC, 245): Submitted by Jorgensen & Associates for property located at the southwest corner of Salem and Weir Road. The property is zoned R-PZD, Residential Planned Zoning District (06-2281 Holcomb Heights I and 07-2613 Holcomb Heights II) and contains approximately 19.24 acres. The request is to rezone the subject property to RSF-8, Residential Single-Family, 8 units per acre.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date: 09.15.2011

City Attorney — Date: 9-15-2011

Finance and Internal Services Director — Date: 9-15-2011

Chief of Staff — Date: 9-15-11

Mayor — Date: 9/16/11

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office: 09-15-11 P02:58 RCVD — Kim G.

Received in Mayor's Office: ENTERED 9/15/11 BCP

Comments:

Fayetteville ARKANSAS
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: September 15, 2011

Subject: RZN 11-3916 (Holcomb Heights PZD/TTO, LLC)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to rezone the subject property from Holcomb Heights Planned Zoning District Phases I and II to RSF-8, Residential Single-family, 8 units per acre.

BACKGROUND

The subject property is located at the southwest corner of Weir Road and Salem Road, and contains approximately 19.24 acres zoned Holcomb Heights Planned Zoning District Phases I and II. Both phases were approved in 2007, with Phase I containing 68 single-family dwellings and Phase II containing 36 single-family dwellings. A grading permit for Phase I was approved and streets were cut into the site, but no other work was completed. Both projects are now expired.

If an approved PZD expires the property does not automatically revert back to the original zoning. The property is unable to be developed or subdivided until the old PZD zoning is revoked and a new, valid zoning district is assigned.

The request is to rezone the property from Holcomb Heights Planned Zoning District Phases I and II, to RSF-8, Residential Single-family, 8 units per acre.

DISCUSSION

On September 12, 2011, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 5-4-0 with Commissioners Griffin, Winston, Honchell and Hoskins voting 'no'.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 11-3916, FOR APPROXIMATELY 19.24 ACRES, LOCATED AT THE SOUTHWEST CORNER OF SALEM AND WEIR ROAD FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT (06-2281 HOLCOMB HEIGHTS I AND 07-2613 HOLCOMB HEIGHTS II), TO RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE

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 R-PZD, Residential Planned Zoning District (06-2281 Holcomb Heights I and 07-2613 Holcomb Heights II) to RSF-8, Residential Single-Family, 8 units per acre, 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:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

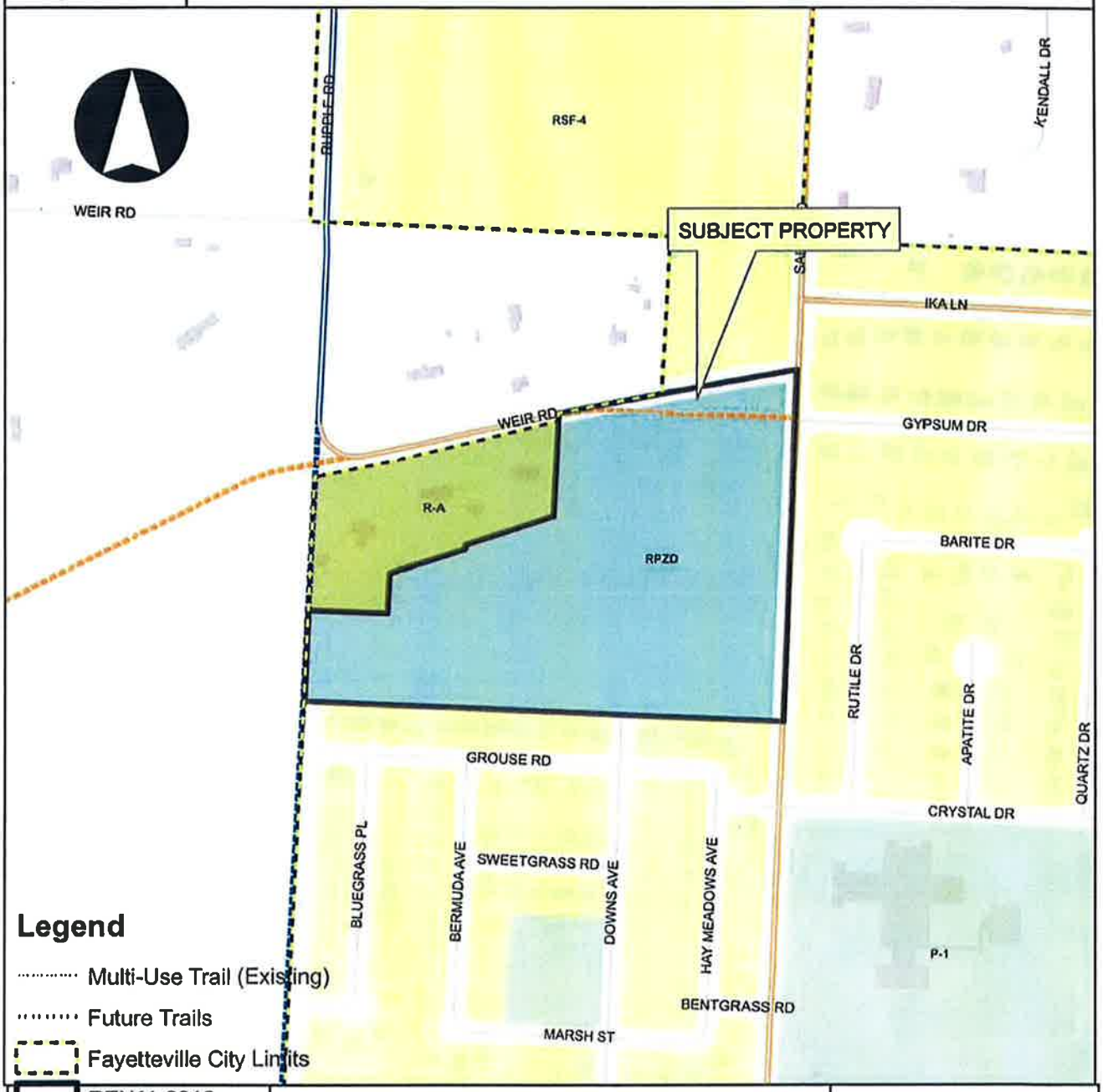
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN11-3916

Close Up View

TTO LLC



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits
- Overview RZN11-3916
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

0 150 300 600 900 1,200 Feet

EXHIBIT "B"
RZN 11-3916

PART OF THE NW1/4, NW1/4 OF SECTION 32, TI7N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS; BEGINNING AT THE SW CORNER OF SAID NW1/4, NWV4 THENCE N 02°50'27"E 250.00 FEET, THENCE S87°45'II"E 215.44 FEET, THENCE N 03°14'38"E 110.31 FEET, THENCE N 71°59'20"E 214.93 FEET, THENCE N 03°17'00"E 1 0.73 FEET, THENCE N 71°59'20"E 256.69 FEET, THENCE N 03°10'10"E 285.19 FEET, THENCE N 79°49'03"E 666.69 FEET, THENCE S 02°21 '02"W 967.01 FEET, THENCE N 87°34'37"W 1316.50 FEET TO THE P.O.B; CONTAINING 19.24 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY.

Fayetteville
ARKANSAS

PC Meeting of September 12, 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: ~~September 6, 2011~~ *Updated September 15, 2011*

RZN 11-3916: Rezone (HOLCOMB HEIGHTS PZD/TTO, LLC, 245): Submitted by JORGENSEN & ASSOCIATES for property located at the SOUTHWEST CORNER OF SALEM ROAD AND WEIR ROAD. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT (06-2281 HOLCOMB HEIGHTS I and 07-2613 HOLCOMB HEIGHTS II) and contains approximately 19.24 acres. The request is to rezone the property to RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE. Planner: Jesse Fulcher

BACKGROUND:

Property Description: The subject property is located at the southwest corner of Weir Road and Salem Road, and contains approximately 19.24 acres zoned Holcomb Heights Planned Zoning District Phases I and II. Both phases were approved in 2007, with Phase I containing 68 single-family dwellings and Phase II containing 36 single-family dwellings. A grading permit for Phase I was approved and streets were cut into the site, but no other work was completed. Both projects are now expired. The surrounding zoning and land uses are depicted in *Table 1.*

Table 1 - Surrounding Zoning and Land Use

Direction from Site	Land Use	Zoning
North	Single-family residential	RSF-4, Residential Single-family 4 Units Per Acre/Planning Area
South	Single-family residential	RSF-4, Residential Single-family 4 Units Per Acre
East	Single family residential	RSF-4, Residential Single-family 4 Units Per Acre
West	Single-family residential	R-A, Residential Agricultural

PZD Revocation: If an approved PZD expires the property does not automatically revert back to the original zoning. The property is unable to be developed or subdivided until the old PZD zoning is revoked and a new, valid zoning district is assigned.

Proposal: The request is to rezone the property from Holcomb Heights Planned Zoning District Phases I and II, to RSF-8, Residential Single-family, 8 units per acre.

Public Comment: Staff has received one call from a nearby property owner who wanted to know what uses were allowed in the RSF-8 zoning district.

RECOMMENDATION:

Staff recommends forwarding RZN 11-3916 to the City Council with a recommendation for approval based on findings stated herein.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 12, 2011	**❒ Tabled**	**√ Forwarded**	**❒ Denied**
Motion: Chesser	**Second: Cook**	**Vote: 5-4-0**	
CITY COUNCIL ACTION:	**Required**	**YES**	
	❒ Approved	**❒ Denied**	
Date: October 4, 2011			

INFRASTRUCTURE:

Streets: The site has access to Weir Road (Collector street) and Salem Road (Collector street). Street improvements will be evaluated at the time of development submittal.

Water: Public water is available to the property. There is an 8" water main adjacent to the south property line and a 2" water main along Weir Road.

Sewer: Sanitary sewer is available to the site. There is an 8" public main located adjacent to the south property line and an 8" public main on the east side of Salem Road. Public sewer improvements will be evaluated at the time of development submittal.

Drainage: Standard improvements and requirements for drainage will be evaluated at the time of development. This property is not affected by the 100-year floodplain and the Streamside Protection Zones.

Police: The Fayetteville Fire Department has not expressed concerns with this request.

Fire: The Fayetteville Fire Department has not expressed concerns with this request.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as* ***Residential Neighborhood 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: **The proposed RSF-8 zoning is very consistent with land use planning objectives, principles, and policies and with land use and zoning plans. The requested zoning allows the same uses as surrounding properties and neighborhoods, making it highly compatible with existing land uses. The slightly smaller lot size allowed in the RSF-8 zoning district will allow for a wider variety of lot sizes to be offered in the area, and make efficient use of the land.**

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

Finding: **The proposed zoning is needed at this time as the existing R-PZD zoning has expired and the property is unable to be developed in any manner, including minor applications such as a lot split or single family residence, until the expired PZD zoning is revoked and a new zoning district is assigned. As discussed in Finding No. 1, the proposed zoning is justified as it is compatible with the surrounding zoning and land uses and consistent with the City's Future Land Use Plan.**

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

Finding: **Additional development in the area will certainly increase the amount of traffic on surrounding streets; however, the overall density should not create an appreciable amount of traffic over that allowed by the previously approved PZD's. Improvements to Weir Road and Salem Road will be evaluated at the time of development, to help facilitate safer traffic movements and improved level of service.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The impact of the rezoning and subsequent development will require public facilities to be improved at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services.**

Increased load on public services was taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. Significant adverse impacts to public services would not result with the incorporation of standard improvements as part of the development.

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

Finding: **N/A**

161.09 District RSF-8, Residential Single-Family – 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building Height Maximum	45 ft.

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.
JUSTIN L. JORGENSEN, P.E.
BLAKE E. JORGENSEN, P.E.

City of Fayetteville
113 W. Mountain
Fayetteville, AR. 72701

8/3/11

Att: Planning Dept.
Re : Rezoning request for "Holcomb Heights" property

As you may know, Holcomb Heights was processed as a PZD in 2007. Since then this project has been abandoned and the present owner would like to rezone to RSF-8 which would allow for a single family, detached residential subdivision. This property extends from Salem Rd over to the future extension of Rupple Rd and from Weir Rd down to the North side of Salem Meadows Subdivision. Access to this property is from Downs Street to the south, Salem Rd to the east, Weir Rd to the north and eventually Rupple Rd to the west. There is existing water and sewer from the subdivision to the south.

Please review and call concerning any questions you may have.

Thank you.

Sincerely;

David L. Jorgensen, P.E.

Existing Zoning

G) Zoning District Comparison Chart

Description	Current Zoning RSF-4 Requirements	PZD Proposed Zoning Requirements (PA1)	PZD Proposed Zoning Requirements (PA2)	PZD Proposed Zoning Requirements (PA3)
Permitted Use Units Allowed	Unit 1: City-wide uses by right Unit 8: Single-family dwelling	Unit 1: City-wide uses by right Unit 8: Singe-family dwellings	Unit 1: City-wide uses by right Unit 8: Singe-family dwellings	Unit 1: City-wide uses by right Unit 8: Singe-family dwellings
Conditional Use Units Allowed	Unit 2: City-wide uses by conditional use permit Unit 3: Public protection and utility facilities Unit 4: Cultural and recreational facilities Unit 9: Two-family dwellings Unit 24: Home occupations Unit 36: Wireless communications facilities	Unit 9: Two family dwellings Detached second units Unit 24: Home occupations	Unit 9: Two family dwellings Detached second units Unit 24: Home occupations	Unit 9: Two family dwellings Detached second units Unit 24: Home occupations
Lot Width Minimum	Single-family: 70 ft Two-family: 80 ft	Single-family: 26 ft Two-family: 52 ft	Single-family: 38 ft Two-family: 80 ft	Single-family: 38 ft Two-family: 80 ft
Lot Area Minimum	Single-family: 8,000 sq. ft Two-family: 12,000 sq. ft	Single-family: 1,800 sq. ft Two-family: 3,700 sq. ft	Single-family: 3,700 sq. ft Two-family: 7,400 sq. ft	Single-family: 4,700 sq. ft Two-family: 8,600 sq. ft
Land Area per Dwelling Unit	Single-family: 8,000 sq. ft Two-family: 6,000 sq. ft	Single-family: 1,800 sq. ft Two-family: 3,700 sq. ft	Single-family: 3,700 sq. ft Two-family: 7,400 sq. ft	Single-family: 4,700 sq. ft Two-family: 8,600 sq. ft
Density	Single-family: 4 units/ac or less Multi-family: 7 units/ac or less	11.1 Units per acre	6.64 Units per acre or less	5.7 Units per acre or less
Setback Requirements	Front: 25 ft Side: 8 ft Rear: 20 ft	Front: 10 ft 0 ft. facing Village Green Side: 0 ft. (Zero Lot Line) or 4 ft. from ROW Rear: 10 ft Detached Garage: 0 ft. side	Front: 10 ft 15 ft. on Salem Rd. Side: 0 ft. (Zero Lot Line) Rear: 10 ft Detached Garage: 0 ft. side	Front: 10 ft Side: 0 ft. (Zero Lot Line) Rear: 10 ft Detached Garage: 0 ft. side
Height Regulations	45 ft. maximum	40 ft. maximum	40 ft. maximum	40 ft. maximum
Building Area	Not to exceed 40% of total lot area	Not to exceed 90% of total lot area	Not to exceed 85% of total lot area	Not to exceed 80% of total lot area

Existing Zoning

G) Zoning District Comparison Chart

Description	Current Zoning RSF-4 Requirements	PZD Proposed Zoning Requirements (PA1)	PZD Proposed Zoning Requirements (PA2)	PZD Proposed Zoning Requirements (PA3)	PZD Proposed Zoning Requirements (PA4)
Permitted Use Units Allowed	Unit 1: City-wide uses by right Unit 8: Single-family dwelling	Unit 1: City-wide uses by right Unit 8: Singe-family dwellings	Unit 1: City-wide uses by right Unit 8: Singe-family dwellings	Unit 1: City-wide uses by right Unit 8: Singe-family dwellings	Unit 1: City-wide uses by right
Conditional Use Units Allowed	Unit 2: City-wide uses by conditional use permit Unit 3: Public protection and utility facilities Unit 4: Cultural and recreational facilities Unit 9: Two-family dwellings Unit 24: Home occupations Unit 36: Wireless communications facilities	Unit 9: Two family dwellings Detached second units Unit 24: Home occupations	Unit 9: Two family dwellings Detached second units Unit 24: Home occupations	Unit 9: Two family dwellings Detached second units Unit 24: Home occupations	Unit 4: Cultural and recreational facilities
Lot Width Minimum	Single-family: 70 ft Two-family: 80 ft	Single-family: 26 ft Two-family: 52 ft	Single-family: 32 ft Two-family: 64 ft	Single-family: 35 ft Two-family: 80 ft	25 ft
Lot Area Minimum	Single-family: 8,000 sq. ft Two-family: 12,000 sq. ft	Single-family: 2,000 sq. ft Two-family: 3,700 sq. ft	Single-family: 2,800 sq. ft Two-family: 6,400 sq. ft	Single-family: 3,100sq. ft Two-family: 7,200 sq. ft	1,000 sq.ft
Land Area per Dwelling Unit	Single-family: 8,000 sq. ft Two-family: 6,000 sq. ft	Single-family: 2,000 sq. ft Two-family: 3,700 sq. ft	Single-family: 2,800 sq. ft Two-family: 6,400 sq. ft	Single-family: 3,100 sq. ft Two-family: 7,200 sq. ft	N/A
Density	Single-family: 4 units/ac or less Multi-family: 7 units/ac or less	14.89 Units per acre	7.97 Units per acre or less	6.89 Units per acre or less	N/A
Setback Requirements	Front 25 ft Side: 8 ft Rear: 20 ft	Front 10 ft 0 ft. facing Community Greenspace Side: 0 ft (Zero Lot Line) -per building code Rear: 10 ft (Alley) Detached Garage: 0 ft side	Front 10 ft Side: 0 ft (Zero Lot Line) -per building code 5 ft (Alley) Rear: 10 ft (Alley) Detached Garage: 0 ft side	Front 10 ft Side: 0 ft (Zero Lot Line) -per building code 5 ft (Alley) Rear: 20 ft Detached Garage: 0 ft side	Front 5 ft Side: 5 ft Rear: 5 ft
Height Regulations	45 ft maximum	40 ft maximum	40 ft maximum	40 ft maximum	35 ft maximum
Building Area	Not to exceed 40% of total lot area	Not to exceed 90% of total lot area	Not to exceed 85% of total lot area	Not to exceed 80% of total lot area	Not to exceed 6.2% of total lot area

Holcomb Heights- Phase I & II

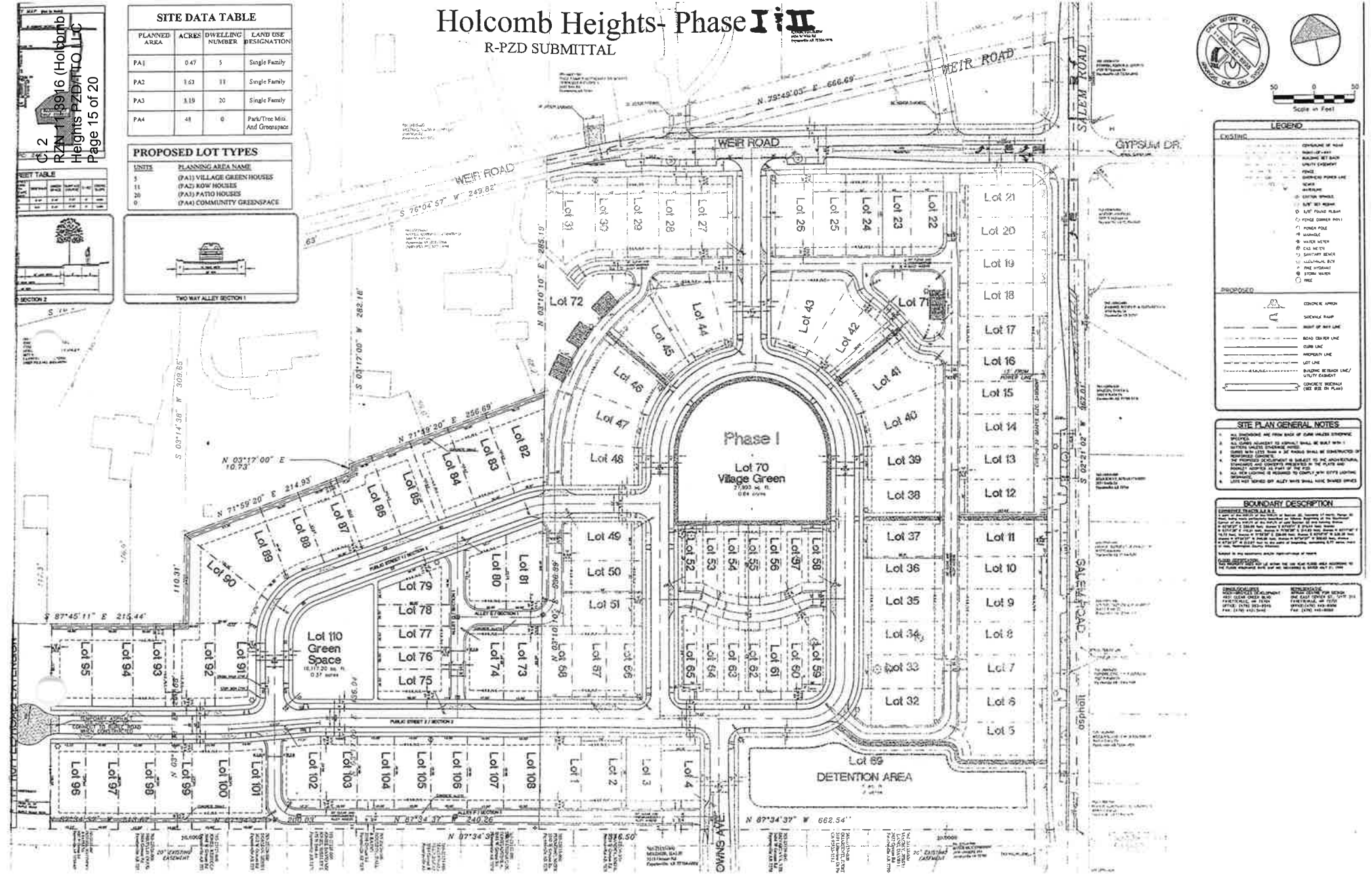
R-PZD SUBMITTAL

SITE DATA TABLE

PLANNED AREA	ACRES	DWELLING NUMBER	LAND USE DESIGNATION
PA1	0.47	5	Single Family
PA2	1.63	11	Single Family
PA3	3.19	20	Single Family
PA4	48	0	Park/Tree Mitt. And Greenspace

