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 18, 2011

A meeting of the Fayetteville City Council will be held on October 18, 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:

1. America in Bloom Awards

Agenda Additions:

1. **Patrick J. Tobin Settlement Agreement:** A resolution approving a settlement agreement with Patrick J. Tobin, Trustee of the Patrick J. Tobin Revocable Living Trust U/D/T March 4, 1997, concerning condemnation litigation filed as part of the Township Street Widening Project, in the total amount of $60,000.00

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 181-11

A. Consent:

1. Approval of the October 4, 2011 City Council meeting minutes. **APPROVED**

2. **Animal Services Division Donation Revenue:** A resolution approving a budget adjustment in the amount of $31,943.12 representing citizen donation revenue to the Animal Services Division for the first, second and third quarters of 2011.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 182-11

3. **Botanical Garden of the Ozarks:** A resolution approving a participation and unsecured loan agreement with the Botanical Garden of the Ozarks to install ten (10) LED lights and poles in the amount of $34,911.38 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 183-11

4. **Bid #10-36 Premier Lighting Group:** A resolution authorizing purchase of ten (10) additional LED fixtures and poles in the amount of $19,042.28 pursuant to Bid #10-36, from Premier Lighting Group for installation at the Botanical Garden of the Ozarks as part of the Community Revolving Loan Fund for Energy Efficiency Program.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 184-11

B. Unfinished 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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5448

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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5449

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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5450

C. New Business:

1. **VAC 11-3931 (510 W. 11th St. & 989 S. School Ave./Campus Crest):** An ordinance approving VAC 11-3931 submitted by Morrison Shipley Engineers, Inc. for property located at 510 West 11th Street and 989 South School Avenue to vacate unconstructed street right-of-way.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5451

2. **VAC 11-3940 (Summit Place Subdivision):** An ordinance approving VAC 11-3940 submitted by Coover Consultants for property located in the Summit Place Subdivision to vacate a portion of a utility easement throughout the subdivision.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5452

3. **ADM 11-3934 (Amend UDC Chapters 164.12 and 164.13):** An ordinance amending the Unified Development Code of the City of Fayetteville related to Nonconforming Uses and Structures and Non Residential Uses in R Districts.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5453

4. **NWA Entertainment, LLC:** An ordinance waiving competitive bidding and approving a cost-share agreement with NWA Entertainment, LLC in the amount of $75,255.00 for water line design and construction for the Arkansas Music Pavilion.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5454

City Council Tour:

Announcements:

Adjournment: 7:20 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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

Please keep your comments brief, to the point and relevant to the agenda item being considered so that everyone has a chance to speak.

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

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

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

City Council Meeting: October 18, 2011 **Adjourn:** 7:20 p.m.

Subject:	Roll				
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Petty	✓			
	Mayor Jordan	✓			
		9-0			

Subject:		Settlement Agreement with Patrick J. Tobin, Trustee			
Motion To:		Add to the Agenda:	Approve		
Motion By:		Boudreaux	Boudreaux		
Seconded:		Kinion	Kinion		
Agenda Addition:	Tennant	✓	✓		
	Ferrell	✓	✓		
	Adams	✓	✓		
passed	Lewis	✓	✓		
	Gray	✓	✓		
181-11	Boudreaux	✓	✓		
	Kinion	✓	✓		
	Petty	✓	N		
	Mayor Jordan				
		8-0	7-1		

City Council Meeting: **October 18, 2011**

Subject:	**Consent**				
Motion To:		Approve.			
Motion By:		Boudreaux			
Seconded:		Gray			
Minutes Approved	**Tennant**	✓			
	Ferrell	Absent during the vote.			
	Adams	✓			
Passed	**Lewis**	✓			
	Gray	✓			
182-11	**Boudreaux**	✓			
thru	**Kinion**	✓			
	Petty	✓			
184-11	**Mayor Jordan**				

7-0

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

City Council Meeting: **October 18, 2011**

Subject:	**RZN 11-3892 (Fayette Junction Master Plan)**				
Motion To:		3rd Read	Pass		
Motion By:		Boudreaux			
Seconded:		Tennant			
B. 1 Unfinished Business Passed 5448	**Tennant**	✓	✓		
	Ferrell	Absent during the vote.	✓		
	Adams	✓	✓		
	Lewis	✓	✓		
	Gray	✓	✓		
	Boudreaux	✓	✓		
	Kinion	✓	✓		
	Petty	✓	✓		
	Mayor Jordan				
		7-0	8-0		

Subject:	**RZN 11-3916 (Holcomb Heights PZD/TTO LLC**				
Motion To:		3rd Read	Pass		
Motion By:		Tennant			
Seconded:		Gray			
B. 2 Unfinished Business Passed 5449	**Tennant**	✓	✓		
	Ferrell	✓	✓		
	Adams	✓	✓		
	Lewis	✓	✓		
	Gray	✓	✓		
	Boudreaux	✓	✓		
	Kinion	✓	✓		
	Petty	✓	✓		
	Mayor Jordan				
		8-0	8-0		

City Council Meeting: **October 18, 2011**

Subject:	**ADM 11-3943 Belclaire Subdivision-Amendment to Bill of Assurance)**				
Motion To:		3rd Read	Pass		
Motion By:		Gray			
Seconded:		Boudreaux			
B. 3 Unfinished Business passed	**Tennant**	✓	✓		
	Ferrell	✓	✓		
	Adams	✓	✓		
	Lewis	✓	✓		
	Gray	✓	✓		
	Boudreaux	✓	✓		
5450	**Kinion**	✓	✓		
	Petty	✓	✓		
	Mayor Jordan				
		8-0	8-0		

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

City Council Meeting: **October 18, 2011**

Subject:	**VAC 11-3931 (510 W. 11th St. & 989 S. School Ave./Campus Crest)**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Lewis		
Seconded:		Boudreaux	Adams		
C. 1 New Business passed 5451	**Tennant**	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	

Subject:	**VAC 11-3940 (Summit Place Subdivision)**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Kinion	Adams		
C. 2 New Business passed 5452	**Tennant**	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	

City Council Meeting: October 18, 2011

Subject:	**ADM 11-3934 (Amend UDC Chapters 164.12 and 164.13)**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Boudreaux	Ferrell		
Seconded:		Ferrell	Gray		
C. 3 New Business Passed 5453	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	

Subject:	**NWA Entertainment, LLC**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Boudreaux		
Seconded:		Boudreaux	Adams		
C. 4 New Business Passed 5454	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	

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 19, 2011**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of October 18, 2011**

1. **Motion to Approve Settlement:** A resolution approving a settlement agreement with Patrick J. Tobin, Trustee of the Patrick J. Tobin Revocable Living Trust U/D/T March 4, 1997, concerning condemnation litigation filed as part of the Township Street Widening Project, in the total amount of $60,000.00.

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4. **Bid #10-36 Premier Lighting Group:** A resolution authorizing purchase of ten additional LED fixtures and poles in the amount of $19,042.28 pursuant to Bid #10-36, from Premier Lighting Group for installation at the Botanical Garden of the Ozarks as part of the Community Revolving Loan Fund for Energy Efficiency.

5. **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.

6. **NWA Entertainment, LLC:** An ordinance waiving competitive bidding and approving a cost-share agreement with NWA Entertainment, LLC in the amount of $75,255.00 for water line design and construction for the Arkansas Music Pavilion.

Mayor Lioneld Jordan

City Attorney Kit Williams

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Aldermen

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   Left on the Second Reading

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

THIS AGREEMENT, made and entered this 29th day of September, 2011, by and between the City of Fayetteville, Arkansas, an Arkansas municipal corporation with its principal offices at 113 W. Mountain Street, Fayetteville, Arkansas 72701 ("City"), and Botanical Garden Society of the Ozarks an Arkansas (corporation/limited liability company) with its principal offices at 4703 North Crossover Rd Fayetteville AR 72764 ("Borrower"), herein collectively referred to as the "parties".