PROPOSED LOT TYPES

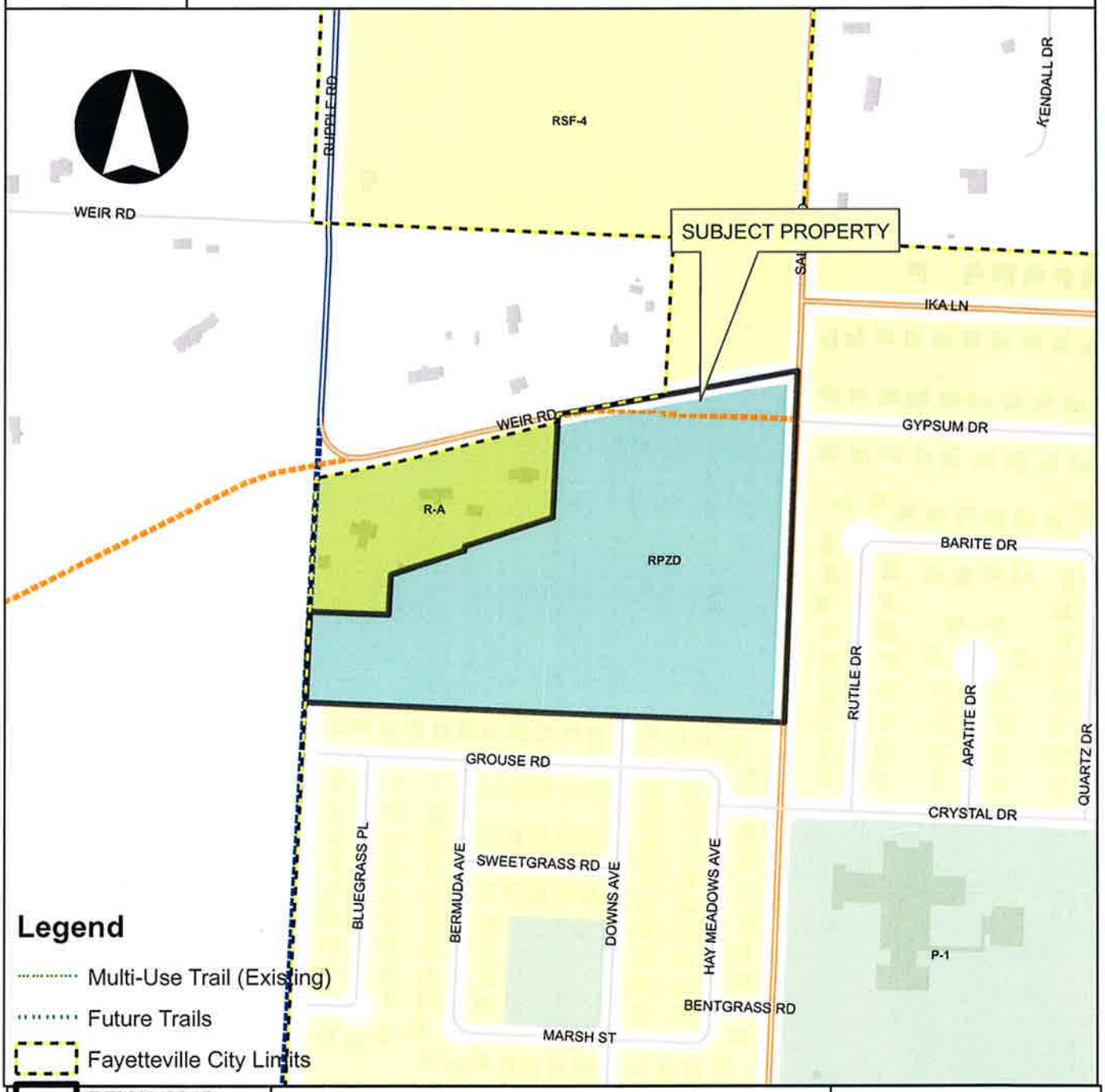
UNITS	PLANNING AREA NAME
5	(PA1) VILLAGE GREEN HOUSES
11	(PA2) ROW HOUSES
20	(PA3) PATIO HOUSES
0	(PA4) COMMUNITY GREENSPACE



RZN11-3916

Close Up View

TTO LLC



Legend

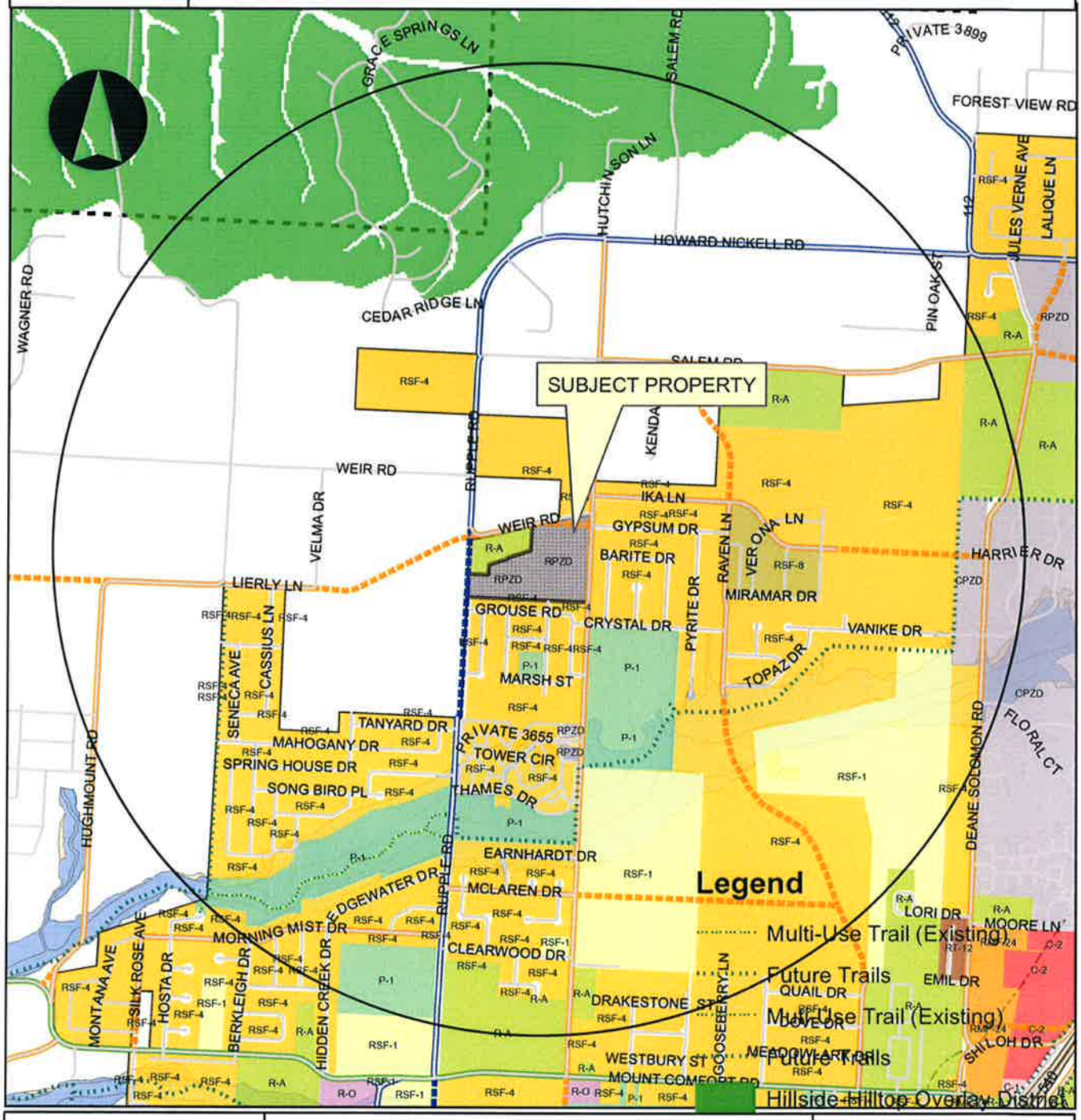
- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits
- RZN11-3916
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

0 150 300 600 900 1,200 Feet

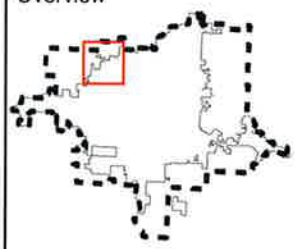
RZN11-3916

One Mile View

TTO, LLC



Overview



Legend

Subject Property

RZN11-3916

Boundary

RZN11-3916

Design Overlay District

Planning Area

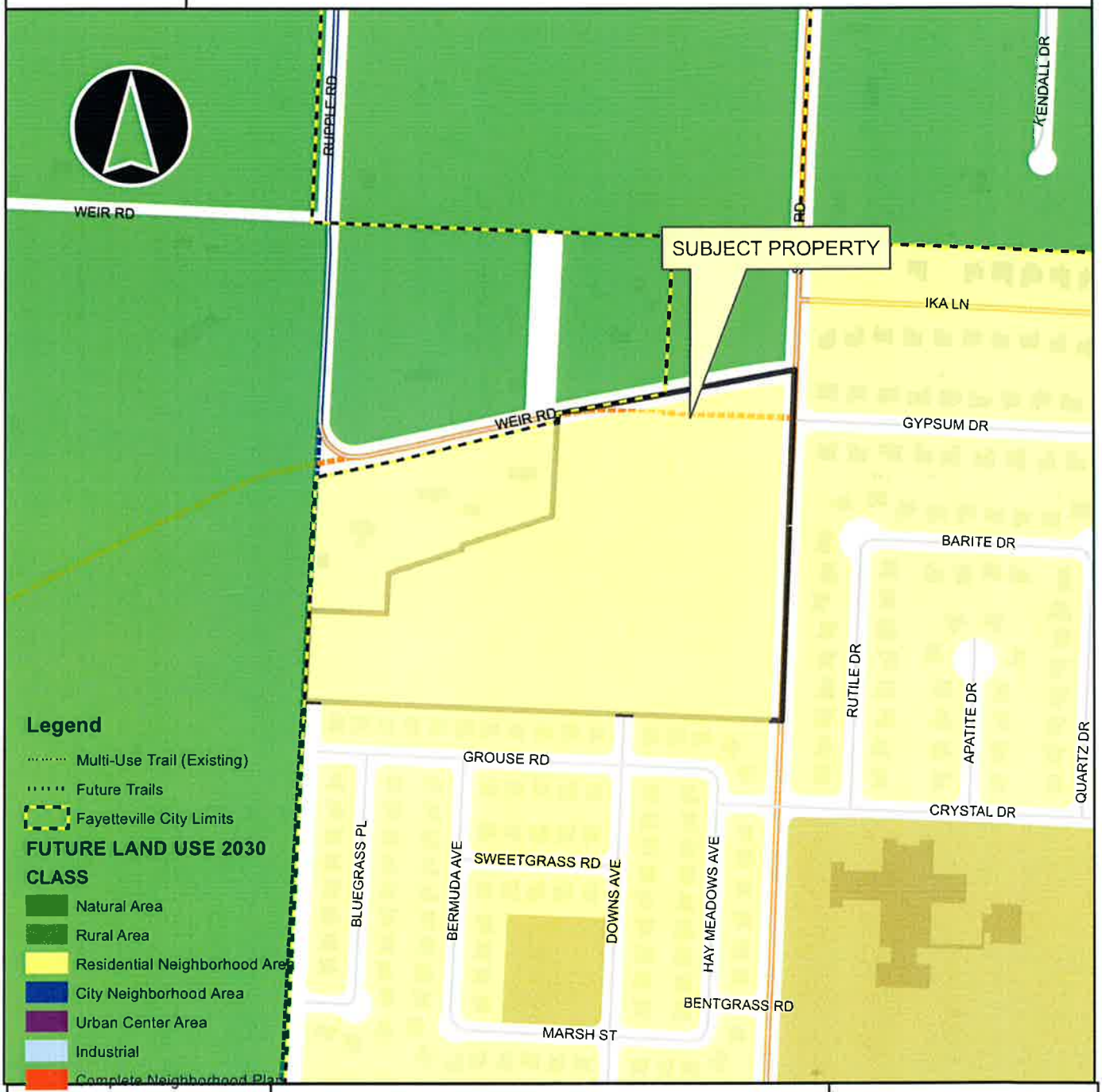
Fayetteville

0 0.25 0.5 1 Miles

RZN11-3916

Future Land Use

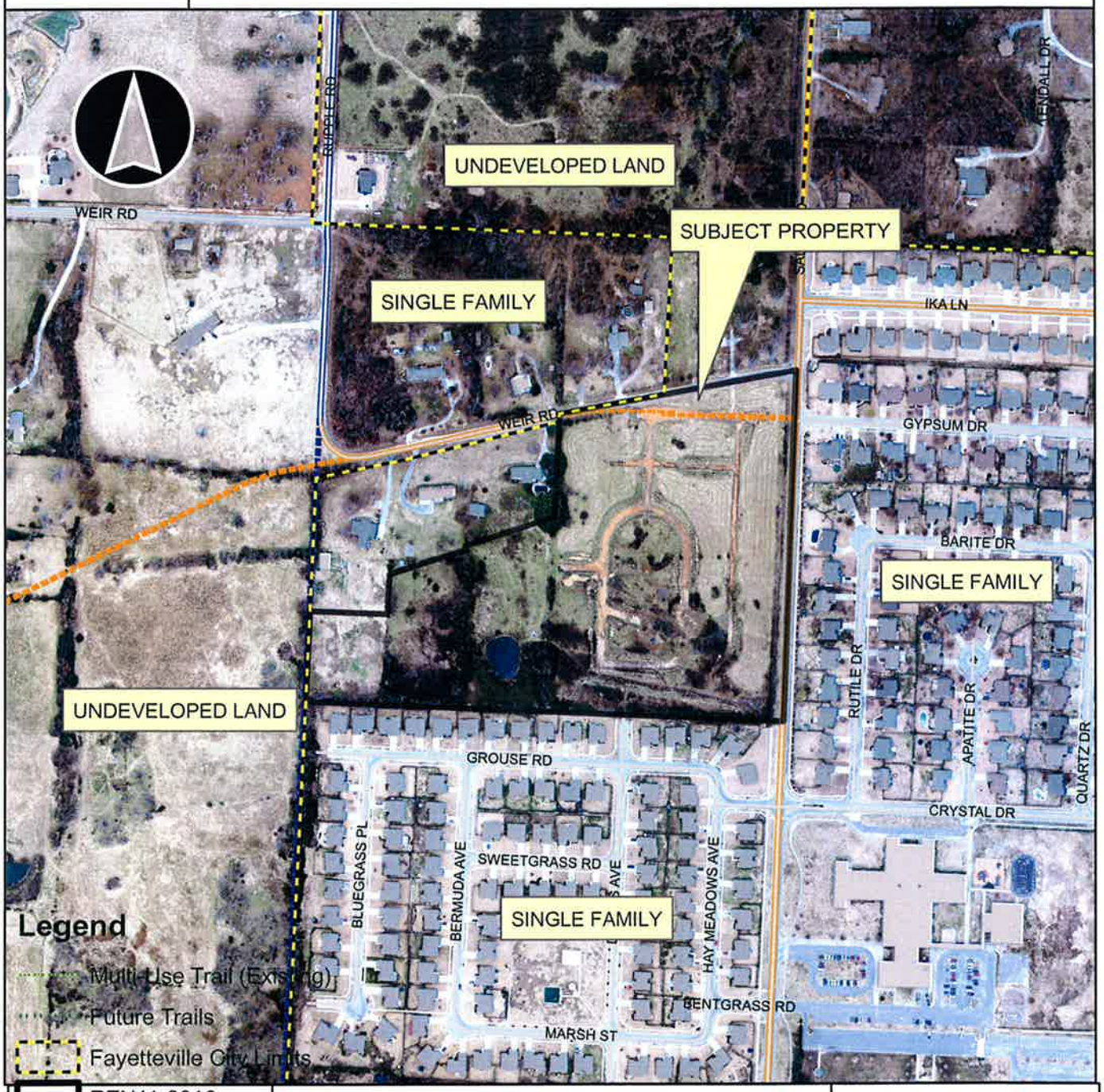
TTO, LLC



RZN11-3916

Current Land Use

TTO LLC



Overview

RZN11-3916

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

Planning Area

0 150 300 600 900 1,200 Feet

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

10/4/2011
City Council Meeting Date
Agenda Items Only

Jesse Fulcher	Planning	Development Services
Submitted By	**Division**	**Department**

Action Required:

ADM 11-3943: Administrative (Belclaire Subdivision - Amendment to Bill of Assurance): Submitted by ADR HOMES BY ROTH, LLC for BELCLAIRE SUBDIVISION. The request is for an amendment to the Bill of Assurance accepted with rezoning petition RZN 04-12.00.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date 09.16.2011

City Attorney — Date 9-16-2011

Finance and Internal Services Director — Date 9-16-2011

Chief of Staff — Date 16 Sep 11

Mayor — Date 9/19/11

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 09-15-11 A09:54 RCVD

Received in Mayor's Office ENTERED 9/16/11 BRP

Comments:

Fayetteville ARKANSAS
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: September 15, 2011

Subject: ADM11-3943 (Belclaire Subdivision-Amendment of Bill of Assurance)

BACKGROUND

Belclaire Subdivision is located at the northeast corner of Hwy 112 and Howard Nickell Road. The approximately 40-acre property was rezoned to RSF-4, Residential Single-family, 4 units per acre in 2004, with an associated Bill of Assurance. The Bill of Assurance offered by the property owner at the time limited the subdivision to 99 homes (2.48 units/acre) and required that each home contain at least 2,400 square feet.

Construction of the subdivision began shortly after the final plat was approved in 2007, and all required infrastructure was installed. However, changes in the economy stalled home construction until late 2010 when a new development team aquired the property. The new owner and builder have started or completed construction of at least 25 homes in the subdivision.

The Development Services Department received a building permit for a new 2,232 square foot home on August 17, 2011, less than the 2,400 square feet required by the Bill of Assurance. Staff contacted the builder to inform them that the permit could not be approved due to the house size limitation imposed by the Bill of Assurance. Staff was able to resolve the conflict with the builder and allow construction to commence. However, the minimum house size still poses a significant restriction on the builder and developer, who desires to provide a variety of house sizes and price points within the same subdivision. Houses in the subdivision are proposed to vary in size between 2,000 and 3,600 square feet, with the majority of homes containing between 2,500 to 2,800 square feet.

Now realizing the restriction placed on the house sizes in 2004, the new owner and builder are requesting the City Council amend the adopted Bill of Assurance to allow homes to be no less than 2,000 square feet. No other changes to the Bill of Assurance are being requested.

DISCUSSION

Though not required to do so, staff requested the applicant notify surrounding property owners of the proposed amendment, particularly the neighborhood to the north, which had the most involvement when this rezoning was originally considered in 2004.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 3 OF ORDINANCE NO. 4605 TO AMEND THE BILL OF ASSURANCE TO REDUCE THE MINIMUM HOUSE SIZE FROM 2,400 SQUARE FEET TO 2,000 SQUARE FEET

WHEREAS, Ordinance No. 4605 passed on August 17, 2004 in reliance upon and subject to the offered Bill of Assurance which provided among other things that the "single family homes to be not less than 2,400 heated sq. ft. each to include an enclosed two car garage"; and

WHEREAS, the new owners/developers wish to be able to build some of the homes with a lesser minimum heated square feet total of 2,000 square feet.

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 Section 3 of Ordinance No. 4605 and the Bill of Assurance approved for this rezoning only to the extent that the minimum heated square feet for each house be lowered from 2,400 to 2,000 square feet. All other terms and conditions of the Bill of Assurance and Ordinance No. 4605 remain in full force and effect.

PASSED and **APPROVED** this 4th day of October, 2011.

APPROVED: ATTEST:

By: _____ By: _____

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

ADR Homes by Roth, LLC
1801 SW Regional Airport Blvd, Suite 5
P.O. Box 239
Bentonville, AR 72712

Phone 479-250-0524 Fax 866-651-6917

To whom it may concern:
I am writing this letter regarding the Bill of Assurance for the Belclaire Subdivision. It was written that there would be no homes to be built less than 2400 heated square feet. We at ADR homes would like the city council to allow us to reduce this amount to 2000 square feet so as to be able to offer our product to a wider market of buyers. As we all know, the housing market has changed drastically since the subdivision was final platted in 2004. Being able to offer the smaller home is an option that we feel is vital to the success of the subdivision. With that being said, we are not looking to just build the smaller home, but rather to keep with the larger 2500 to 2800 ft homes. I know there were some anxious moments for the neighbors of the subdivision as to what was going to built. We have had multiple neighbors thru the neighborhood with nothing but good things to say. We have worked really hard to make the subdivision something that they along with the city can be proud of. We have put a product in that is very high quality and affordable. We have had very good feedback from all that have looked.

Thanking you in advance,

Jeff Roth, Managing Member
ADR Homes by Roth, LLC
479-250-0524 Phone
866-651-6917 Fax

" Creating A Difference "

Recent home construction by ADR Homes by Roth, LLC Belclaire Subdivision

2004 Rezoning ordinance and Bill of Assurance

ORDINANCE NO. 4605

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-12.00 AS SUBMITTED BY CHAD WHITE ON BEHALF OF LEIGH TAYLOR PROPERTIES, LLC FOR PROPERTY LOCATED NORTH OF HIGHWAY 112/ HOWARD NICKELL RD AND EAST OF HIGHWAY 112 CONTAINING APPROXIMATELY 39.86 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE SUBJECT TO A BILL OF ASSURANCE

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

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

From R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.

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

Section 3: That the subject property will be subject to a Bill of Assurance attached hereto and made a part hereof labeled as Exhibit "B" limiting the density of said property to 2.48 dwelling units per acre.

PASSED and **APPROVED** this 17th day of August, 2004.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

By: Sondra Smith
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

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") Leigh Taylor Properties, 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 Chancery/ 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 a maximum density of 2.48 dwelling units per acre comprised of 99 lots.

2. Other restrictions including number and type of structures upon the property are limited to 99 single family homes to be not less than 2,400 heated sq.ft each to include an enclosed two car garage. Exterior Walls will be no less than 80% brick, stone or approved masonry product, with architectural shingles. All yards will be sodded.

3. Activities that will be allowed upon petitioner's property are limited to those permitted in the RSF-4 zoning district.

4. When the Property Owner's Association is established two property owners from the Forest Hills Estates subdivision will be invited to serve on the board.

5. A buffer area will be provided along the north property line 50 feet in width. No structures shall be built within this buffer strip.

6. 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, Chad White, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

8/17/04
Date

CHAD WHITE
Printed Name

4738 Stonewall Crossing
Springdale, AR 72764
Address

Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 17th day of August, 2004, appeared before me, Chad White and after being placed upon his/her oath swore or affirmed that he agreed with the terms of the above Bill of Assurance and signed his name above.

Clarice Buffalohead-Pearman
NOTARY PUBLIC

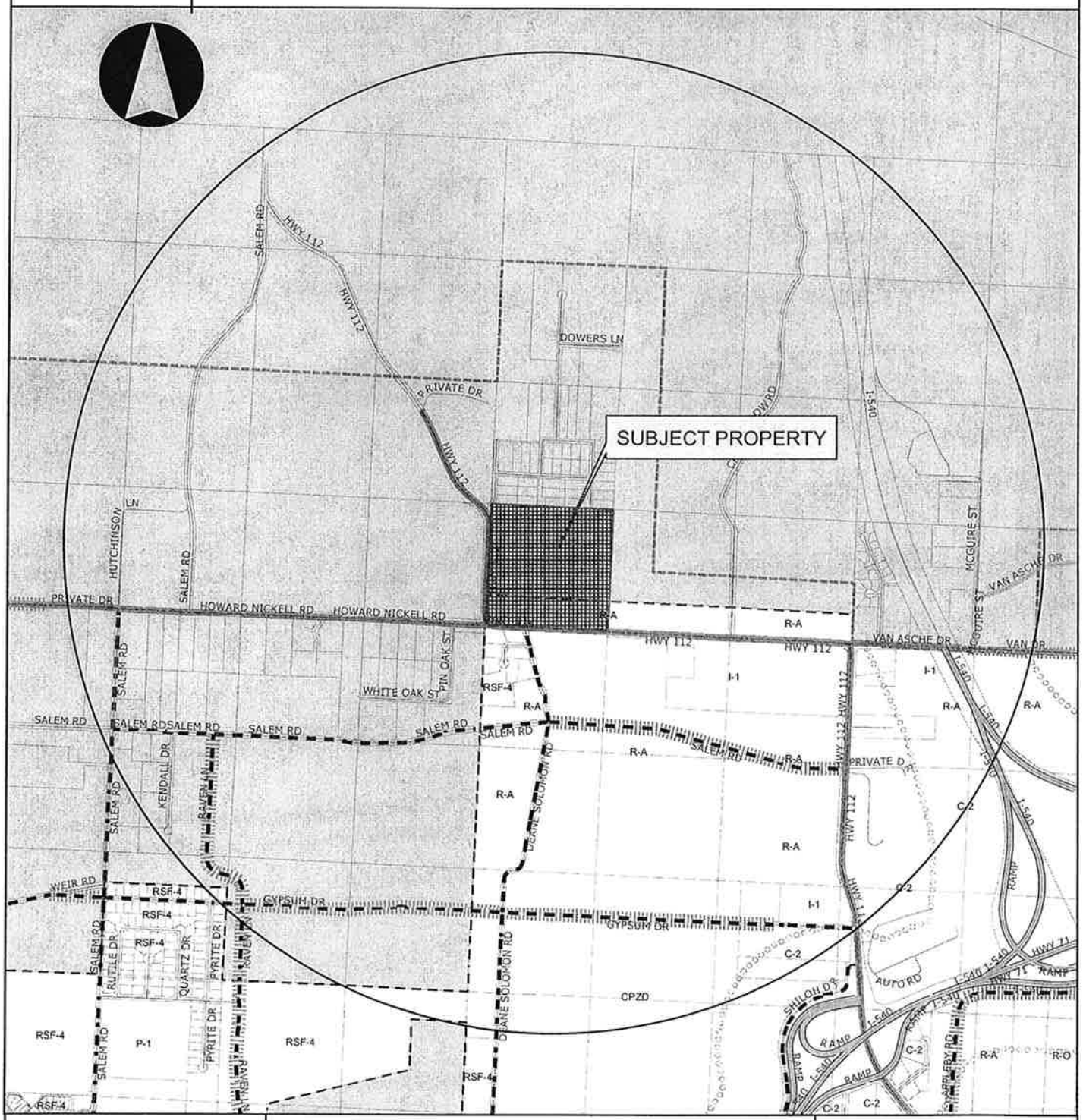
CLARICE BUFFALOHEAD-PEARMAN NOTARY PUBLIC WASHINGTON CO., AR

My Commission Expires:
May 08, 2010

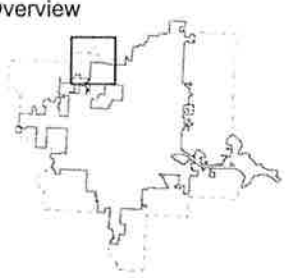
RZN04-12.00

One Mile View

LEIGH TAYLOR PROPERTIES



Overview



Legend

Subject Property
- RZN04-12.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

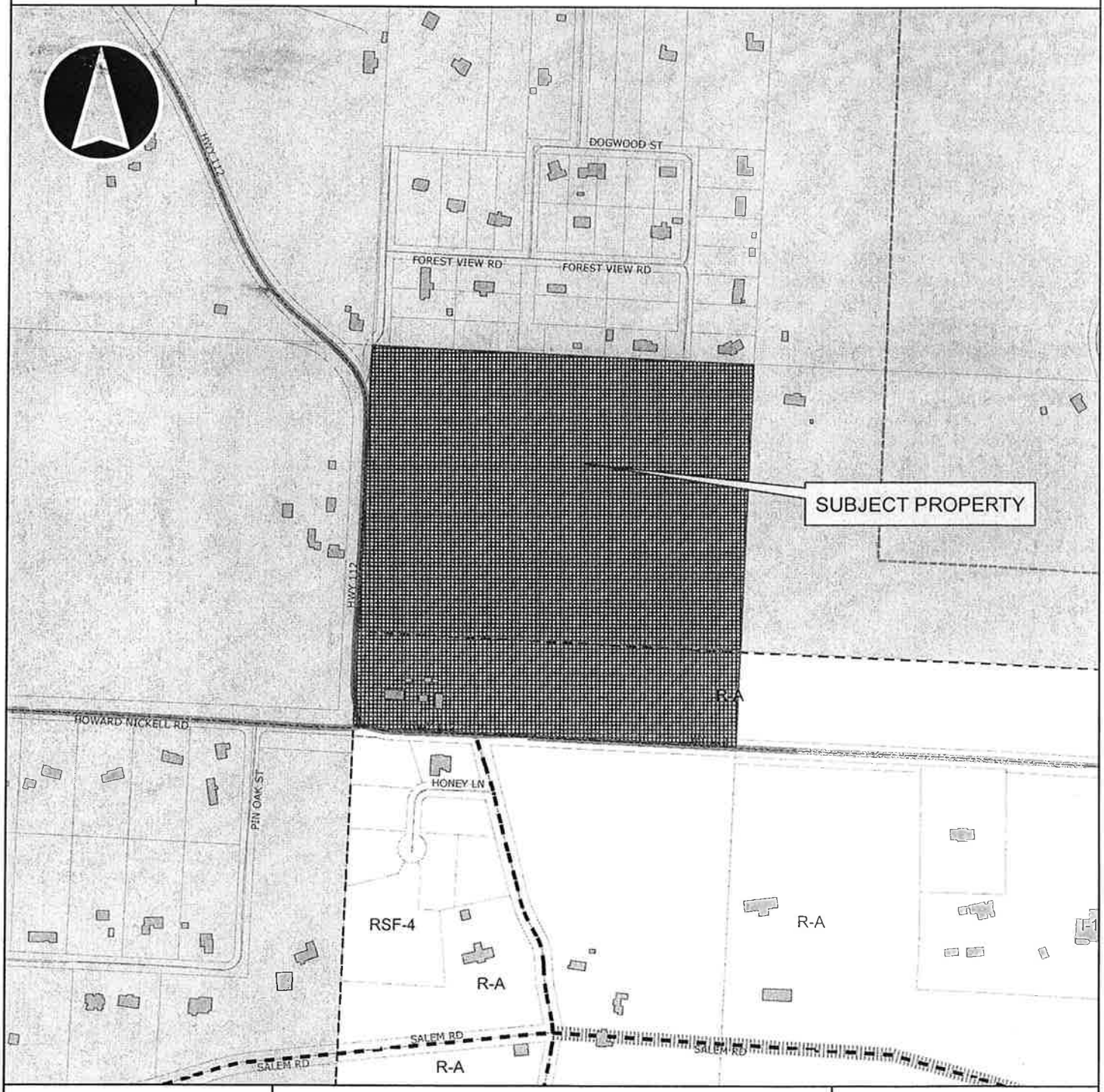
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN04-12.00

Close Up View

LEIGH TAYLOR PROPERTIES



Overview

Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- RZN04-12.00

0 175 350 700 1,050 1,400 Feet

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

10/4/2011
City Council Meeting Date
Agenda Items Only

Dara Sanders	Planning	Development Services
Submitted By	**Division**	**Department**

Action Required:

ADM 11-3948: (OAKLAND COURTS RIGHT-OF-WAY DEDICATION, 405): Submitted by COMMUNITY BY DESIGN for property located at the intersection of MOUNT COMFORT ROAD AND OAKLAND AVENUE. The property is zoned CS, COMMUNITY SERVICES and contains approximately 1.75 acres. The request is to dedicate less right-of-way than required by the Master Street Plan, in accordance with 166.04(A)(3)(a)(i) of the UDC.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date: 09-16-2011

City Attorney — Date: 9-16-2011

Finance and Internal Services Director — Date: 9-16-2011

Chief of Staff — Date: 9-16-11

Mayor — Date: 9/19/11

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office: 09-15-11 P02:28 RCVD

Received in Mayor's Office: ENTERED 9/16/11 BRP

Comments:

Fayetteville
ARKANSAS
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: Dara Sanders, Current Planner

Date: September 15, 2011

Subject: ADM 11-3948 (Oakland Courts Right-of-way Dedication)

BACKGROUND

The project boundary contains approximately 1.43 acres and is made up of seven undeveloped lots bounded by Mount Comfort, Oakland Avenue, Hazel Street, and Storer Avenue. In April of 2011, the Planning Commission and City Council approved a request to rezone the subject property from RMF-24, Residential Multi-family, 24 dwelling units per acre, to CS, Community Services, which enables development of the property to be approved administratively through a Large Site Improvement Plan (LSIP) application.

The City Planning Division has received and processed a LSIP application (LSIP 11-3933) for a mixed-use development including three buildings containing 57 dwelling units and 1,976 square feet of retail and office space. In the review of the proposal on August 31st, City staff, several variance requests were identified that required Planning Commission approval prior to the issuance of a development approval letter. These variances were heard and approved by the Planning Commission on September 12th, with the exception of the applicant's request to dedicate less right-of-way than required by the Master Street Plan, in accordance with Unified Development Code Chapter 166.04(B)(3), right-of-way dedication, which requires City Council approval.

The applicant proposes to dedicate the required right-of-way in the amount of 25 feet from centerline for Mount Comfort Avenue, Oakland Avenue, and Hazel Street, in accordance with the Master Street Plan, and requests approval of a variance from the requirement to dedicate 25 feet of right-of-way for Storer Avenue (Local Street). Currently, right-of-way in the amount 20 feet from centerline is existing at this location of Storer Avenue, which is sufficient to meet the dimensional requirements to accommodate both pedestrian and vehicular traffic without the required five feet of greenspace between the curb and the sidewalk.

DISCUSSION

The Planning Commission and staff recommend approval of the request with the condition that remaining greenspace between the existing right-of-way and the building shall be dedicated in a maintenance and access easement to be maintained by the property owner but would allow the City to utilize a portion of the subject property to maintain the improved right-of-way. Future redevelopment of the site may require additional right-of-way dedication.

BUDGET IMPACT

None.

RESOLUTION NO.

A RESOLUTION TO APPROVE A LESSER RIGHT-OF-WAY DEDICATION THAN REQUIRED BY THE MASTER STREET PLAN FOR PROPERTY LOCATED ON STORER AVENUE BETWEEN NORTH STREET AND HAZEL STREET.

WHEREAS, the City Council has determined that the right-of-way dedication requirement of 166.04(B)(3)(a) of the Unified Development Code would exert "practical difficulties" upon the property owner due to building setback, tree preservation and fire code requirements associated with the development of the property; and

WHEREAS, the City Council has determined that the existing right-of-way in the amount of 20 feet from the centerline is sufficient in meeting the dimensional requirements to accommodate both pedestrian and vehicular traffic without the required five feet of greenspace between the curb and the sidewalk; and

WHEREAS, pursuant to 166.04(B)(3)(a)(i) of the Unified Development Code, the City Council may reduce the right-of-way requirements of the Master Street Plan

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 approves the property owner's request to dedicate a lesser right-of-way on Storer Avenue between North Street and Hazel Street, as shown in "Exhibit A", to the existing 20 feet of right-of-way from centerline due to practical difficulties.

Section 2: That this approval is subject to the following Condition of Approval and shall not be in effect until the condition is met:

"The remaining greenspace between the right-of-way and building shall be dedicated in an easement to allow the City to access and maintain, if necessary, the improved right-of-way and street trees."

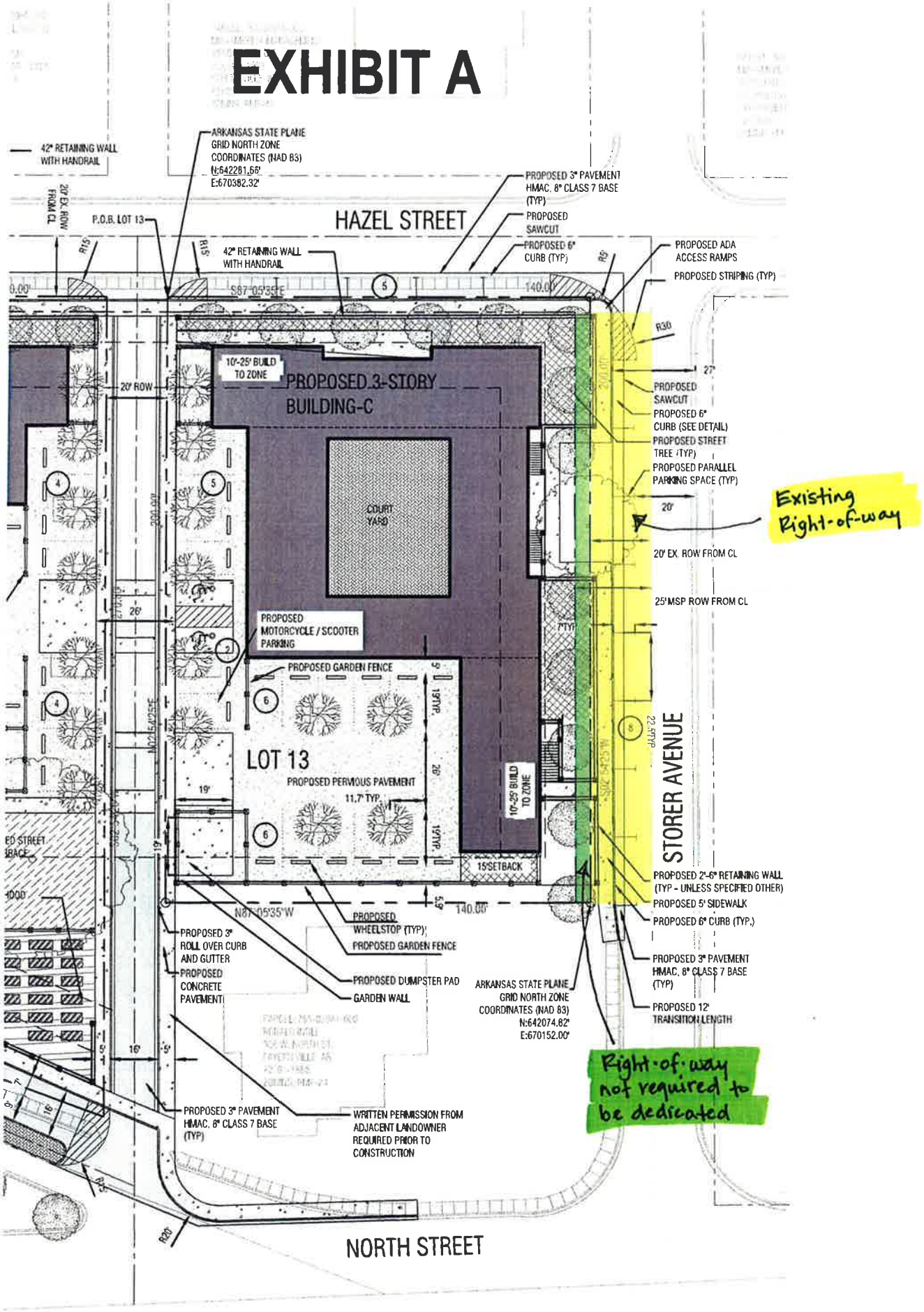
PASSED and **APPROVED** this day of , 2011.