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

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

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

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

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

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

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

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

(a) Borrower's failure to pay the City the costs incurred by the City for energy efficiency upgrades to the property;

(b) Borrower's failure to execute a promissory note payable to the City in the total amount of the cost of the energy efficiency upgrades to the property;

(c) Borrower's failure to observe, perform, or comply with any non-monetary conditions or covenants of this Agreement, including failure to abide by applicable local, state or federal law, or applicable federal grant requirements of the City, or any other condition of the fund;

(d) Any change in the status of the Borrower as an Arkansas corporation or limited liability company authorized to do business in the State of Arkansas;

(e) Borrower's failure to pay any debt when due or Borrower's filing for bankruptcy protection under Title 11, United States Code.

(f) Any sale, pledge, assignment, transfer or hypothecation of the property in any manner without the City's prior written consent;

(g) Borrower's failure to comply with any requirement relating to its corporate status or qualification; and

(h) Borrower's failure to comply with any condition, requirement or purpose of the City's fund, as created and authorized pursuant to federal grant funding provided pursuant to the American Recovery and Reinvestment Act of 2009 and applicable federal regulations.

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

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

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

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

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

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

To Borrower: Ron Cox, Executive Director
Botanical Garden of the Ozarks
PO Box 10407
Fayetteville AR 72703

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

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

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

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

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

CITY OF FAYETTEVILLE, ARKANSAS,
An Arkansas Municipal Corporation

By:_____
Mayor

Attest:_____
City Clerk/Treasurer

Botanical Garden Society of the Ozarks, Inc
An Arkansas corporation/limited liability company

By: Ronald Cox
Name
Authorized Agent

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____, by and between the City of Fayetteville, Arkansas and NWA Entertainment, LLC, Witnesseth:

WHEREAS, NWA Entertainment, LLC, will be hiring an engineer for the design and a contractor for the construction of the Arkansas Music Pavilion at the southwest corner of the Northwest Arkansas Mall property; and

WHEREAS, there is an existing 8" water line on the west side of this site that connects to the 8" main along Steele Blvd. The developer will be extending this 8" main through the project site to provide service and fire protection to the Arkansas Music Pavilion development; and

WHEREAS, there is an existing system of water mains that serves the businesses on Mall Avenue, Steele Boulevard, and other businesses in the area. One such main ends approximately 850 feet east of the Arkansas Music Pavilion development; another main ends approximately 115 feet west of the proposed Arkansas Music Pavilion water main extension. This entire network of mains create numerous dead ends; and

WHEREAS, it will benefit the City of Fayetteville to extend this 8" water main to connect to the existing mains west and east of the development at the same time, designed by the same engineer and installed by the same contractor. These extensions will create a loop in this area and prevent numerous businesses, including the Mall, from having the water shut off in case of a water main break, and will improve the long term water quality of service in the area.

NOW, THEREFORE, the City of Fayetteville and NWA Entertainment, LLC agree as follows:

1. Upon the City Council and/or the Mayor approving the Water Main Cost-Share, the City of Fayetteville agrees to:

   A. Pay for 50% of the actual documented construction costs & engineering costs for the 8" water main loop proposed with this development.

   B. Pay a maximum-not-to-exceed cost of $75,255.00 for the afore mentioned water main construction as was provided by NWA Entertainment, LLC engineer and made a part of this agreement.

   C. Reconsider the costs if the future and actual construction & engineering prices exceed the maximum-not-to-exceed amount that was furnished by NWA Entertainment, LLC. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.

D. Make all efforts to provide payment to NWA Entertainment, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.

2. NWA Entertainment, LLC agrees to:

A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable water main installation.

B. Provide a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor upon acceptance of the water main installation.

C. Not proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and/or the Mayor.

3. It is further understood that the contract for construction is between NWA Entertainment, LLC and his Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of $75,255.00 for the water main installation.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

CITY OF FAYETTEVILLE

By:_____
LIONELD JORDAN, Mayor

NWA Entertainment, LLC

By:_____

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
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Ward 4 Position 1 – Rhonda Adams
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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.