APPROVED: ATTEST:

By: _____ By: _____

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

EXHIBIT A


42" RETAINING WALL WITH HANDRAIL
ARKANSAS STATE PLANE GRID NORTH ZONE COORDINATES (NAD 83) N:642281.66' E:670382.32'
20' EX. ROW FROM CL
P.O.B. LOT 13
HAZEL STREET
PROPOSED 3" PAVEMENT HMAC, 8" CLASS 7 BASE (TYP)
PROPOSED SAWCUT
PROPOSED 6" CURB (TYP)
42" RETAINING WALL WITH HANDRAIL
PROPOSED ADA ACCESS RAMPS
PROPOSED STRIPING (TYP)
S87°05'35"E
140.00'
10'-25' BUILD TO ZONE
PROPOSED 3-STORY BUILDING-C
20' ROW
PROPOSED SAWCUT
PROPOSED 6" CURB (SEE DETAIL)
PROPOSED STREET TREE (TYP)
PROPOSED PARALLEL PARKING SPACE (TYP)
COURT YARD
Existing Right-of-way
20' EX. ROW FROM CL
25' MSP ROW FROM CL
PROPOSED MOTORCYCLE / SCOOTER PARKING
PROPOSED GARDEN FENCE
LOT 13
PROPOSED PERVIOUS PAVEMENT
10'-25' BUILD TO ZONE
STORER AVENUE
15' SETBACK
PROPOSED 2'-6" RETAINING WALL (TYP - UNLESS SPECIFIED OTHER)
PROPOSED 5' SIDEWALK
PROPOSED 6" CURB (TYP.)
N87°05'35"W
140.00'
PROPOSED WHEELSTOP (TYP)
PROPOSED GARDEN FENCE
PROPOSED 3" ROLL OVER CURB AND GUTTER
PROPOSED CONCRETE PAVEMENT
PROPOSED DUMPSTER PAD
GARDEN WALL
ARKANSAS STATE PLANE GRID NORTH ZONE COORDINATES (NAD 83) N:642074.82' E:670152.00'
PROPOSED 3" PAVEMENT HMAC, 8" CLASS 7 BASE (TYP)
PROPOSED 12' TRANSITION LENGTH
Right-of-way not required to be dedicated
PROPOSED 3" PAVEMENT HMAC, 8" CLASS 7 BASE (TYP)
WRITTEN PERMISSION FROM ADJACENT LANDOWNER REQUIRED PRIOR TO CONSTRUCTION
NORTH STREET

Fayetteville
ARKANSAS

PC Meeting of September 12, 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
	Chris Brown, City Engineer
THRU:	Jeremy Pate, Development Services Director
DATE:	~~September 7, 2011~~ *Updated September 15, 2011*

ADM 11-3948: Variance (INTERSECTION OF MT. COMFORT & OAKLAND AVE./OAKLAND COURTS, 405): Submitted by COMMUNITY BY DESIGN for property located at the intersection of MOUNT COMFORT ROAD AND OAKLAND AVENUE. The property is zoned CS, COMMUNITY SERVICES and contains approximately 1.75 acres. The request is for variances from Unified Development Code Chapters 166, Development; Chapter 170, Stormwater Management, Drainage, and Erosion Control; Chapter 172, Parking and Loading; and Chapter 177, Landscaping. Planner: Dara Sanders

Findings:

Property Description and History: The project boundary contains approximately 1.43 acres and is made up of seven undeveloped lots bounded by Mount Comfort, Oakland Avenue, Hazel Street, and Storer Avenue. This site is located north of North Street and the University of Arkansas and is located near several existing bus stops. The properties to the north and south are primarily multi-family residences with nonresidential services to the east and west.

SURROUNDING LAND USE AND ZONING:

Direction from Site	Land Use	Zoning
North	Single- and Multi- family residences	RMF-24, Residential Multi-family, 24 units/acre RMF-40, Residential Multi-family, 40 units/acre
South	Single- and Multi- family residences	RMF-40, Residential Multi-family, 40 units/acre R-O, Residential Office
West	Single- and Multi- family residences Retail, eating places, office, and gasoline stations	RMF-24, Residential Multi-family, 24 units/acre C-2, Thoroughfare Commercial
East	Single- and Multi- family residences Offices and the St. James Church	RMF-24, Residential Multi-family, 24 units/acre R-O, Residential Office

Request: In April of 2011, the Planning Commission and City Council approved a request to rezone the subject property from RMF-24, Residential Multi-family, 24 dwelling units per acre, to CS, Community Services, which enables development of the property to be approved administratively through a Large Site Improvement Plan (LSIP) application. The City Planning Division has received and processed a LSIP application (LSIP 11-3933) for a mixed-use development including three buildings containing 57 dwelling units and 1,976 square feet of retail and office space. The first review of the proposal has been reviewed by City staff, and several variance requests were identified

that require Planning Commission approval prior to the issuance of a development approval letter. These variances are outlined in the following chart:

Unified Development Code	Requirement	Proposal
Ch 166.04(B)(3), Right-of-way dedication	- Storer Avenue (Local Street) requires 25 feet of right-of-way from centerline	- No additional right-of-way dedication.
Ch 166.08(D)(6), Minimum Street Standards	- Local Street cross section with six feet of greenspace between the street and the sidewalk	- Placement of the sidewalk at the back of curb
Ch 166.24(D)(7)(b), Nonresidential Design Standards for glazing	- The façades located within the build-to zones adjacent to Mount Comfort Ave and Oakland Ave require 50% glazing.	- 43 % glazing on the south façade - 16% glazing on the west façade
Ch 170.02, Drainage Criteria Manual	- A minimum drainage discharge pipe of 18"	- A 4" pipe
Ch 172.02(B), Parking lot construction requirements	- Parking lots shall be asphalt, pavers, or concrete. - Parking lot spaces shall be striped to delineate each space, mark ADA spaces, and provide directional arrows	- A gravel parking lot - No striping of individual spaces or directional arrows
Ch 172.04(E), Parking lot dimensional requirements	- Standard parking stalls shall have a maximum width of 9 ft	- Parking stall width of 11.5 ft.
Ch 177.04(C), Parking lot interior landscaping	- Parking lots with 10 spaces or more shall be landscaped with a tree island containing an area of 150 sq. ft.	- Subsurface tree wells
Ch 177.04(D)(2)(b), Perimeter green space in urban zoning districts	- Less than 10 feet of greenspace adjacent to the right-of-way in an urban zoning district requires urban tree wells	- Four to nine feet of greenspace in select locations

It should be noted that the variance requests from Chapters 166.04(B)(3), 166.08(D)(6), and 177.04(D)(2)(b) are a result of fire code and tree preservation requirements, and the variance requests from Chapters 172.04(B), 172.04(E), and 177.04(D)(2)(b) are a result of the applicant's request to incorporate low impact development techniques into the parking lot design in an effort to reduce the amount of impervious surface on an undeveloped lot.

Discussion/Staff Recommendation:

Chapter 166.04(B)(3), Right-of-way dedication. The applicant proposes to dedicate the required right-of-way in the amount of 25 feet from centerline for Mount Comfort Avenue, Oakland Avenue, and Hazel Street, in accordance with the Master Street Plan, and requests approval of a variance from the requirement to dedicate 25 feet of right-of-way for Storer Avenue (Local Street). Currently, right-of-way in the amount 20 feet from centerline is existing at this location of Storer Avenue, which is sufficient in meeting the dimensional requirements to accommodate both pedestrian and vehicular traffic without the required five feet of greenspace between the curb and the sidewalk; therefore, Planning and Engineering staff recommend approval of the request with the condition that remaining greenspace between the existing right-of-way and the building shall be dedicated in a maintenance easement to be maintained by the property owner but would allow the City to utilize a portion of the subject property to maintain the improved right-of-way. Future redevelopment of the site may require additional right-of-way dedication.

Chapter 166.08(D)(6), Minimum Street Standards. All adjacent streets, Mount Comfort Avenue, Oakland Avenue, Hazel Street, and Storer Avenue, are designated as Local Streets in the Master Street Plan, which requires two 10-foot travel lanes, one parking lane of seven feet, six feet of greenspace on both sides of the street, and a five-foot-wide sidewalk on both sides of the street, for a total right-of-way width of 50 feet (see the attached local street cross section). The cross section requires that the six feet of greenspace be located between the street and the sidewalk in order to provide a location for the required street trees and to provide separation between travelling vehicles and the pedestrian.

The applicant has submitted a variance request from the Local Street cross section to allow for the sidewalk to be located at the back of curb, adjacent to the on-street parking. In order to provide the necessary shy distance between the sidewalk and the retaining wall and to provide further separation for the pedestrian from opening car doors, the applicant proposes to construct a 6.5-foot sidewalk along all adjacent streets. In his letter, the applicant has explained that the reason for this variance request is a combination of both fire and tree preservation requirements. Specifically, the applicant is required to widen Hazel Street an additional six feet in order to provide a total unobstructed width of 26 feet to provide fire access to Buildings B and C. Additionally, there are six significant trees on the site that the applicant is attempting to preserve. Providing the required six feet of greenspace between the street and the sidewalk adjacent to Oakland Avenue, Hazel Street, and Storer Avenue would result in the total removal of three trees and the significant loss of the critical root zones of the remaining three trees. Instead of locating the trees within the six feet of greenspace, the applicant proposes to install all required street trees outside of the right-of-way, behind the 6.5-foot sidewalk.

Planning and Engineering staff find that the applicant's proposal provides adequate separation between the pedestrian and traveling vehicles and recommend approval of the applicant's request.

Chapter 166.24(D)(7)(b), Nonresidential Design Standards for glazing. Chapter 166.24, Nonresidential Design Standards, regulates the design of nonresidential developments that are subject to administrative approval (CS, Community Services, and UT, Urban Thoroughfare, zoning districts) and were written to hold these developments to a higher design standard in exchange for the administrative approval process. These standards primarily regulate building mass, scale, and articulation, and these standards vary based on the façade location in relation to the build-to zone.

The applicant's architectural design for LSIP 11-3933 is subject to Chapter 166.24, Nonresidential Design Standards, and Chapter 166.23, Urban Residential Design Standards, as it is proposed as a mixed-use project. Planning staff has determined that Buildings B and C, designed to accommodate only multi-family uses, meet the intent and requirements of Chapter 166.23. Building A is designed to accommodate both nonresidential and multi-family uses and is considered "nonresidential" and subject to the regulations of Chapter 166.24. This structure meets the mass and scale requirements, the material requirements, required changes in plan depth, the entryway requirements, and the pedestrian-oriented element requirements of Chapter 166.24; however, staff has determined that the minimum glazing requirements have not been met. The south and west façades of Building A are located within the build-to zone and required to be glazed no less than 50% of the first or ground floor at the pedestrian level between two and 12 feet above the sidewalk. The north and east façades are located outside of the build-to zone and required to be glazed no less than 30% of the first or ground floor at the pedestrian level between two and 12 feet above the Finished Floor Elevation (FFE).

The applicant proposes 43% glazing for the south façade (Mount Comfort Avenue) and 16% glazing for the west façade (Oakland Avenue) and requests approval of a variance request from the 50% glazing requirement. The applicant has provided a floor plan (attached) indicating that the first floor of the north

and east sides of the building are designed to accommodate residential uses; therefore, staff finds that these façades should not be subject to the glazing requirement for nonresidential uses.

Staff finds that the design of the south wall, with 43% glazing, meets the general intent of the Nonresidential Design Standards and, specifically, the intent of the glazing requirement to create a proportion of solids to voids and pedestrian interest. The proposed façade is designed as a storefront, with sufficient glass to accommodate a variety of commercial, retail, and office uses, which reinforces architectural proportion and rhythm in the vertical and horizontal articulation of the entire wall surface through the application of windows, public entrances, and a variation in material; therefore staff recommends approval of the applicant's variance request from the glazing requirement for the south façade.

Further, staff finds that the design of the west wall, with 16% glazing, meets the general intent of the Nonresidential Design Standards and the CS, Community Services, zoning district, to not only create a proportion of solids to voids and pedestrian interest, but to also encourage a mixture of uses within a traditional neighborhood form and to allow for the future adaptive reuse of a structure. In addition to the 16% glazing, the applicant has incorporated an opening to an internal courtyard from the west façade, which provides an additional 8%, for a total of 24% of openings on the first floor of the west façade. These openings are consistent with those of the second and third floors, which reinforces a consistent and complementary fenestration pattern of the entire wall surface. Further, this west façade extends into an established residential neighborhood, and it is staff's opinion that the transition of the designated nonresidential uses to this established residential neighborhood was carefully considered during the design of façade, as the design appears to be more residential in nature with the design and increase in the spacing of openings. Similarly to the design of the south façade, staff finds that the proposed west façade reinforces architectural proportion and rhythm in the vertical and horizontal articulation of the entire wall surface through the application of windows, public entrances, a variation in architectural application, and a variation in material. For these reasons, staff recommends approval of the applicant's variance request from the glazing requirement for the west façade.

Chapter 170.02, Drainage Criteria Manual (DCM). The adopted DCM requires a minimum drainage pipe size of 18 inches in diameter in order to allow for maintenance and cleaning of pipe systems for proper operation. As outlined in the attached memo from the Engineering Division, storm drain systems are "open" systems that are susceptible to trash and debris from various sources that can clog pipes and cause downstream flooding, which is the reason for the minimum diameter size of 18 inches.

The applicant has submitted a variance request from the minimum drainage pipe size to allow for a 4-inch pipe, stating that the private, 4-inch pipe is the minimum needed for the proposal and serves to control the flow of stormwater from the system. Recognizing new technologies for cleaning of pipes, Engineering staff recommends a variance from the 18-inch requirement to allow for a minimum of 12-inch piping. Engineering staff finds that the proposed 4-inch pipe, appears to carry the flow based on calculations provided by the applicant but is of such size that gravel from the proposed parking lot, leaves from preserved and new trees, and/or other debris typically found in a residential parking lot is expected to clog the proposed pipe quickly and prevent the detention system and inlets from operating properly.

Chapter 172.02(B), Parking lot construction requirements. Chapter 172.02 requires that parking lots be paved using specific materials (asphalt, concrete, or permeable pavers) and be striped to delineate individual spaces and include directional arrows. The applicant requests approval of a variance from the parking lot paving requirements in order to utilize 3/8" brown angular gravel as a permeable material that would function as an integral part of the proposed underground stormwater infiltration system. The applicant also requests a variance from the parking lot striping requirements. This request does not

include a variance from the ADA striping requirements.

In order to prevent gravel from leaving the site onto the public alley that extends through the property, the applicant proposes to construct a 3" rollover curb designed to contain the gravel within the parking areas to the east and west. In order to identify the location of each individual parking space, the applicant proposes to install wheelstops that will indicate to drivers where each parking space is located. Planning staff finds that, due to the small size of these parking areas and the preventative measure of the rollover curb and wheelstops, the proposal will function as parking lots are intended and not create an adverse impact on the public right-of-way or adjacent property owners and recommends approval of this low-impact development technique.

Chapter 172.04(E), Parking lot dimensional requirements. Chapter 172.04 outlines specific dimensional requirements to which developments must adhere, including established dimensions for standard parking spaces and associated drive aisles. The applicant requests approval of a variance from the parking stall width requirement of nine feet to allow for a width of 11 feet and the two-way drive aisle width requirement 24 feet to allow for 26 feet.

The applicant has explained in his letter that the parking stall dimension variance is a result of the proposal to utilize low impact development techniques and decrease the amount of impervious pavement on the site. Planning staff finds that the intent of the maximum parking stall dimensions is to limit the amount of impervious pavement on a site, which this proposal promotes, and recommends approval of the request. Further, the applicant has explained in his letter that the drive aisle dimension variance request is a direct result of fire code requirements for fire aerial apparatus roads; therefore, Planning staff recommends approval of the request.

Chapter 177.04(C), Parking lot interior landscaping. The applicant proposes to provide 39 off-street parking spaces to be accessed by the existing public alley, as indicated in the attached site plan, which would require four parking lot trees within a tree island containing 150 square feet and constructed with curb and gutter throughout the parking areas. The applicant requests approval of a variance from the standard tree island detail that uses permeable pavement (see variance request from the parking lot surfacing requirements above) and structural soil. Planning staff and the Urban Forester find that this technique meets the intent to provide shade trees within parking lots and to reduce the heat island effect and recommend approval of the request as proposed.

Chapter 177.04(D)(2)(b), Perimeter green space in urban zoning districts. A property regulated by a zoning district that prescribes an urban form is required to provide at least 10 feet of greenspace adjacent the Master Street Plan right-of-way. Any development providing less than 10 feet of greenspace is required to utilize the street tree planting for an urban streetscape with urban tree wells. The applicant proposes to meet or exceed the minimum 10 feet of greenspace for the majority of the project area perimeter, which would not require urban tree wells; however, the applicant proposes to provide greenspace that ranges from four feet where ADA access is required to nine feet and requests a variance from the requirement to utilize urban tree wells for the majority of Hazel Street (approximately 183 feet of the 274 feet of street frontage or 67% of the property frontage) and no greenspace for approximately 30 feet of the 159 feet of street frontage onto Mount Comfort where the proposed structure encroaches into the minimum 10-foot building setback from the right-of-way line.

Planning staff finds that the installation of urban tree wells for only a portion of the project's street frontage would create an awkward shift in the streetscape, as it is unlikely that other properties in the immediate vicinity would utilize urban tree wells during future redevelopment; therefore, staff recommends approval of the applicant's variance request with the condition that the applicant utilize

structured soil for the nine proposed street trees adjacent to Hazel Street and that the applicant be required to install and maintain the additional plantings proposed for the west side of Building A and the neighborhood garden on the east side of Building A.

Recommended Motion: Based on the findings herein, staff recommends the following motions and conditions for **ADM 11-3948:**

1. Planning Commission determination of a variance from UDC Chapter 166.04(B)(3), Right-of-way dedication. *The applicant proposes to dedicate the required right-of-way in the amount of 25 feet from centerline for Mount Comfort Avenue, Oakland Avenue, and Hazel Street, in accordance with the Master Street Plan, and requests approval of a variance from the requirement to dedicate 25 feet of right-of-way for Storer Avenue (Local Street) and to allow for the existing 20 feet of right-of-way from centerline to suffice.*

   Planning and Engineering staff recommend approval of the request with the condition that the remaining greenspace between the existing right-of-way and the building shall be dedicated in a maintenance easement to be maintained by the property owner but would allow the City to utilize a portion of the subject property to maintain the improved right-of-way, and the applicant shall be responsible for any future maintenance and/or repair of the proposed retaining wall adjacent to the existing right-of-way line. Future redevelopment of the site may require additional right-of-way dedication.

2. Planning Commission determination of a variance of Fayetteville UDC Chapter 166.08(D)(6), Minimum Street Standards. *The applicant requests a variance from the Local Street cross section to allow for the sidewalk to be located at the back of curb, adjacent to the on-street parking. In order to provide the necessary shy distance between the sidewalk and the retaining wall and to provide further separation for the pedestrian from opening car doors, the applicant proposes to construct a 6.5-foot sidewalk along all adjacent streets.*

   Planning and Engineering staff find that the applicant's proposal provides adequate separation between the pedestrian and travelling vehicles and recommend approval of the applicant's request as proposed.

3. Planning Commission determination of a variance of Fayetteville UDC Chapter 166.24(D)(7)(b), Nonresidential Design Standards for glazing. *The applicant proposes 43% glazing for the south façade (Mount Comfort Avenue) and 16% glazing for the west façade (Oakland Avenue) and requests approval of a variance request from the 50% glazing requirement.*

   a. *South Façade. Staff finds that the design of the south wall, with 43% glazing, meets the general intent of the Nonresidential Design Standards and, specifically, the intent of the glazing requirement to create a proportion of solids to voids and pedestrian interest. The proposed façade is designed as a storefront, with sufficient glass to accommodate a variety of commercial, retail, and office uses, which reinforces architectural proportion and rhythm in the vertical and horizontal articulation of the entire wall surface through the application of windows, public entrances, and a variation in material; therefore staff recommends approval of the applicant's variance request from the glazing requirement for the south façade.*

   b. *West Façade. In addition to the 16% glazing, the applicant has incorporated an opening to an internal courtyard from the west façade, which provides an additional 8%, for a total of 24% of openings on the first floor of the west façade. These openings are consistent with*

those of the second and third floors, which reinforces a consistent and complementary fenestration pattern of the entire wall surface. Further, this west façade extends into an established residential neighborhood, and it is staff's opinion that the transition of the designated nonresidential uses to this established residential neighborhood was carefully considered during the design of façade, as the design appears to be more residential in nature with the design and increase in the spacing of openings. Similarly to the design of the south façade, staff finds that the proposed west façade reinforces architectural proportion and rhythm in the vertical and horizontal articulation of the entire wall surface through the application of windows, public entrances, a variation in architectural application, and a variation in material. For these reasons, staff recommends approval of the applicant's variance request from the glazing requirement for the west façade.

4. Planning Commission determination of a variance of Fayetteville UDC Chapter 170.02, Drainage Criteria Manual (DCM). *The applicant has submitted a variance request from the minimum drainage pipe size to allow for a 4-inch pipe, stating that the private, 4-inch pipe is the minimum needed for the proposal and serves to control the flow of stormwater from the system.*

   Recognizing new technologies for cleaning of pipes, Engineering staff recommends a variance from the 18-inch requirement to allow for a minimum of 12-inch piping. Engineering staff finds that the proposed 4-inch pipe, appears to carry the flow based on calculations provided by the applicant but is of such size that gravel from the proposed parking lot, leaves from preserved and new trees, and/or other debris typically found in a residential parking lot is expected to clog the proposed pipe quickly and prevent the detention system and inlets from operating properly.

   THE APPLICANT'S REQUEST WAS APPROVED BY THE PLANNING COMMISSION SUBJECT TO THE FOLLOWING CONDITION OF APPROVAL:

   THE APPLICANT WILL BE ALLOWED TO CONSTRUCT ITS DRAINAGE SYSTEM AS DESIGNED BY ITS ENGINEER IF THE OWNER/DEVELOPER AGREES THAT THIS DRAINAGE SYSTEM SHALL REMAIN ITS PROVIATE PROPERTY AND ASSUMES ALL LIABILITY AND MAINTENANCE RESPONSIBILITY FOR THE DRAINAGE SYSTEM FOR ALL STORMWATER ENTERING ONTO OR FALLING UPON THEIR PROPERTY INDCLUDING ALL CITY RIGHTS-OF-WAY ESPECIALLY THE INTERNAL ALLEY. THE OWNER AGREES TO ENSURE ITS DRAINAGE SYSTEM WILL FUNCTION PROPERTY AT ALL TIMES AND SHALL TAKE IMMEDIATE ACTION TO UNCLOG ANY PIPE OR CORRECT ANY OTHER DEFECT WHEN NOTIFIED BY THE CITY.

5. Planning Commission determination of a variance of Fayetteville UDC Chapter 172.02(B), Parking lot construction requirements. *The applicant requests approval of a variance from the parking lot paving requirements in order to utilize 3/8" brown angular gravel as a permeable material that would function as an integral part of the proposed underground stormwater infiltration system. The applicant also requests a variance from the parking lot striping requirements. This request does not include a variance from the ADA striping requirements.*

   Planning staff finds that, due to the small size of these parking areas and the preventative measure of the rollover curb and wheelstops, the proposal will function as parking lots are intended and not create an adverse impact on the public right-of-way or adjacent property owners and recommends approval of this low-impact development technique.

6. Planning Commission determination of a variance of Fayetteville UDC Chapter 172.04(E), Parking lot dimensional requirements. *The applicant requests approval of a variance from the*

parking stall width requirement of nine feet to allow for a width of 11 feet and the two-way drive aisle width requirement 24 feet to allow for 26 feet.

Planning staff finds that the intent of the maximum parking stall dimensions is to limit the amount of impervious pavement on a site, which this proposal promotes, and recommends approval of the request. Further, the applicant has explained in his letter that the drive aisle dimension variance request is a direct result of fire code requirements for fire aerial apparatus roads. Planning staff recommends approval of the request. All proposed parking lot trees in addition to the four required by code shall be installed in order to offset the effect of the wider parking stall dimension.

7. Planning Commission determination of a variance of Fayetteville UDC Chapter 177.04(C), Parking lot interior landscaping. *The applicant requests approval of a variance from the standard tree island detail that uses permeable pavement (see variance request from the parking lot surfacing requirements above) and structural soil.*

   Planning staff and the Urban Forester find that this technique meets the intent to provide shade trees within parking lots and to reduce the heat island effect and recommend approval of the request as proposed.

8. Planning Commission determination of a variance of Fayetteville UDC Chapter 177.04(D)(2)(b), Perimeter green space in urban zoning districts. *The applicant proposes to provide greenspace that ranges from four feet where ADA access is required to nine feet and requests a variance from the requirement to utilize urban tree wells for the majority of Hazel Street (approximately 183 feet of the 274 feet of street frontage or 67% of the property frontage) and no greenspace for approximately 30 feet of the 159 feet of street frontage onto Mount Comfort where the proposed structure encroaches into the minimum 10-foot building setback from the right-of-way line.*

   Planning staff finds that the installation of urban tree wells for only a portion of the project's street frontage would create an awkward shift in the streetscape, as it is unlikely that other properties in the immediate vicinity would utilize urban tree wells during future redevelopment; therefore, staff recommends approval of the applicant's variance request. The applicant shall utilize structured soil for the nine proposed street trees adjacent to Hazel Street and shall be required to install and maintain the additional plantings proposed for the west side of Building A and the neighborhood garden on the east side of Building A.

Planning Commission Action: **X Approved** **☐ Denied** **☐ Tabled**
Meeting Date: **September 12, 2011**
Motion: **Chesser**
Second: **Earnest**
Vote: **9-0-0**

regulations so varied and to mitigate any detrimental effects the variance may cause. The Planning Commission should consider the Streamside Protection Best Management Practices Manual and any mitigation recommendations from the City Engineer.

(Ord. 4714, 6-21-05; Ord. 4930, 10-3-06; Ord. 5296, 12-15-09; Ord. 5372, 12-7-10; Ord. 5390, 3-1-11)

156.04 Stormwater Drainage And Erosion Control

Certain variances of the stormwater management, drainage, and erosion control regulations may be applied for as follows:

Criteria. A variance may be granted from any requirement of the stormwater management, drainage, and erosion control regulations using the following criteria:

(A) *Special circumstances.* There are special circumstances applicable to the subject property or its intended use; and

(B) *Results.* The granting of the variance will not result in:

(1) *Surface water runoff.* An increase in the rate or volume of surface water runoff;

(2) *Adjacent property.* An adverse impact on any adjacent property, wetlands, watercourse, or water body;

(3) *Water quality.* Degradation of water quality; or

(4) *Objectives.* Otherwise impairing attainment of the objectives of Chapter 170.

(Ord. No. 4100, §2 (Ex. A), 6-16-9

156.05 Sign Regulations

Consideration by the Zoning and Development Administrator. The Zoning and Development Administrator shall not grant any variance of Chapter 174, Signs, unless and until an applicant demonstrates:

(A) *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.

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

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

(D) *No special privileges.* That granting the variance requested will not confer on the applicant any special privilege that is denied by Chapter 174, Signs, to other lands, structures, or building in the same district.

(E) *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.

(F) *Time Limitation.* Any variance granted shall automatically be revoked if the applicant does not comply with the terms of the variance within 90 days from the granting thereof; and, the applicant shall be required to comply with the literal provisions of Chapter 174, Signs.

(G) *Prohibited.* The Zoning and Development Administrator shall not permit as a variance any sign the erection of which or the continuance of which is prohibited by Chapter 174, nor shall any variance be granted to allow a greater number of signs than specifically set forth therein.

(H) *Content Neutrality; Restrictions.* The Zoning and Development Administrator shall not take into account the content of any message sought to be displayed on the sign when determining whether to grant a variance. Variances can only be granted for setbacks, area, height, the proposed on-site location of the sign, or other technical requirements, and shall not exceed 15% of the Code requirement.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord 4652, 12-07-04)

Cross reference(s)--Enforcement, Ch. 153; Signs, Ch. 174.

156.06 Airport Zone

(A) *Board of Adjustment.* The Board of Adjustment shall have the authority to grant variances from the height limits prescribed in Chapter 165. Any person desiring to erect any structure or increase the height of any structure or permit the growth of any object of natural growth, in excess of the heights prescribed, must apply in writing to the Board of Adjustment for a variance. Such variance shall be allowed upon a showing of practical difficulty or unnecessary hardship, together with a showing that the structure or

(E) *Pedestrian oriented elements.* Developments that are subject to these standards shall meet and should exceed the basic needs of pedestrian accessibility and contribute to a unique sense of place and community. The following requirements are intended to define and articulate space at the street level in order to encourage the use and function for active and/or passive social interaction.

(1) Buildings exceeding 50 feet in length or width within the build-to zone shall incorporate spatially defining building elements and/or landscaping at a minimum separation of 100 feet of façade length in order to create accessible public open space, such as a courtyard, garden, patio, etc.

(2) Each public space shall include seating opportunities, such as table and chairs or benches, and a combination of at least of three (3) of the following elements:

(a) planters;

(b) a planting bed;

(c) public art;

(d) a water feature;

(e) a shift in pavement material between the public right-of-way and the structure;

(f) a covered area, such as a canopy, awning, arcade, or portico spanning the width of the building; or

(g) other elements approved by the Zoning and Development Administrator that are not included in other sections of the design standards and meet the intent of this requirement.

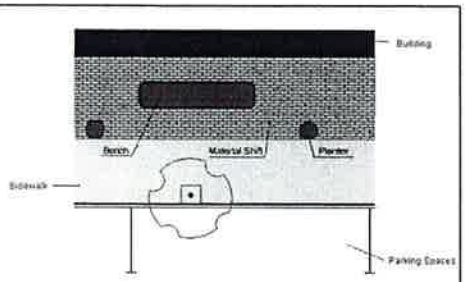


Image 5: Pedestrian Oriented Elements

(F) *Variances.* An applicant may request approval from the Planning Commission of a variance from the minimum requirements where unique circumstances existing and the effect will not adversely impact adjoining or neighboring properties. The applicant shall provide notification to adjacent property owners prior to the date of the meeting.

(Ord. 5312, 4-20-10)

166.25-166.99 Reserved

case the property line adjustment may not be filed of record until the required infrastructure is first constructed to City specifications, or a variance or waiver is granted by the Planning Commission.

(2) *Lot Split.*

(a) *Dedication of right-of-way.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property into conformance with the right-of-way requirements of the Master Street Plan for said streets; provided, the Subdivision Committee or Planning Commission may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.

(i) *Dedications.* The City Council accepts all streets and alleys located in Fayetteville that have been previously approved and accepted as dedications by the Fayetteville Planning Commission/Subdivision Committee. The City Council confirms the acceptance of all such streets and alleys dedicated by developers/owners to the city which have been approved by the Fayetteville Planning Commission/Subdivision Committee.

(b) *Monuments and lot stakes.* The surveyor shall cause, preserve, and/or replace monuments and/or lot stakes marking the corners of a parcel to be set in accordance with Section 3.2, general procedures, of the Arkansas Minimum Standards for Property Boundary Surveys and Plats.

(c) *Water, sewer, or street frontage.* Any lot that is created shall have adequate street frontage or street access that meets the minimum requirements of the zoning code, and access to public water and sewer as required by city and state code. If a lot split would create or exacerbate a nonconforming situation (such as cutting off a lot from public water, sewer, street frontage, or street access), the lot split may not be filed of record until the required easement is dedicated and/or the infrastructure is first constructed to City specifications, or a variance or waiver is granted by the Planning Commission.

(d) *Parkland dedication.* Parks fees shall be assessed for each new residential unit that is constructed on the additional lot(s) in accordance with the parkland dedication requirements outlined in Fayetteville Unified Development Code Chapter 166. Said fees shall be paid prior to issuance of a building permit for construction on the new lot.

(3) *Preliminary/Final/Concurrent Plat; Large Scale Development; Large or Small Site Improvement Plan.*

(a) Dedication of right-of-way.

(i) *On-site.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property and new streets proposed interior to the property, into conformance with the right-of-way requirements of the Master Street Plan for said streets, shall be approved by the Planning Commission or Subdivision Committee; provided, the Planning Commission or Subdivision Committee may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.

a. Exemption. Small Site Improvement Plan applications are exempt from this requirement.

(ii) *Off-site.* Off-site right-of-way dedication may be required as needed to construct off-site street improvements that are required based on the rough proportionality and rational nexus of the impacts of the project.

(iii) *Dedications.* The City Council accepts all streets and alleys located in Fayetteville that have been previously approved and accepted as dedications by the Fayetteville Planning Commission/Subdivision Committee. The City Council confirms the acceptance of all such streets and alleys dedicated by developers/owners to the city which

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www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
ENGINEERING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

TO:	Planning Commission Members
FROM:	Glenn Newman P.E., Staff Engineer
DATE:	September 7, 2011
SUBJECT:	Oakland Courts – LSIP 11-3933 – Variance from Chapter 170.02-Drainage Criteria Manual Requirements

The applicant for this item is requesting that the Planning Commission allow the use of smaller drainage piping than is required by the City's Drainage Criteria Manual (DCM), which is adopted by reference in Chapter 170 of the UDC. The minimum pipe size required by the DCM is 18 inches in diameter; the applicant proposes to use 4 inch diameter pipe.

The minimum pipe size established in the DCM allows maintenance and cleaning of pipe systems for proper operation. Storm drain systems, as opposed to sanitary sewer systems, are "open" systems that are susceptible to trash and debris from various sources that can quickly clog smaller pipes and cause downstream flooding.

Historically when a smaller diameter orifice restriction is required to regulate the flow as being proposed in this application, a plate or weir is constructed in the outfall structure and the 18" diameter pipe is installed as the outfall pipe.

Recognizing that new technologies for cleaning of pipes is available, staff recommends a variance of this item, to allow a minimum of 12" diameter piping. However, the 4" diameter proposed, while it appears to carry the flow (based on calculations provided by the applicant's engineer), is of such size that the gravel from the gravel parking lot, leafs from preserved and landscape trees, and/or other small debris typically found in a residential parking lot is expected to clog the pipe quickly and prevent the detention system and inlets from operating properly.

There are two locations that the proposed 4" pipe is requested. One area receives runoff from the proposed development and adjacent property, this area has one grate inlet and roof drainage piped into the system. This is considered a private system since there is no concentrated public inflow.

The second location receives runoff from the proposed development through one grate inlet and roof drainage along with and the 4 grates in the public alley. Generally, this system would be considered to be public through the detention system and the city's responsibility to perform maintenance of the pipe network, but not the detention storage.

Regardless, either the private or public, the clogging of the 4" pipe will cause the detention system to fail, which could negatively impact downstream property owners.

The Engineering staff is recommending that the Planning **Commission deny the applicant's request to allow a 4" diameter pipe to be used as storm drainage on this project,** however, engineering staff would support a reduction to a 12" diameter in these locations after discussion with the City Maintenance Division and reasons stated above.

Finally, it should be noted that the drainage system design in not complete and has not been approved by the Engineering Division. Pipe sizing and configuration, and other elements of the drainage system are subject to change based on final drainage design calculations.

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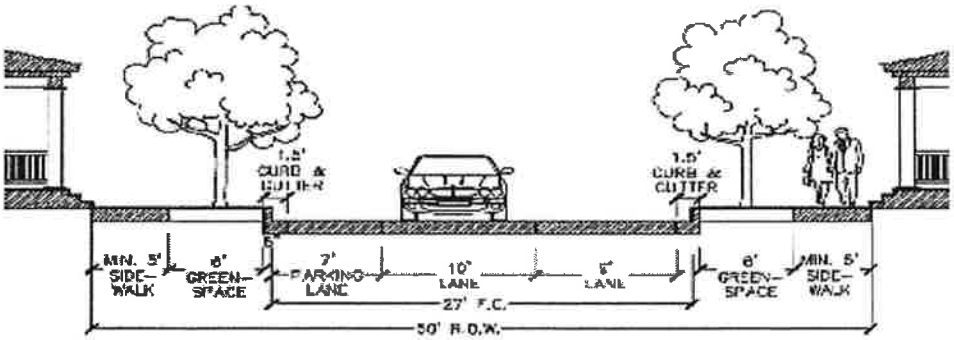
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

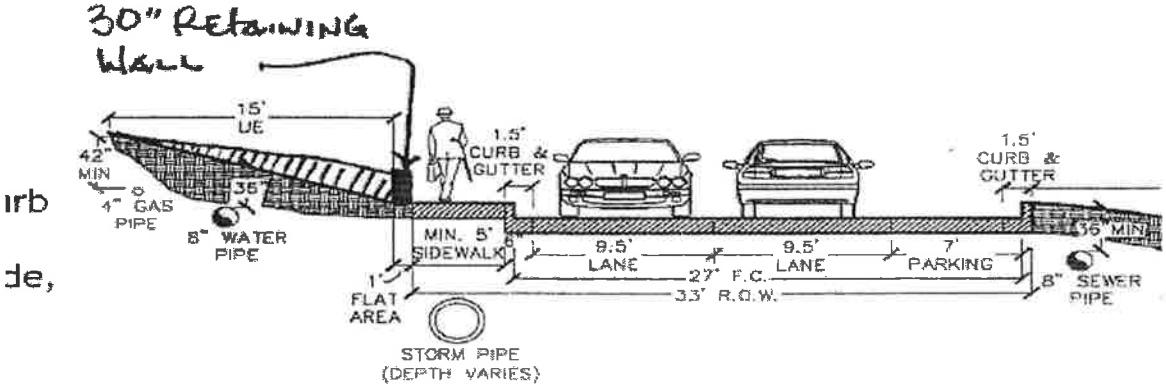
TO:	Planning Commission Members
FROM:	Glenn Newman P.E., Staff Engineer
DATE:	September 7, 2011
SUBJECT:	Oakland Courts – LSIP 11-3933 – Variance to Right of Way Dedication Requirements for Local Streets as it pertains to Sidewalk location and proposed Retaining Wall.

The applicant for this item is requesting that the Planning Commission allow a reduction in right of way dedication from 25 ft from centerline to existing conditions which is 20 ft from centerline on Storer and Oakland Ave. to keep the proposed retaining wall on private property assuming the proposed street section is accepted where the sidewalk is at the back of curb.

The requirement per Master Street Plan is the Local Street Section with a 5 ft sidewalk and with 6 ft green space as shown below



The applicant has chosen to place the 5 ft sidewalk at the back of curb the length of the project adjacent to parallel parking locations and in many cases with a 30 inch retaining wall at the back of sidewalk. Particularly on Storer and Oakland Ave. the applicant's design would place the proposed retaining wall within the proposed dedicated Right of Way.



Per UDC 171.01(C)*Retaining walls near sidewalk or right or way* (1)*Permit*, requires a permit from the Mayor or designated official to place a retaining wall in the right of way.

In general, the city does want to take on the responsibility of maintenance and/or liability of retaining walls, installed by the developer.

The standard dimension of the 25 ft from centerline dedication requirement is based on the above Master Street Plan Local Street Typical Section that includes the street, parking, greenspace, and sidewalks. The greenspace, for engineering purposes, is to separate the pedestrian movement from the vehicle movement. Therefore, if the proposed typical section is approved, the greenspace beyond the sidewalk is no benefit to the city for pedestrian safety and should not be accepted, particularly if the city will be also accepting the responsibility of the retaining wall proposed.

The Engineering staff is recommending that the Planning **Commission accept a reduction of right of way dedication,** assuming the Planning Commission has granted variance request for the proposed street section (and the supports staffs recommendation of increasing the sidewalk width where necessary to provide an effective minimum 4 ft sidewalk), **on Storer and Oakland to keep the proposed retaining wall on private property.**

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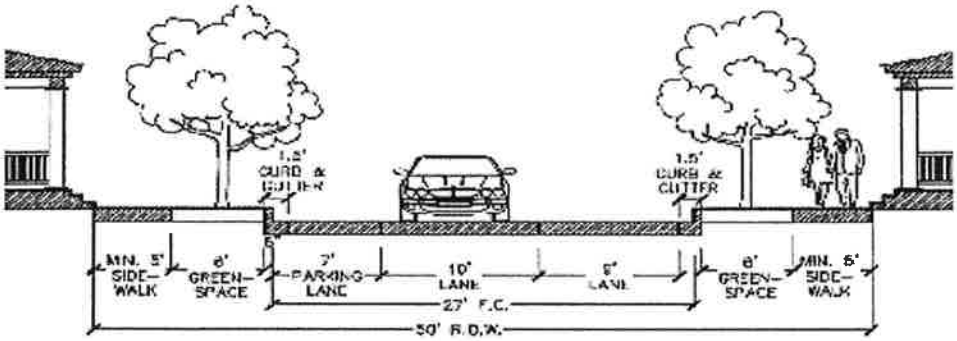
Fayetteville, AR 72701
Phone (479) 444-3443

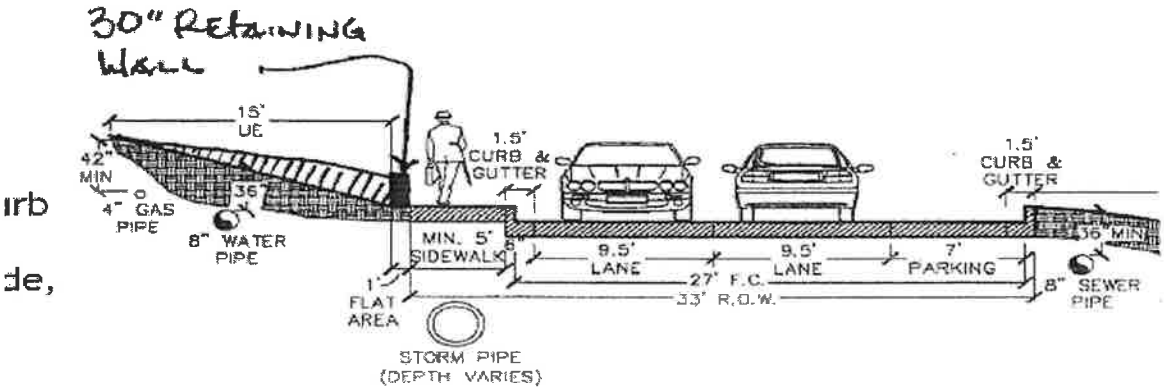
TO:	Planning Commission Members
FROM:	Glenn Newman P.E., Staff Engineer
DATE:	September 7, 2011
SUBJECT:	Oakland Courts – LSIP 11-3933 – Variance to Master Street Plan Typical Section Requirements for Local Streets as it pertains to Sidewalk Width and "Shy Distances".

The applicant for this item is requesting that the Planning Commission allow a five (5) foot sidewalk to be allowed at the back of curb where there is a retaining wall up to 30 inches adjacent to the sidewalk on the other side.

The requirement per Master Street Plan is the Local Street Section with a 5 ft sidewalk and with 6 ft green space as shown below



The applicant has chosen to place the 5 ft sidewalk at the back of curb the length of the project adjacent to parallel parking locations and in many cases with a 30 inch retaining wall at the back of sidewalk for reasons stated in the letter dated September 6, 2011.



If the planning commission chooses to allow the Hillside Local street section for this application, please consider the 5 ft sidewalk does not take in consideration on-street parking adjacent to the sidewalk nor does it consider a 30 inch retaining wall at the back of sidewalk.

Per the UCD 171.13(A)(2) *Minimum width of Sidewalks*. A shy distance of 1 ft is required for fixed objects less than 42 inches in height. Which for this application is applicable in response to the 30" proposed retaining wall.

"Shy Distance" is a concept applies to pedestrians, who will "Shy" away from a vertical face (buildings, structures, cars, etc), therefore extra width is needed.