Unfinished Business:

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

Added at the City Council Meeting 10/18/11

AGENDA REQUEST

FOR: COUNCIL MEETING OF OCTOBER 18, 2011

FROM:

CHRIS BROWN, CITY ENGINEER CB
KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution Approving A Settlement Agreement With Patrick J. Tobin, Trustee Of The Patrick J. Tobin Revocable Living Trust U/D/T March 4, 1997, Concerning Condemnation Litigation Filed As Part Of The Township Street Widening Project, In The Total Amount Of $60,000.00

APPROVED FOR AGENDA:

City Engineer — Date 10/17/11

Development Services Director — Date 10.17.2011

Assistant City Attorney — Date 10/17/11

10-17-11P04:51 RCVD

Chief of Staff — Date 10/17/11

Mayor — Date 10/17/11

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
ENGINEERING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

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

From: Chris Brown, City Engineer CB

Date: October 17, 2011

Subject: A Resolution approving a Settlement Agreement in the Amount of $60,000 with the Patrick J. Tobin Revocable Living Trust, Concerning Condemnation Litigation Filed as part of the Township Widening Project

PROPOSAL:

The Township Street Widening Project was constructed as part of the Capital Improvement Program. Construction consisting of widening approximately 2100 linear feet of Township Street to 3 lanes from Gregg Avenue to N. College Ave. (Hwy 71B), the installation of an underground storm drainage system including a double 10'x8' reinforced concrete box culvert, the construction of 6 foot sidewalks on both sides of the roadway, and the installation of an 8" waterline on the north side was completed in 2010.

Prior to construction beginning in 2009, right of way and easements needed from the Patrick J. Tobin Revocable Living Trust were acquired by eminent domain. Since that time, the City Attorney and other City staff members have worked to try and settle the case in a fair and equitable manner for both the Tobin Trust and the City.

Mr. Tobin has offered to settle the case for $60,000 in cash payment, plus widening their driveway closest to Green Acres Road by 10 feet. The attached memo from Assistant City Attorney Jason Kelley provides details of efforts to settle the case over the past two years.

RECOMMENDATION:

Staff recommends approval of the settlement with Mr. Tobin, to include a total cash payment of $60,000 and widening the driveway nearest to Green Acres Road on the property by 10 feet.

BUDGET IMPACT:

Approximately $217,273 remains in the Township Street Project, after the $43,500 paid into the Court. The additional $16,500 required to complete the payment to the Tobin Trust, along with the estimated $3,000 in construction costs for driveway widening will be taken from the remaining project funds.

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

MEMORANDUM

TO: MAYOR & CITY COUNCIL

FROM: JASON B. KELLEY, ASST. CITY ATTORNEY

CC: KIT WILLIAMS, CITY ATTORNEY
CHRIS BROWN, CITY ENGINEER
JEREMY PATE, DIRECTOR OF DEVELOPMENT SERVICES
DON MARR, CHIEF OF STAFF

DATE: OCTOBER 17, 2011

RE: TOBIN CONDEMNATION/TOWNSHIP STREET WIDENING PROJECT

In 2009, as part of the City's project to widen and improve Township Street, the City Council authorized condemnation litigation against Patrick J. Tobin (as Trustee) for the acquisition of necessary right of way and easements across his property along the north side of Township Street near its intersection with Green Acres Drive. My predecessor, David Whitaker, filed this litigation on behalf of the City nearly two and a half years ago. The City obtained the necessary right of way and easements from the court when the case was filed, and the entire project has long since been completed.

To date, the City had been unable to suitably settle the matter of just compensation with Mr. Tobin. The valuation of the City's taking has been a hotly contested issue. For purposes of filing the condemnation litigation, the City obtained an appraisal valuing the taking from Mr. Tobin at $5,665.00. Mr. Tobin obtained his own appraisal which valued the taking at $196,700.00. This wide disparity in values is the reason this case is now in its third year of litigation.