Per the 2000 edition of the Highway Capacity Manual Exhibit 18-1, A shy distance of 1.5 ft is required when the sidewalk is placed adjacent to the curb, as requested by this application.

DETERMINING EFFECTIVE WALKWAY WIDTH

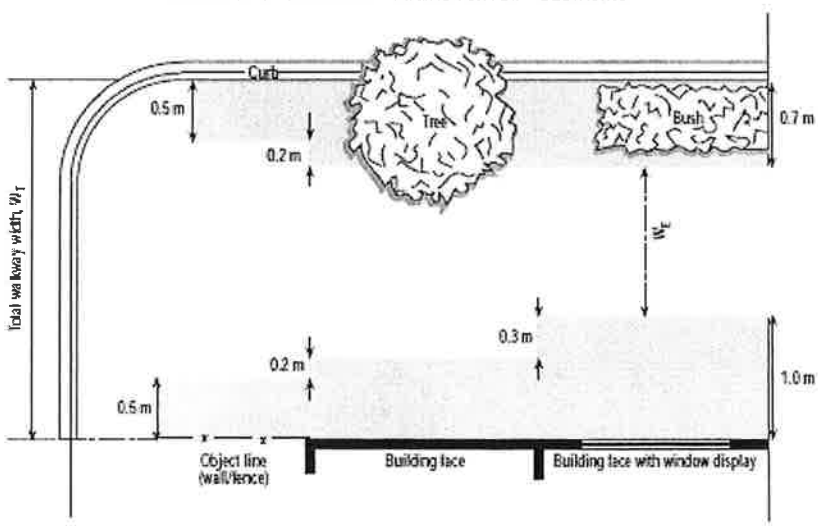
Effective walkway width is the portion of a walkway that can be used effectively by pedestrians. Several types of walkway obstructions (see Exhibit 18-1 and Exhibit 18-2) tend to make pedestrians shy away. Effective walkway width is computed using Equation 18-1.

$$W_E = W_T - W_O \qquad (18\text{-}1)$$

where

W_E = effective walkway width (m),
W_T = total walkway width (m), and
W_O = sum of widths and shy distances from obstructions on the walkway (m).

EXHIBIT 18-1. WIDTH ADJUSTMENTS FOR FIXED OBSTACLES

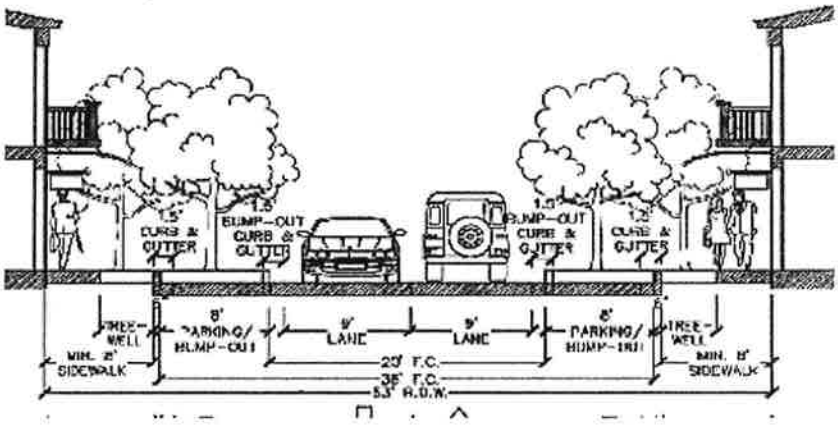


W_T = Total walkway width W_E = Effective walkway width

Per the UCD 171.13(A)(2) *Minimum width of Sidewalks*. The minimum effective width of the sidewalk shall not be less than 4 ft.

Per the UCD 171.13(A)(3) *Distances from the curb.* The sidewalk setback distance from the curb shall follow the Master Street Plan.

When the ordinance was established the in addressing "Shy" distance, the minimum sidewalk width that started at back of curb and allowed structures at the back of sidewalk provided an 8 ft sidewalk which provided the minimum effective sidewalk width of 4 ft, therefore 1.5 ft shy distance from the back of curb was not included in the ordinance.



Based on the above information, when the sidewalk is placed adjacent to the back of curb and there is a retaining wall at the back of sidewalk, **the minimum width of 6.5 ft should be required to provide an effective 4 ft travel way taking in consideration of 1.5 ft shy distance from the back of the curb and 1 ft shy distance from a retaining wall less than 42 inches**.

The Engineering staff is recommending that the Planning Commission require the applicant acknowledge the 1.5 ft shy distance from the back of curb and increase the sidewalk width where necessary to provide an effective minimum 4 ft sidewalk per UDC 71.13(A)(2).

community.by.design
TOWN PLANNING.URBAN ENGINEERING

September 6, 2011
Via Email Delivery: dasanders@ci.fayetteville.ar.us

Ms. Dara Sanders
Current Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: Oakland Courts – LSIP 11-3933
Variances

Ms. Sanders,

The applicant for the above referenced project requests the following variances:

1. The applicant requests a variance from 166.04(B)(3)(a) *Dedication of Right of Way* for Oakland and Storer Streets and 166.08(D)(6) *Street Standards* for Hazel and Mt. Comfort. The purpose for this variance is to allow following:
   a. Meeting the established local street cross-section would result in the loss of existing significant trees along Oakland and Hazel. The variance would allow for additional green space for tree preservation and street trees along Hazel, Storer, and Oakland.
   b. Fire code requires additional pavement for Hazel and Mt. Comfort. This additional pavement would be added to the travel lane width to accommodate aerial fire apparatus along Hazel and Mt. Comfort.
   c. To provide a more site-sensitive cross section that will accommodate infill development, fire requirements, and tree preservation requirements.

   The proposed cross-section for Oakland and Storer is in compliance with an alternative existing street cross-section, 12.2.7(8b) – Hillside Local per the Master Street Plan. See attached excerpt from Master Street Plan demonstrating proposed cross-section. The request is to utilize the Hillside Hilltop Overlay District cross-section in place of the Local Street cross-section based on the following justifications:
   a. Regarding the proposed retaining wall at the back of sidewalk, the applicant requests a lesser right of way dedication on Oakland and Storer since the engineering department is concerned with the retaining wall being located within public street right of way. This would potentially be a variance from 166.04(B)(3)(a) *Dedication of Right of Way..*
   b. To eliminate the need for a variance, utilizing section 12.2.7(8b) (See attached excerpt from Master Street Plan) for right of way determination would be the cleanest method for eliminating the retaining wall from the public street right of way. As stated in Master Street Plan in regards to section 12.2.7(8b), the purpose for using this cross section would be to narrow right of way to minimize tree removal, this purpose applies to our condition on both Storer and Oakland.

2. The applicant requests the following variances from Chapter 172 Parking and Loading:
   a. The applicant requests a variance from 172.02(B) *Surfacing* which requires all private parking lots to be paved with either semi-permeable pavers, asphalt, or concrete. The applicant is proposing to use 3/8" brown angular gravel as a permeable paving material that would function as an integral part of the underground storm water infiltration system that is proposed beneath the parking.
   b. The applicant requests a variance from 172.04(E) *Dimensional Requirements* and 172.04(F)(4) *Parking Lot Circulation* which requires a maximum 24' wide drive aisle and entrance. To accommodate required fire aerial apparatus the applicant requests for a 26' drive aisle and entrance.

311 West Spring Street
Fayetteville, AR 72701
479.444.0095

c. Code requires 9' for a standard parking stall. The applicant has proposed 11.5' widths. This width will prevent cars from encroaching upon space required for the trees in the at grade tree wells. This in concordance with the variance request from 177.04(C).

3. The applicant requests the following variances from Chapter 177 Landscape Regulations:
   d. The applicant requests a variance from 177.04(D)(2)(b) *Urban Zoning Districts* which requires 10' of green space along all public street frontages. The variance would allow space for ADA access to the building. In areas where less than 10' of green space is provided, the Code Section requires urban tree wells. Due to the trees being placed behind a retaining wall in a raised planter area, the applicant feels that this would be an undesirable location for urban tree wells. All other street tree and frontage requirements have been met.
   e. The applicant requests a variance from Chapter 177.04(c) *Interior Landscaping Requirements* which requires a consistent tree well detail with curb and gutter throughout the parking lot. The variance would allow the applicant an alternative tree well detail throughout the parking courts. While similar in dimensions, the proposed tree well detail does not use conventional curb and gutter but instead uses permeable pavement and structural soil. This tree well detail has been approved by the Urban Forester. The Code Section requires four (4) trees to be provided. This is based on the number of proposed parking stalls. We have proposed seventeen (17) additional trees. The reason for the additional trees is in line with the intent and stated purpose of the code: '*...create an attractive, environmentally sound and healthy urban landscape for the residents'...*, as well as meeting all of the stated purposes for the standards as indicated in [177.01(b)]. The images below demonstrate a built precedent of flush tree wells in parking court.

4. The applicant requests a variance from 170.02 *Adoption of Drainage Criteria Manual.* More specifically the applicant requests a variance from the interpretation by the engineering department to require an 18" minimum pipe size in accordance with Drainage Manual Section 3.4.1 for the discharge pipes / structures draining the proposed storm water storage facilities. Since the volume of water leaving the system is so small, the applicant has proposed a 4" pipe that serves to control the flow of storm water from the system. The City has expressed that it does not want to maintain this system and has requested that it be maintained by the developer; therefore the minimum pipe size of 18" should not be required since it is privately owned. Furthermore, it is the opinion of the applicant that since the proposed storm water storage facilities are closed systems (no solids larger then 2" can enter) then the standard 4" minimum pipe size for sanitary sewer pipes applies.

Thank you and please let me know if you have any questions.

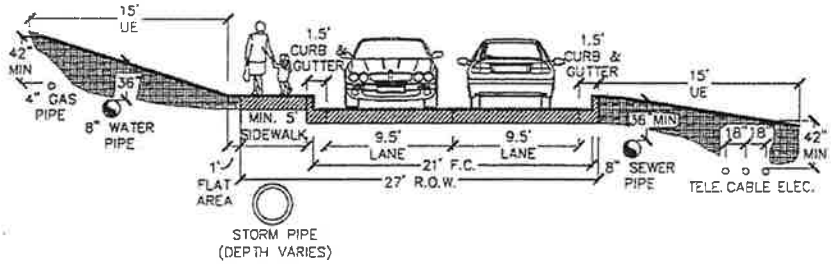
Sincerely,

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.

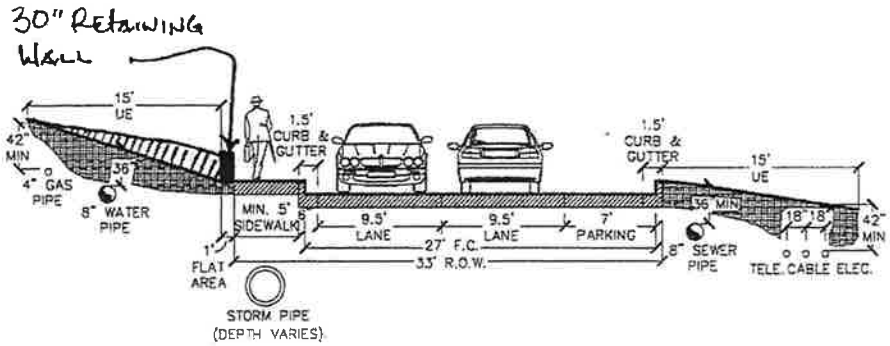
8a HILLSIDE RESIDENTIAL:

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.



DRAFT

CITY PLAN 2030

September 7, 2011

R E G I S T E R E D
ROBERT SHARP, ARCHITECT, INC.
525 SOUTH SCHOOL AVE | STE 220
FAYETTEVILLE | AR | 72701
PHONE: 479-442-0229
FAX: 479-442-8721
R S A

Dara Sanders, Senior Planner
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas

Via E-Mail: dsanders@ci.fayetteville.ar.us

RE: FAÇADE OPENNESS VARIANCE
OAKLAND COURTS PROJECT

Dara,

Please find attached a worksheet showing the amount of openness of the facades at Building A of Oakland Courts. 166.24 (D) (7) (b) requires that a building façade within the build-to zone must be 50% open between 2' to 12' above the floor elevation of the ground floor. Building Facades outside the build-to zone must be 30% open.

At Oakland Courts, we are proposing that the facades within the build-to zone be 43% open along Mount Comfort Road (south façade) and 24% open along Oakland Avenue instead of the 50% required by code. Please see attached diagrams and worksheet.

At the north façade we are proposing that the façade be 18% open and that the east façade be 21% open, instead of the 30% openness required by code.

Façade openness is a very important aspect of creating a vibrant public realm. In order to meet society's interest in terms of visual interest and the security benefit of having "eyes on the street" there must be an appropriate level of openness. We are proposing retail or office uses along Mount Comfort and Oakland Avenue. To design these facades, we examined successful retail building types such as those along Block Street and the Fayetteville Square as well as other successful commercial environments located in similar sized towns. I created a signage band, awnings, and expression line as recommended by the Downtown Architectural Standards. I have worked hard to create facades that are harmonious, balanced, proportionally correct, and inviting.

In my opinion, the proposed facades within the build-to zone meet the intent of providing a vibrant and open street façade. Because of the possibility of office tenants, leasing offices, or other uses that require at least some privacy, I feel that the 43% openness along Mount Comfort Road and the 24% openness along Oakland Avenue are appropriate. Also, please note that I have proposed pilasters, ornamental features, and ornamental friezes so that the overall visual experience of the building supports pedestrian activity.

Building A is a mixed use building. All of the upper floors and part of the ground floor is residential occupancy. The north façade is 18% open and the east façade is 21% open. At the north and east facades, the building contains bedrooms at ground level. I feel that it would be inappropriate to increase the number of windows and increase the amount of openness into these private spaces. I also think that if would be ineffective, because the tenants would react by keeping their blinds shut so the benefits of additional openness would not occur. Because of the non-commercial use of the spaces, it would not be fitting to apply non-commercial standards to this area of the building. As the designer, I feel that the 18% and 21% openness is appropriate based upon the use and visual composition of the building. Also, because of the relative

insulating values of the different wall and window elements, a 15% to 20% wall to window is the ratio is recommended by most energy efficiency consultants.

I am requesting that Planning Staff make a determination that, given the variety of unique factors for this building, and given the fact that the Non-residential Design Standards are relatively new and have not been applied over an extended period of time, that the proposed façade designs are within the intent and purpose of the Non-residential Design Standards and that the addition of the other architectural elements and the proposed uses of the space. It is certainly my intent to design a building that would be a successful container for commercial and residential activity.

If Planning Staff feels that they cannot make such a finding, I request that the matter be put before the Planning Commission as a variance so that they may consider the totality of the project and its unique conditions. I would ask that the Planning Staff find a way to support this variance request, or that the Planning Staff provide guidance to me so that I can adjust the design of the facades so that they meet the intent of the Non-residential Design Standards without adding glazing that I consider detrimental to the functional and aesthetic composition of the building.

Sincerely,

Robert Sharp, Architect

Oakland Courts Opening and Glazing Worksheet, Building A

September 7, 2011

Mount Comfort Road Façade

7	7.0	49.0 sq ft	62.67	10	626.7 sq ft	total wall area
3	7.3	21.9 sq ft				from 2' to 12' AFF
5	14.8	74.0 sq ft				
4	20.8	83.2 sq ft				
4	10.0	40.0 sq ft				
total glazed/open		268.1 sq ft	**43%** glazed or open area percentage			

Oakland Avenue Façade

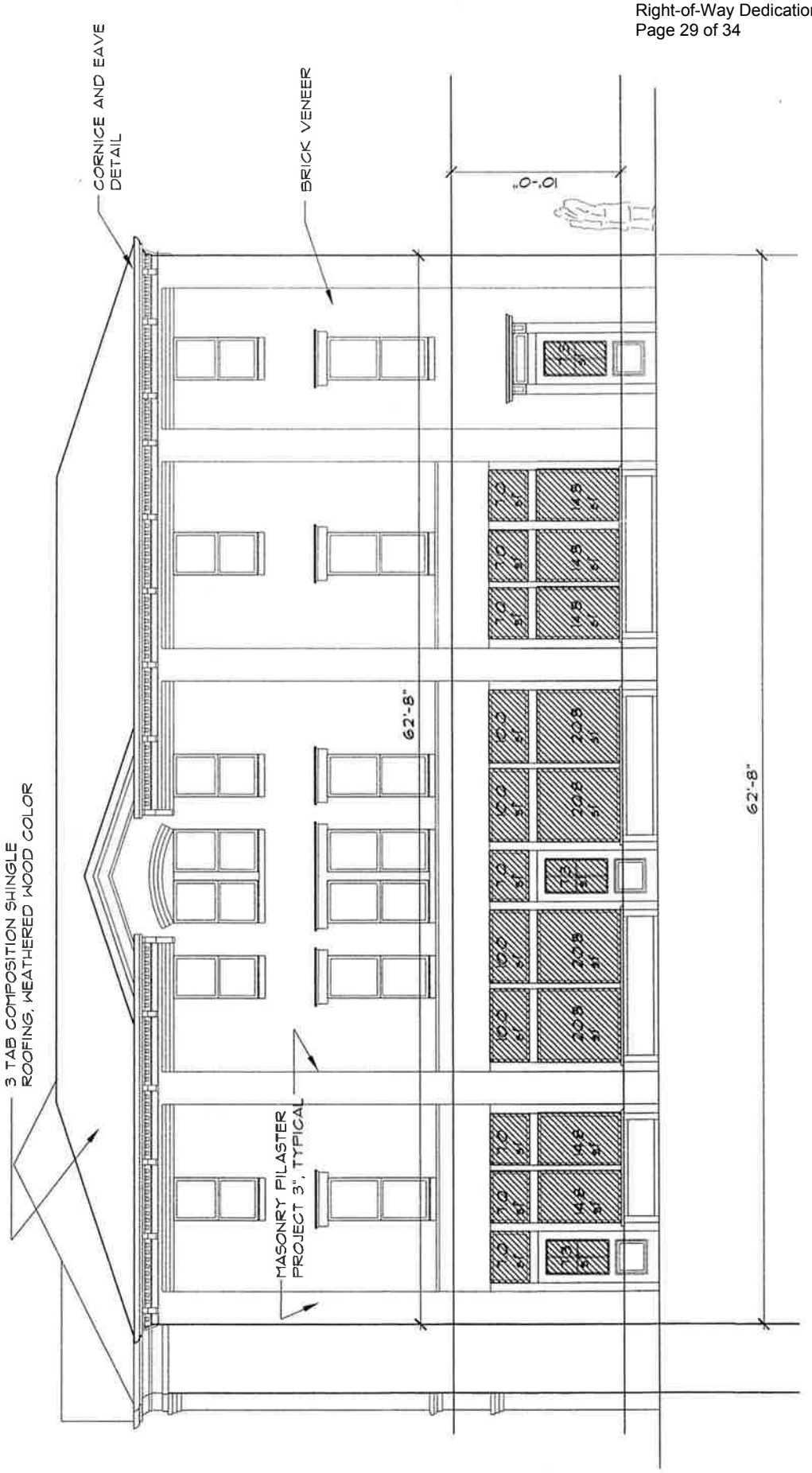
6	17.7	106.2 sq ft	98.67	10	986.7 sq ft	total wall area
2	3.8	7.6 sq ft				from 2' to 12' AFF
2	6.7	13.4 sq ft				
1	81.0	81.0 sq ft				
2	15.0	30.0 sq ft				
		238.2 sq ft	**24%** glazed or open area percentage			

North Façade

8	17.7	141.6 sq ft	78.67	10	786.7 sq ft	total wall area
		141.6	**18%** glazed or open area percentage			from 2' to 12' AFF

East Façade

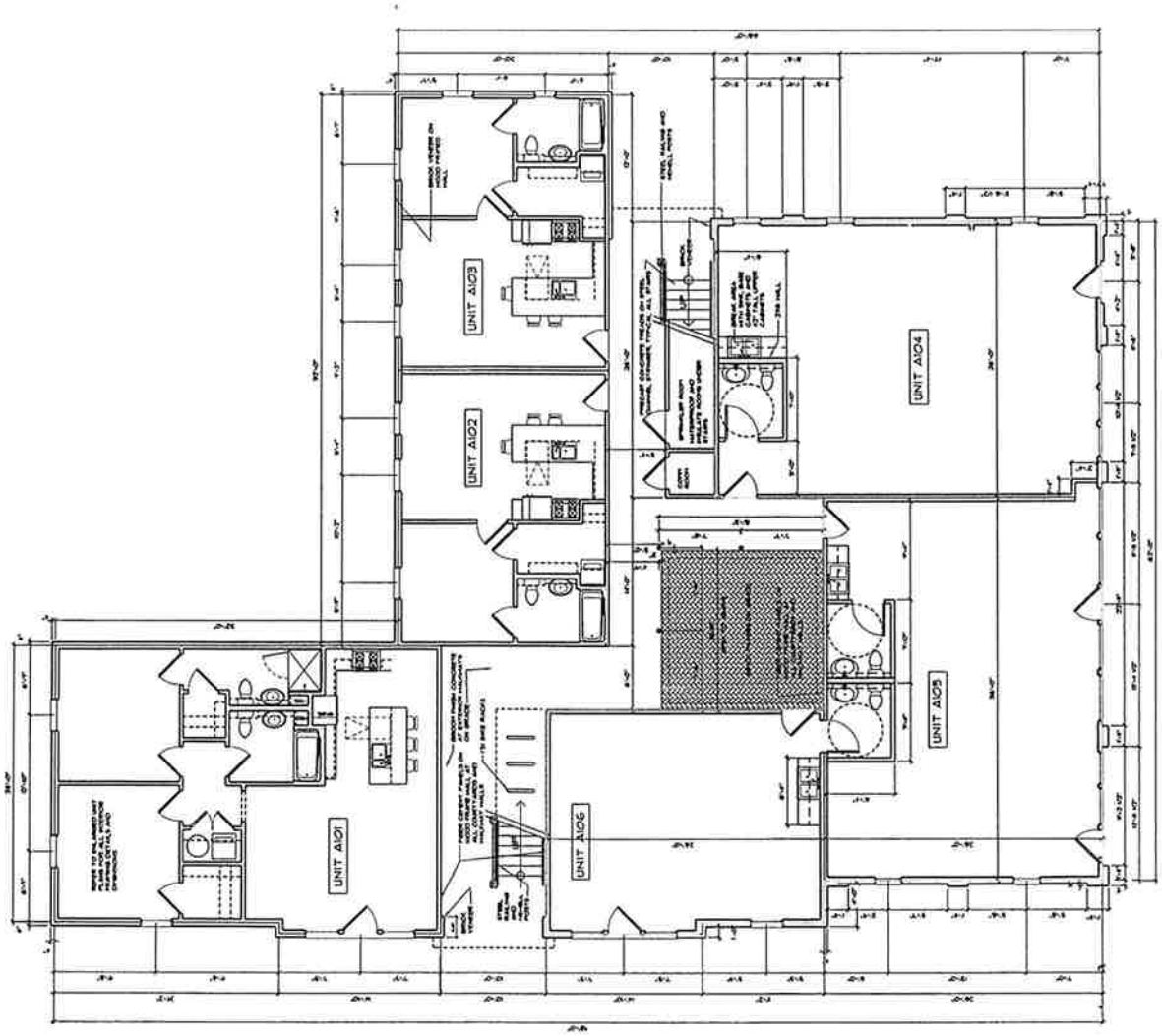
3	14.6	43.8 sq ft	66.67	10	666.7 sq ft	total wall area
1	79.3	79.3 sq ft				from 2' to 12' AFF
1	17.7	17.7 sq ft				
		140.8 sq ft	**21%** glazed or open area percentage			



SOUTH ELEVATION - BLDG "A"

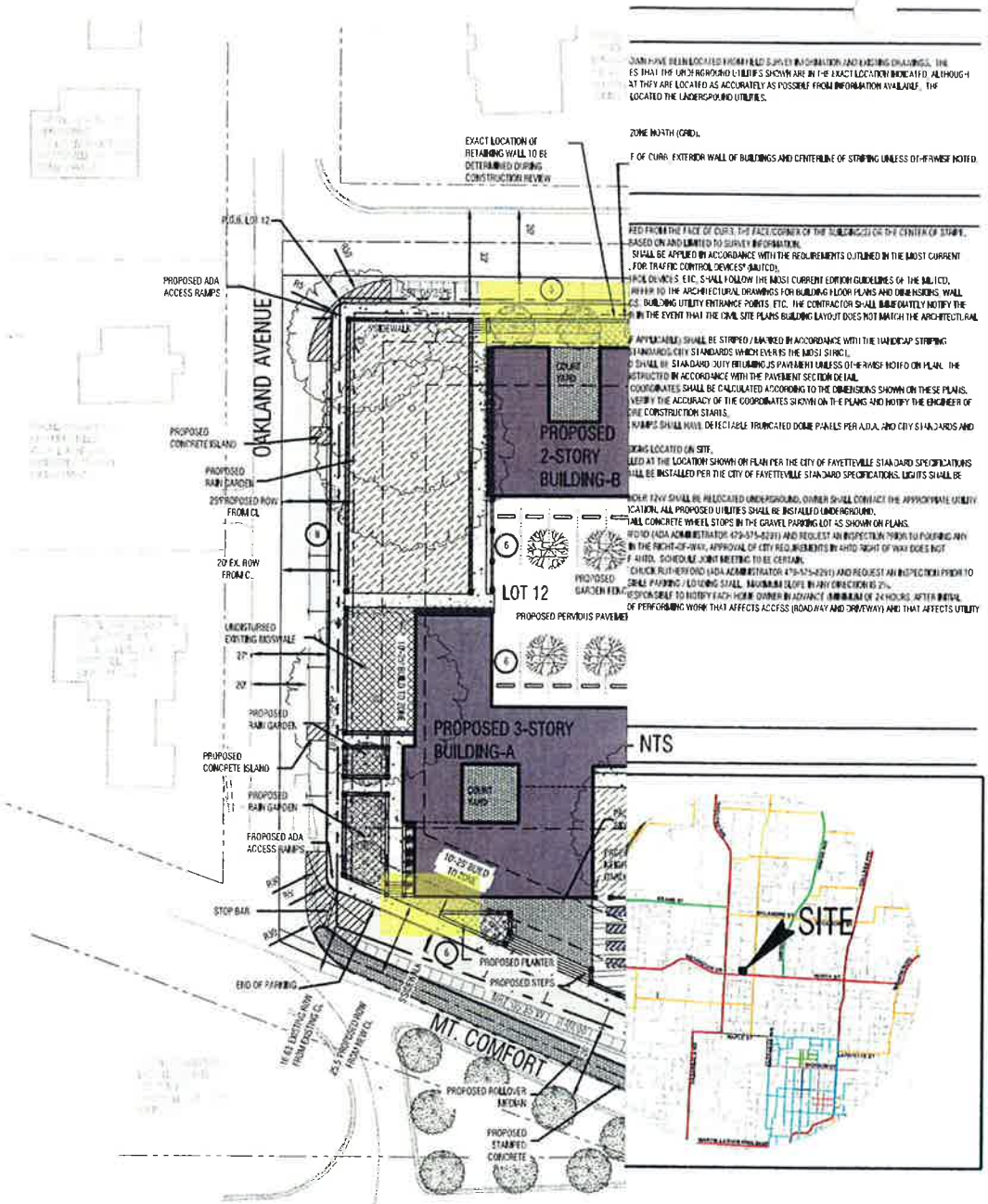
WEST ELEVATION – BLDG "A"

BLDG A FLOOR PLAN



community.by.design

TOWN PLANNING/URBAN ENGINEERING
311 w. spring street fayetteville ar 479.444.0086



NTS

space requirement

of-way dedication

Type of Unit	Unit Amount	Parking Ratio (1-space per ratio)	Parking Required / Provided
Square Feet	1,976	250	8
# of bedrooms	86	1	86
duction)			94
			14
			9
			23
			40
			32
2 motorcycle / scooter parking spaces)			73
ction (includes 2 motorcycle/scooter parking spaces)			71

STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 12048
JOHN BRIAN TEAGUE

CERTIFICATE OF AUTHORIZATION
COMMUNITY BY DESIGN, L.L.C.
#1504
ARKANSAS - ENGINEER

REVISION 0

Date
Date
Date
Date
Date
Date

OAKLAND COURTS

FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

ISSUED FOR REVIEW

ENGINEER: BT
DRAWN BY: RH
DATE: 9.1.11

SCALE: 1"=30' PLAN

0 30 60
SCALE IN FEET

SITE PLAN

SHEET C2 of C7

CALL BEFORE YOU DIG 1-800-482-8998 ARKANSAS ONE CALL SYSTEM

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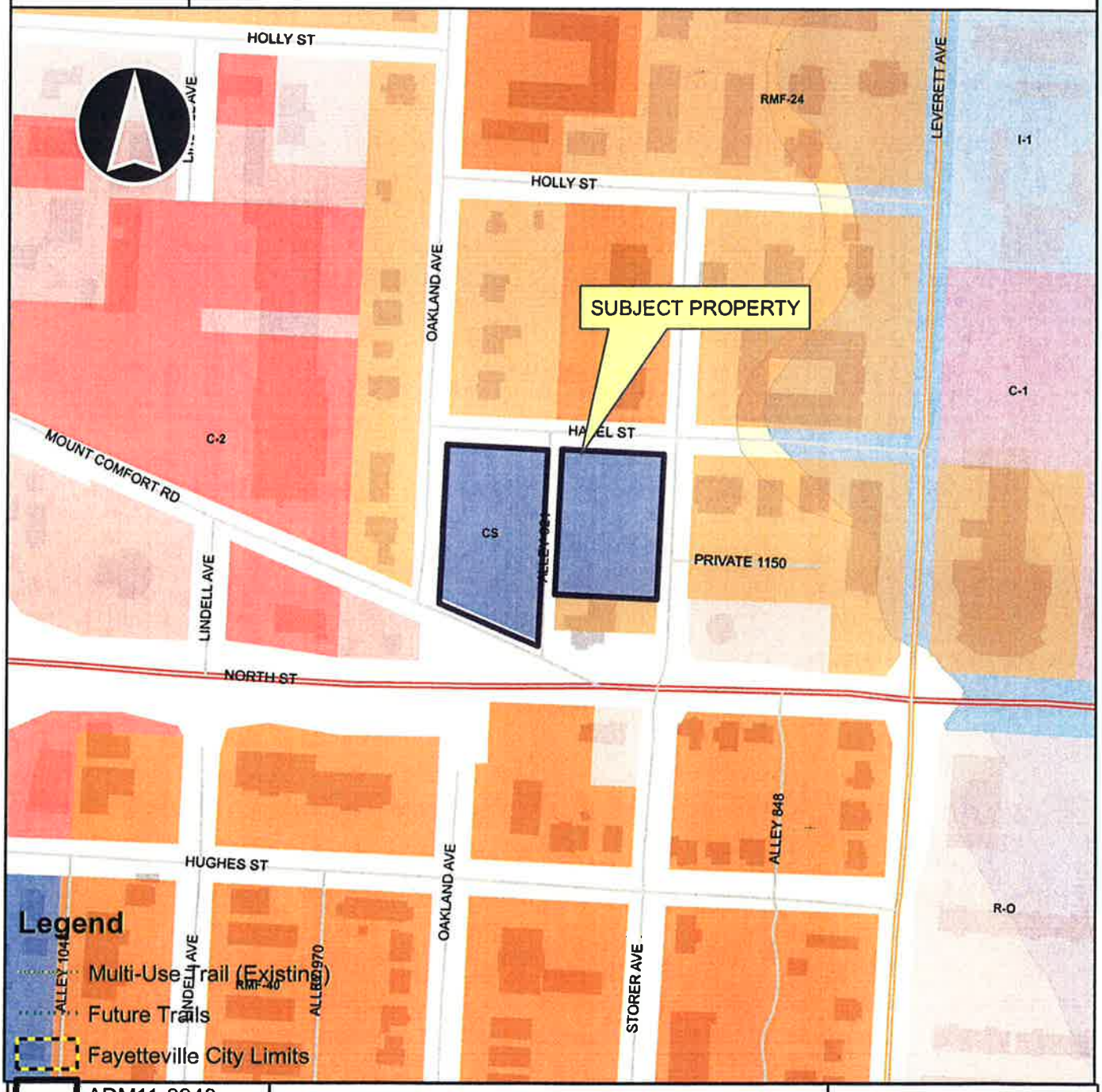
ADM11-3948

Close Up View

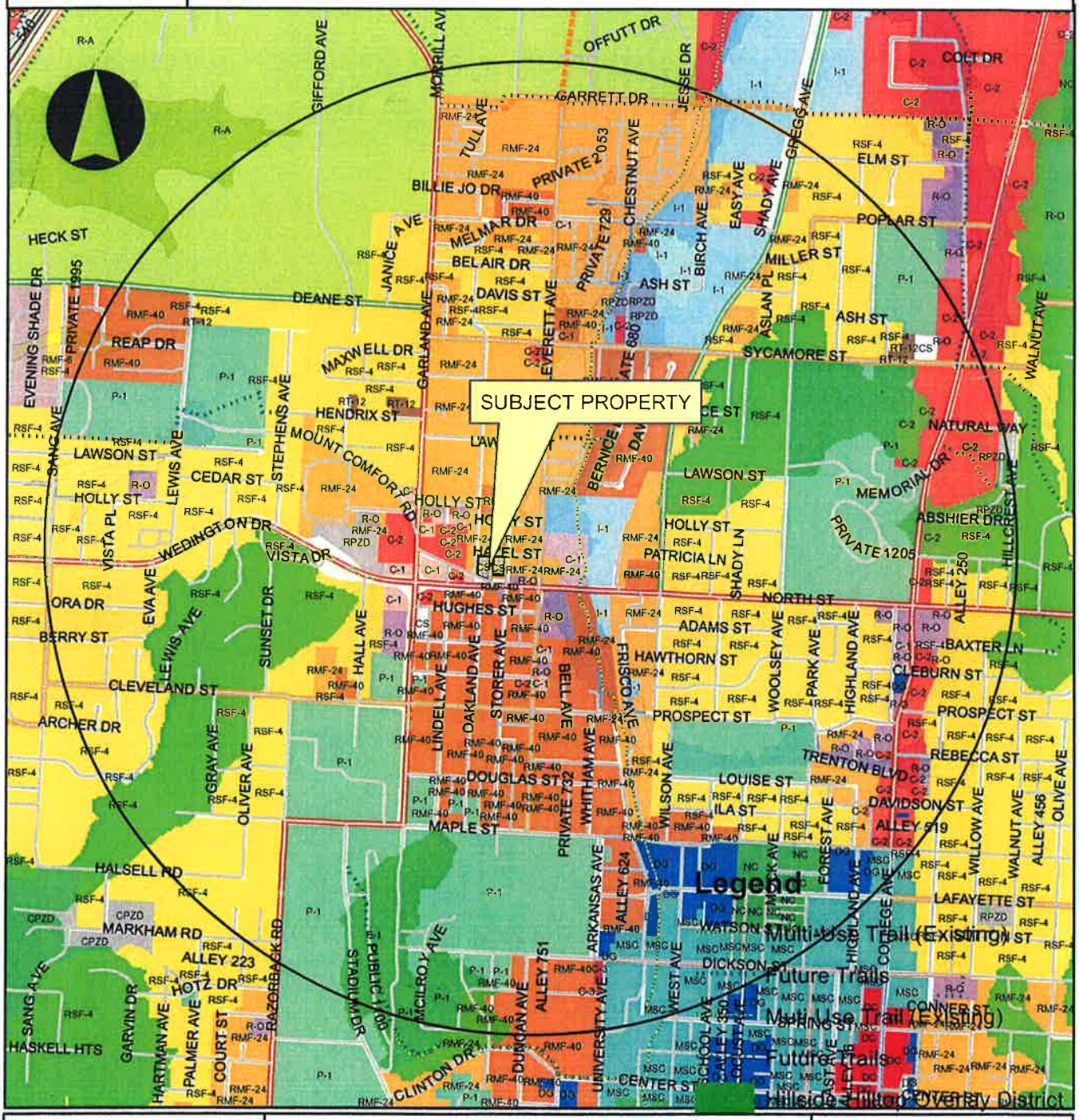
OAKLAND COURTS



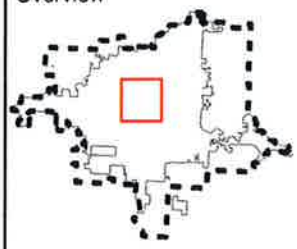
ADM11-3948

One Mile View

OAKLAND COURTS



Overview



Legend

Subject Property

ADM11-3948

Boundary

ADM 11-3948

Design Overlay District

Planning Area

Fayetteville

0 0.25 0.5 1 Miles

AGENDA REQUEST

FOR: COUNCIL MEETING OF OCTOBER 4, 2011

FROM:

SONDRA SMITH, CITY CLERK
KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend Article XXI **Rules Of Conduct For All Fayetteville Boards, Commissions And Committees** To Codify Uniform Eligibility And Attendance Requirements, To Repeal Resolution No. 27-01 And To Amend Or Repeal Any Conflicting Code Sections

APPROVED FOR AGENDA:

Sondra E. Smith — 9-12-2011
City Clerk — Date

9-12-2011
City Attorney — Date

Paul A. Becker — 9-13-2011
Chief of Staff — Date

9/13/11
Mayor — Date

RECEIVED
SEP 12 2011
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE
ENTERED
Des

ENTERED
9/12/11

Fayetteville
ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
City Council

CC: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **September 12, 2011**

RE: **Eligibility, Rules of Conduct and Attendance Requirements for all City boards, commissions and committees**

City Clerk Sondra Smith requested that I draft a change to the Fayetteville Code to clarify attendance requirements for citizens serving on our city committees. Resolution No. 27-01 was passed during the last City Council meeting before I was sworn in as Fayetteville City Attorney in 2001 and provided that:

> "Absence from three consecutive meetings is considered a basis for termination of membership on a city board or committee."

Later City Councils have strengthened the attendance requirement from that 33% level to 70% in code sections for Planning Commission and other committees. The eligibility to serve requirement has not apparently been codified. It would be beneficial to our citizens to have both eligibility and attendance requirements be uniform for all citizen committees and have those codified and, thus, on line for any citizen to review.

Therefore, I have followed City Clerk Sondra Smith's recommendation and drafted two new code sections to be placed with the citizen Rules of Conduct section in an Article retitled: **Eligibility To Serve, Attendance Requirements and Rules of Conduct for all Citizen Volunteers Serving on City Boards, Commissions and Committees."**

I should note that these rules cannot apply to Aldermen because state law controls the eligibility to hold office which cannot be changed by local ordinance.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ARTICLE XXI **RULES OF CONDUCT FOR ALL FAYETTEVILLE BOARDS, COMMISSIONS AND COMMITTEES** TO CODIFY UNIFORM ELIGIBILITY AND ATTENDANCE REQUIREMENTS, TO REPEAL RESOLUTION NO. 27-01 AND TO AMEND OR REPEAL ANY CONFLICTING CODE SECTIONS

WHEREAS, on February 20, 2001, the Fayetteville City Council passed Resolution No. 27-01 "Establishing Criteria, Rules and Regulations for Appointment to City Boards and Commissions"; and

WHEREAS, later Fayetteville Code enactments contain attendance requirements that conflict with Resolution No. 27-01 so that this Resolution should be repealed and replaced with a uniform eligibility and attendance requirement for all citizen volunteers on City committees, boards and commissions.

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 changes the title of Article XXI from **Rules of Conduct For All Fayetteville Boards, Commissions and Committees** to **Eligibility To Serve, Attendance Requirements and Rules of Conduct For All Citizen Volunteers Serving on City Boards, Commissions and Committees.**

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby enacts the following section into the Fayetteville Code:

> "§33.329 **Eligibility of Citizen Volunteers To Serve On City Boards, Commissions and Committees.**
>
> "(A) All registered voters within the corporate limits of Fayetteville shall be entitled to apply and, if selected by the City Nominating Committee and approved by the City Council, shall be entitled to serve on a City board, committee or commission. A citizen who moves out of Fayetteville or violates the Rules of Conduct or Attendance Requirements shall no longer be eligible to serve.

"(B) Any person who has served two consecutive full terms on any City commission, board, or committee is not eligible for reappointment to the same committee until one term of office has expired, unless there is an insufficient number of applicants to fill all vacancies."

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby enacts the following section into the Fayetteville Code:

"§33.331 **Attendance requirements.**

"(A) Any citizen volunteer member of any City board, commission or committee who fails to attend at least 70% of all meetings of that committee within a twelve month period of service shall be deemed to have resigned from the board, commission or committee and that person's position shall be deemed vacant.

"(B) Such citizen may petition the City Council for reinstatement by filing a letter with the City Clerk within 20 days after notification that the Citizen's position has been declared vacant and explaining why extenuating circumstances justify reinstating the applicant to his or her former position."

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby repeals all attendance requirements for citizen volunteers on City boards, commissions and committees that may be contrary to §33.331 and specifically repeals the following sections or subsections and directs the appropriate renumbering of accompanying sections:

§33.018(C);
§33.111(C) and (D);
§33.283(B).

PASSED and **APPROVED** this 4th day of October, 2011.

APPROVED: ATTEST:

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

SCANNED

RESOLUTION NO. 27-01

A RESOLUTION ESTABLISHING CRITERIA, RULES AND REGULATIONS FOR APPOINTMENT TO CITY BOARDS AND COMMISSIONS.

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

Section 1. The following criteria should be considered when making appointments:

1. Expertise and experience in the subject matter.

2. Interest in the subject matter.

3. Balance of appointive body.

4. Registered voter within the corporate limits of Fayetteville.

5. Individual's ability to attend meetings of the appointive body.

6. Willingness to serve.

7. Specific criteria as established in the ordinance or resolution establishing such board or commission.

Section 2. The following rules and regulations shall apply to citizen appointments to boards and commissions:

1. Any person who has served two consecutive terms on any citizen commission or board is not eligible for reappointment to the same group until one term of office has expired, unless there are an insufficient number of qualified applicants to fill all vacancies.

2. The weight given to the various criteria set forth in Section 1. above shall be determined for each board or committee appointment.

3. Moving from residence within the corporate limits of Fayetteville shall constitute resignation of committee membership.

4. Absence from three consecutive meetings is considered a basis for termination of membership on a city board or committee.

Section 3. Any committee or board member currently serving that does not reside in the corporate city limits of Fayetteville may continue serving until their current term expires.

Res. 27-01

PASSED AND APPROVED this 20th day of February, 2001.

APPROVED:

By: Charles D. Coody
Charles D. Coody, Mayor

ATTEST:

By: Heather Woodruff
Heather Woodruff, City Clerk

other activities in connection with the park, recreation and cultural needs of the inhabitants of the city, as the City Council shall from time to time provide.

(Code 1965, §2-97; Ord. No. 1526, 1-3-67; Code 1991, §33.017)

33.018 Parks And Recreation Advisory Board

(A) *Composition.*

(1) The Parks and Recreation Advisory Board shall be composed of nine members appointed by the City Council for terms of three years. Such terms shall be staggered so that three members will be appointed each year.

(2) All members of the Parks and Recreation Advisory Board shall serve without compensation.

(B) *Meetings of advisory board and responsibilities.* The Parks and Recreation Advisory Board shall meet monthly with the director of parks and recreation. The advisory board shall advise and recommend to the director of parks and recreation, mayor and City Council on all aspects of parks and recreation activities. Annually, the advisory board shall develop a suggested work program and operating budget to be submitted to the city by November of each year for the subsequent year. The advisory board shall also recommend priorities for capital improvements and means for financing same, and shall prepare an annual progress report on parks and recreation activities.

(C) *Attendance requirements for members of the Parks and Recreation Advisory Board.*

(1) Any members of the Parks and Recreation Advisory Board who fails to attend at least 70% of all meetings (regularly scheduled and specially called) within the member's yearly periods of service shall immediately tender his or her letter of resignation and that position shall be deemed vacant."

(2) Any board member who has been required to tender a letter of resignation may present extenuating circumstances within the letter of resignation and request that the resignation not be accepted by the City Council. If the letter of resignation is not accepted by the City Council, the position shall not be deemed vacant and the member shall be reinstated to complete the normal term of appointment.

Current law

(Code 1965, §§2-98, 2-99; Ord. No. 1526, 1-3-67; Ord. No. 3058, 12-18-84; Ord. No. 3074, 3-19-85; Ord. No. 4290, 2-20-01; Code 1991, §33.018; Ord. 5023, 6-5-07; Ord. 5158, 8-5-08)

33.019-33.029 Reserved

ARTICLE IV
POLICE DEPARTMENT

33.030 Appointment Of Chief Of Police

The mayor is hereby authorized to appoint the chief of police, subject to the approval of the City Council.

(Code 1965, §16-1; Ord. No. 884, 3-5-45; Code 1991, §33.030)

Cross reference(s)--Payment for unused sick leave, §37.03.

State law reference(s)--Municipal police departments generally, A.C.A. §14-52-101 et seq.; Appointment and removal of department heads, A.C.A. §14-42-110.

33.031-33.044 Reserved

ARTICLE V
FIRE DEPARTMENT

33.045 Separate Office Of Chief Of Fire Department Created

The separate office of chief of the fire department of the city is hereby created, to be filled in the manner provided by law.

(Code 1965, §9-1; Ord. No. 909, 3-3-47; Code 1991, §33.045)

State law reference(s)--Municipal fire departments, - A.C.A., §14-53-101 et seq.; Appointment and removal of department heads, A.C.A. §14-42-110.

33.046 Providing Fire Protection Services Outside City

The city fire department shall not provide fire protection services beyond the corporate limits and shall not combat any fire located outside the corporate limits except pursuant to:

(A) A mutual aid agreement, approved by the City

33.111 Removal of Planning Commissioners

By a vote of two-thirds of the City Council, any Planning Commissioner may be removed from the office for cause. Cause shall include, but not be limited to, the following:

(A) Chronic discourteous behavior to other commissioners, staff, or members of the public.

Current law →

(B) Ongoing lack of familiarity with staff-prepared material.

(C) Any member of the Planning Commission who fails to attend at least 70% of all meetings (regularly scheduled and specially called) within the member's yearly periods of service shall immediately tender his or her letter of resignation and that position shall be deemed vacant.

(D) Any commission member who has been required to tender a letter of resignation may present extenuating circumstances within the letter of resignation and request that the resignation not be accepted by the City Council. If the letter of resignation is not accepted by the City Council, the position shall not be deemed vacant and the member shall be reinstated to complete the normal term of appointment.

(E) Planning Commissioners must attend at least 60% of Agenda setting sessions and tours unless that commissioner is currently on the Subdivision Committee. If job requirements do not permit a member to attend agenda meetings or tours prior to 5:00 P.M., the meetings and tours will be scheduled for after normal working hours or such member shall be excused from the requirements of attending the agenda meetings and tours.

(F) Planning Commissioners shall serve on the Subdivision Committee for one-third of their service on the Planning Commission when requested by the Chairman of the Planning Commission.

(G) During the second quarter of each year, Planning Staff shall designate and all Planning Commissioners shall attend one evening training and review session to ensure the legal and proper functioning of the Planning Commission.

(Code 1991, §33.204; Ord. No. 3872, §2, 2-21-95; Ord. 4544, 2-17-04; Ord 5023, 6-5-07)

State Law Reference(s)—Rules and Regulations §14-56-408.

ARTICLE VIII
SEWER COMMITTEE

33.112 Sewer Committee

(A) There is hereby established a Sewer Committee pursuant to state law. The Sewer Committee shall be composed of four aldermen who serve at the pleasure of the entire City Council. The mayor may appoint, subject to City Council approval, all members, (including replacement members) of the Sewer Committee.

(B) The Sewer Committee shall have all powers, duties and responsibilities provided to such committee in A.C.A. §14-235-207, et. seq. All actions and recommendations of the Sewer Committee must be ratified and approved by the City Council to become effective. The City Council expresses its intent to exercise its control of the Sewer Committee to the maximum extent possible pursuant to state law.

(C) The Sewer Committee is also designated advisory authority over the clean water system of the city."

(Ord.4561, 4-20-04)

33.113-33.204 Reserved

ARTICLE IX
TELECOMMUNICATIONS BOARD

33.205 Purpose And Intent

It is the purpose and intent of the City Council of the City of Fayetteville to redefine the scope of the current Telecommunications Board to advise the City Council on telecommunications issues and to coordinate and oversee telecommunications franchise systems and use of the public rights of way designated for public access, educational, and governmental (PEG) use in the City of Fayetteville as part of the city's telecommunications infrastructure.

(A) Definitions. For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) *Education Channels.* Education channels shall provide programming that is educational and informational, with an

(2) Assist the Fire Department with an ongoing program of public education designed to increase public awareness of Firewise practices.

(3) Plan and administer an annual Firewise Project.

(4) Plan and administer an annual Firewise Day.

33.283 Composition and Terms

(A) The board shall consist of seven (7) members who shall be appointed by the City Council.

(1) One (1) position shall be filled by a representative from the land development community; one (1) position shall be filled by a representative of the tree service community; one (1) position shall be filled by a representative from the University of Arkansas with knowledge of urban forestry or arboriculture practices; and four (4) positions shall be filled by citizens of the City at large with an interest in urban forestry or arboriculture

(2) In the event no application for a position as a representative from a specified discipline is received, the position may be filled by any citizen of the City.

(3) Vacancies in an unexpired term shall be filled by the City Council for the remainder of the term at the next Council nominating process after the vacancy shall have occurred.

(4) Members of the former Tree and Landscape Advisory Committee serving at the time of the adoption of this Article shall continue to serve their respective terms as members of the Urban Forestry Advisory Board. Terms of membership on the board shall be for a period of two (2) years with staggered terms carried over from the former Tree and Landscape Advisory Committee.

(5) The Mayor may designate city staff to assist the board in the conduct of its business.

(B) Attendance requirements.

Any member of the Urban Forestry Advisory Board who fails to attend at least seventy percent (70%) of all meetings of the board in a twelve (12) month period, without having their absence excused by the board, shall have been deemed to have vacated their position. Said vacant position shall be filled pursuant to subsection (A)(3).

Current law..

33.284 Officers

At the first regularly scheduled meeting after the effective date of this Article, the board shall elect from among its members a chairperson and vice-chairperson, who shall each serve a term of one (1) year. Further, the board may elect such additional officers as it deems necessary for the proper performance of its duties.

33.285 Meetings

The Urban Forestry Advisory Board shall meet at least once each month and may call special meetings if necessary to carry out its duties. The Urban Forestry Advisory Board sitting as the Wildland-Urban Interface: Firewise Advisory Board shall meet at least twice each year. Special meetings may be called as needed to carry out the board's duties. A majority of the voting membership of the board shall constitute a quorum.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

10/4/2011
City Council Meeting Date
Agenda Items Only

Paul A. Becker	Finance & Internal Services	Finance & Internal Services
Submitted By	**Division**	**Department**

Action Required:

City Council is requested to adopt real and personal property tax rates for 2011 for the Policemen's Pension & Relief, the Firemen's Pension & Relief Funds, and the Fayetteville Public Library. The rate to be adopted for the Policemen's Pension & Relief Fund and the Firemen's Pension & Relief Fund is 0.4 mils for real property and 0.4 mils for personal property, the millage for the Fayetteville Public Library is 1.0 mil for real property and 1.0 mil for personal property. City Council is also requested to adopt real and personal property tax rates for 2010 for the City's General Fund. The rate requested for the City's General Fund is 1.3 mils for real property and 1.3 mils for personal property.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Paul A. Becker — Department Director — Date 9-13-2011

City Attorney — Date 9-13-11

Paul A. Becker — Finance and Internal Services Director — Date 9-13-2011

Chief of Staff — Date 9-13-11

Mayor — Date 9/14/11

Previous Ordinance or Resolution # 5360

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office 09-13-11 A10:40 RCVD

Received in Mayor's Office ENTERED 9/13/11

Comments:

TO: Mayor Lioneld Jordan and Fayetteville City Council

THRU: Don Marr, Chief of Staff

FROM: Paul A. Becker, Finance Director

DATE: September 27, 2011

SUBJECT: **2011 Millage Levy**

Recommendation:

City staff recommends that City Council approve the millage levy ordinance approving the 0.4 mils for the Policemen's Pension and Relief Fund, 0.4 mils for the Firemen's Pension and Relief Fund, 1.0 mils for the Fayetteville Public Library, and 1.3 mils for 2012 General Fund operations. This will continue the same millage as levied last year.

Background:

Each year the City must approve an ordinance to renew the levy of ad valorem taxes on real and personal property within the City. This request will provide for such levy on property assessed during 2011.

The total assessed value of real and personal property located within the city limits of Fayetteville, as of August 5, 2011, is approximately $1.283 billion. The assessed valuation is before the Washington County Board of Equalization has made all the changes to the County Assessors Abstract. Based on the preliminary assessments, the growth in real property assessments is approximately 2.73% as of August 5, 2011.

Discussion:

A millage levy ordinance must be approved by City Council in order for the City to continue to collect property taxes for the Policemen's Pension and Relief Fund and the Firemen's Pension and Relief Fund. The millage levy for the Policemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils on personal property. The millage levy for the Firemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils on personal property as was approved by referendum.

A millage levy ordinance must be approved for the operation of the Fayetteville Public Library and that was approved by the voters on October 1, 2002. The millage levy for the Fayetteville Public Library is 1.0 mils for real property and 1.0 mils on personal property.

Finally, City staff is requesting that City Council approve a millage levy ordinance for General Fund operations in the amount of 1.3 mils for both real and personal property.

The 2011 proposed property tax revenue amount based on the 1.3 mil levy is estimated to bring in $1,523,000 in General Fund revenue. Below is a proposed calendar of meetings during the months of September and October to discuss the millage levy.

Tuesday, September 27	Agenda Session
Tuesday, October 4	City Council Meeting
Tuesday, October 11	Agenda Session
Tuesday, October 18	City Council Meeting

Budget Impact:

The 0.4 mils Police and 0.4 mils Fire is needed to fund the Pension plans for both. The 1.0 mils is used to fund the operation of the Fayetteville Public Library. The 1.3 mils will be used to fund General Fund operations.

Conclusion:

The millage levy must be at Washington County in time to be included in their consolidated levy ordinance which will be approved at the November 10, Quorum Court meeting. The deadline for receipt is set by the County. Last year that deadline was October 28. The City levy will be added to the levies by Washington County, the various school districts, improvement districts and other cities within the County when the Washington County Quorum Court adopts its millage levy for 2010.

The administration is requesting the same millage rate as was approved in 2010 as follows:

1.3 mils for General Fund Operations
1.0 mils for the Fayetteville Public Library
0.4 mils for the Police Pension Fund
0.4 mils for the Fire Pension Fund

If you have any questions concerning this agenda request please contact me at 575-8330.

City of Fayetteville
Property Tax Revenue per Mil
August 5, 2011

Millage	Approximate Revenue
0.10	$ 117,000
0.20	$ 234,000
0.30	$ 351,000
0.40	$ 469,000
0.50	$ 586,000
0.60	$ 703,000
0.70	$ 820,000
0.80	$ 937,000
0.90	$ 1,054,000
1.00	$ 1,171,000
1.20	$ 1,406,000
1.30	$ 1,523,000
2.00	$ 2,343,000
2.20	$ 2,577,000
2.70	$ 3,163,000
3.20	$ 3,749,000
3.70	$ 4,334,000
4.20	$ 4,920,000
4.70	$ 5,506,000

The millage revenue reflected above is based on the Washington County Prelimiary Summary Report of County Assessments for the Year 2011 dated August 5, 2011 and includes real and personal property for Utilities. The City Council can approve up to 5.0 mils for operations. The table assumes a 91.3% collection rate. Total real and personal property assessments for 2012 amount to approximately $1,243 million excluding real estate and personal property for utilities.

Property Tax Impact Illustration

	Appraised Value	Assessed Value	1 Mil Tax / Year
Single Family Home	$ 75,000.00	$ 15,000.00	$ 15.00
Single Family Home	$ 100,000.00	$ 20,000.00	$ 20.00
Single Family Home	$ 150,000.00	$ 30,000.00	$ 30.00

ORDINANCE NO. _____

AN ORDINANCE LEVYING A TAX ON THE REAL AND PERSONAL PROPERTY WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE YEAR 2011 FIXING THE RATE THEREOF AT 1.3 MILLS FOR GENERAL FUND OPERATIONS, 0.4 MILLS FOR THE FIREMEN'S PENSION AND RELIEF FUND, 0.4 MILLS FOR THE POLICEMEN'S PENSION AND RELIEF FUND AND 1.0 MILL FOR THE FAYETTEVILLE PUBLIC LIBRARY; AND CERTIFYING THE SAME TO THE COUNTY CLERK OF WASHINGTON COUNTY, ARKANSAS

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

Section 1. That a tax is hereby levied on the real and personal property within the City of Fayetteville, Arkansas, for the year 2011 to be collected in 2012 for the following purposes at the following rates:

REAL AND PERSONAL PROPERTY

Purpose	Levy
General Fund-Operations	1.3 mills
Fayetteville Public Library	1.0 mills
Policemen's Pension Fund	0.4 mills
Firemen's Pension Fund	0.4 mills
TOTAL	**3.1 mills**

Section 2. That the real and personal property tax so levied and the rates provided therefor are hereby certified to the County Clerk of Washington County, Arkansas, to be placed in the tax book and collected in the same manner that the county and school district taxes are collected.

Section 3. The City Clerk is hereby authorized and directed to file certified copies of this Ordinance in the office of the County Recorder, County Clerk, County Assessor, and the County Tax Collector for Washington County, Arkansas.

PASSED and **APPROVED** this day of 4th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

Agenda Session 9/27/11

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
October 4, 2011

A meeting of the Fayetteville City Council will be held on October 4, 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 September 20, 2011 City Council meeting minutes.

2. **2011 Justice Assistance Grant (JAG):** A resolution approving acceptance of a 2011 Justice Assistance Grant through the U.S. Department of Justice in coordination with other Washington County law enforcement agencies and approving a budget adjustment in the amount of $88,866.00.

3. **Internal Revenue Service (IRS) Task Force:** A resolution approving a budget adjustment in the amount of $41,405.00 to recognize revenue and expenses related to city participation in the local Internal Revenue Service (IRS) Task Force for the fiscal years of 2010-2011 and 2011-2012.

4. **Bid #11-49 Second Nature Property Management, LLC:** A resolution awarding Bid #11-49 and approving a contract with Second Nature Property Management, LLC in the amount of $151,371.34 for the construction of a modular block retaining wall near the Garland Avenue U of A Farm Trail tunnel, and approving a twenty percent (20%) project contingency.

5. **Bid #11-54 Alarmtec Systems:** A resolution awarding Bid #11-54 and approving a contract and change order with Alarmtec Systems in the total amount of $166,500.00 for construction of security improvements at Drake Field.

6. **Bid #11-55 All Around Landscaping, Inc.:** A resolution awarding Bid #11-55 and approving a contract with All Around Landscaping, Inc. in the amount of $66,704.00 from the tree escrow fund for the purchase and planting of trees, and approving a ten percent (10%) project contingency.

7. **Police Department Policies:** A resolution approving Fayetteville Police Department Policies 25.1 Grievance Procedures, 35.1 Performance Evaluation, and 61.4.3 Towed Vehicles.

8. **Washington Regional Medical Center Real Estate Conveyance Agreement:** A resolution to approve the Real Estate Conveyance Agreement with Washington Regional Medical Center.

B. Unfinished Business:

1. **Revised Ward Boundaries:** An ordinance to approve revised Ward Boundaries to equalize ward populations after the 2010 Federal Census and to amend §32.03 of the Fayetteville Code. ***This ordinance was left on the Second Reading at the September 20, 2011 City Council meeting.***

   Left on the Second Reading

2. **RZN 11-3866 (2013 E. Mission Blvd./Ruskin Heights):** An ordinance rezoning that property described in rezoning petition RZN 11-3866, for approximately 28.93 acres located at 2013 East Mission Boulevard from R-PZD, Residential Planned Zoning District (R-PZD 06-2299 Ruskin Heights), to CS, Community Services; NC, Neighborhood Conservation; and RSF-4, Residential Single Family, 4 units/acre, subject to a Bill of Assurance. ***This ordinance was left on the Second Reading at the September 20, 2011 City Council meeting.***

   Left on the Second Reading

C. New Business:

1. **RZN 11-3892 (Fayette Junction Master Plan):** An ordinance rezoning that property described in rezoning petition RZN 11-3892, for select properties located within the Fayette Junction Master Plan area totaling approximately 225 acres.

2. **RZN 11-3916 (Holcomb Heights PZD/TTO LLC:** An ordinance rezoning that property described in rezoning petition RZN 11-3916, for approximately 19.24 acres, located at the southwest corner of Salem and Weir Road from R-PZD, Residential Planned Zoning District (06-2281 Holcomb Heights I and 07-2613 Holcomb Heights II), to RSF-8, Residential Single-Family, 8 units per acre.

3. **ADM 11-3943 Belclaire Subdivision-Amendment to Bill of Assurance):** An ordinance to amend Section 3 of Ordinance No. 4605 to amend the Bill of Assurance to reduce the minimum house size from 2,400 square feet to 2,000 square feet.

4. **ADM 11-3948 (Oakland Courts Right-of-Way Dedication):** A resolution to approve a lesser right-of-way dedication than required by the Master Street Plan for property located on Storer Avenue between North Street and Hazel Street.

5. **Amend XXI Rules of Conduct for all Fayetteville Boards, Commissions and Committees:** An ordinance to amend Article XXI Rules of Conduct for all Fayetteville Boards, Commissions and Committees to codify uniform eligibility and attendance requirements, to repeal Resolution No. 27-01 and to amend or repeal any conflicting code sections.

6. **2011 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2011 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

D. City Council Agenda Session Presentations:

Announcements:

Adjournment: ADD:

NB#1: Arkansas State Highway (Crossover Road)

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Pre Agenda Meeting Sept. 20, 2011

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City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

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Ward 1 Position 2 – Brenda Boudreaux
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5. **Bid #11-54 Alarmtec Systems:** A resolution awarding Bid #11-54 and approving a contract and change order with Alarmtec Systems in the total amount of $166,500.00 for construction of security improvements at Drake Field.

David is asking for clar. Action for mayor

6. **Bid #11-55 All Around Landscaping, Inc.:** A resolution awarding Bid #11-55 and approving a contract with All Around Landscaping, Inc. in the amount of $66,704.00 from the tree escrow fund for the purchase and planting of trees, and approving a ten percent (10%) project contingency.

Mayor's Office

7. **Police Department Policies:** This item is currently in HR being reviewed by Missy.

8. City Hospital:

B. Unfinished Business:

1. A

C. New Business:

1. **RZN 11-3892 (Fayette Junction Master Plan):** An ordinance rezoning that property described in rezoning petition RZN 11-3892, for select properties located within the Fayette Junction Master Plan area totaling approximately 225 acres.

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pull of agenda

6. **Amend the Rules of Order and Procedure:** A resolution to amend the Rules of Order and Procedure of the Fayetteville City Council to clarify the procedure of presenting agenda items during City Council meetings.

move to #8 consent

7. **City Hospital:** Kit is working on an agenda item regarding the City Hospital that he will be adding.

8. **2011 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2011 fixing the rate thereof at 1.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

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