After depositions, other written discovery, lengthy settlement discussions, and an attempt at mediation, City staff and I believed it to be prudent to obtain an additional appraisal. After slightly modifying a planned drainage easement, the City's new appraisal (from a third appraiser) valued the taking from Mr. Tobin at $43,500.00. We then modified our condemnation suit and placed an additional $37,835.00 on deposit with the court (Initial $5,665 + Additional $37,835 = Total $43,500).

Mr. Tobin has now offered to settle the case for total cash compensation of $60,000.00. It is my opinion that the City should accept this offer. With the wide disparity in appraisals, a jury might try to "split the difference" and return an average amount. This is an unacceptable risk, given the City is now in a position to resolve the matter for a further payment of $16,500.00. We would also save litigation costs if we accept this settlement offer since our appraiser would otherwise have to testify as an expert witness.

Mr. Tobin has now agreed to settle for less than one third of his appraiser's valuation. Although I still believe the City's current appraisal is a more accurate valuation, it is only 27.5% less than the offered settlement by Mr. Tobin. Therefore, I recommend that the City Council accept this settlement offer.

RESOLUTION NO. _____

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT WITH PATRICK J. TOBIN, TRUSTEE OF THE PATRICK J. TOBIN REVOCABLE LIVING TRUST U/D/T MARCH 4, 1997, CONCERNING CONDEMNATION LITIGATION FILED AS PART OF THE TOWNSHIP STREET WIDENING PROJECT, IN THE TOTAL AMOUNT OF $60,000.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an agreement with Patrick J. Tobin, Trustee of the Patrick J. Tobin Revocable Living Trust u/d/t March 4, 1997, in a total amount of $60,000.00 as full and final settlement of condemnation litigation (City of Fayetteville v. Tobin, Washington County Circuit Court Case No. CV 2009-2086-4) filed as part of the Township Street Widening Project.

Section 2: That the City Council of the City of Fayetteville, Arkansas, in furtherance of the settlement, hereby approves payment of an additional $16,500.00 over and above the $43,500.00 placed on deposit with the court.

PASSED and **APPROVED** this 18th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

WOODRUFF LAW FIRM
P. O. Drawer 1866
Fayetteville, Arkansas 72702-1866
(479) 444-8444

Office Location:
34 E. Center
FAX: (479) 444-6667

Ronald G. Woodruff
Marsha C. Woodruff

October 14, 2011

Fax: 479-575-8315
ATTN: Jason Kelley

Re: City v. Tobin
Washington Co. Circuit # CV 09-2086-4

Pat Tobin proposes to settle all issues in the above styled and captioned cause of action as follows:

> $60,000.00, plus the City will widen the driveway on Township by ten foot (i.e. 5 foot on the east side and 5 foot on the west).

Ron

KIT WILLIAMS
FAYETTEVILLE CITY ATTORNEY

JASON B. KELLEY
Assistant City Attorney

Judy Housley
Office Manager

Phone (479) 575-8313
FAX (479) 575-8315
TDD (479) 521-1316

113 W. Mountain, Suite 302
Fayetteville, AR 72701-6083

October 17, 2011

Ron Woodruff, Esq.
Woodruff Law Firm
VIA FACSIMILE 479-444-6667

Re: City of Fayetteville v. Tobin
Washington County Circuit Court Case No. CV 09-2086-4

Dear Ron:

Subject to approval of the Mayor and City Council, the City accepts Mr. Tobin's offer to settle the above-referenced litigation as stated in your faxed letter of October 14, 2011.

To summarize, the City will pay total cash compensation to Mr. Tobin in the amount of $60,000.00. The amount of $43,500.00 has already been placed on deposit with the court. The City will agree that all deposit funds should be paid over to Mr. Tobin. The City will make an additional payment directly to Mr. Tobin in the amount of $16,500.00 (Initial deposit $5,665 + Additional deposit upon amending complaint $37,835 + cash payment directly to Mr. Tobin $16,500 = $60,000). Additionally, the City will widen the driveway on the subject property nearest the intersection of Township Street and Green Acres by ten feet (five feet on each side).

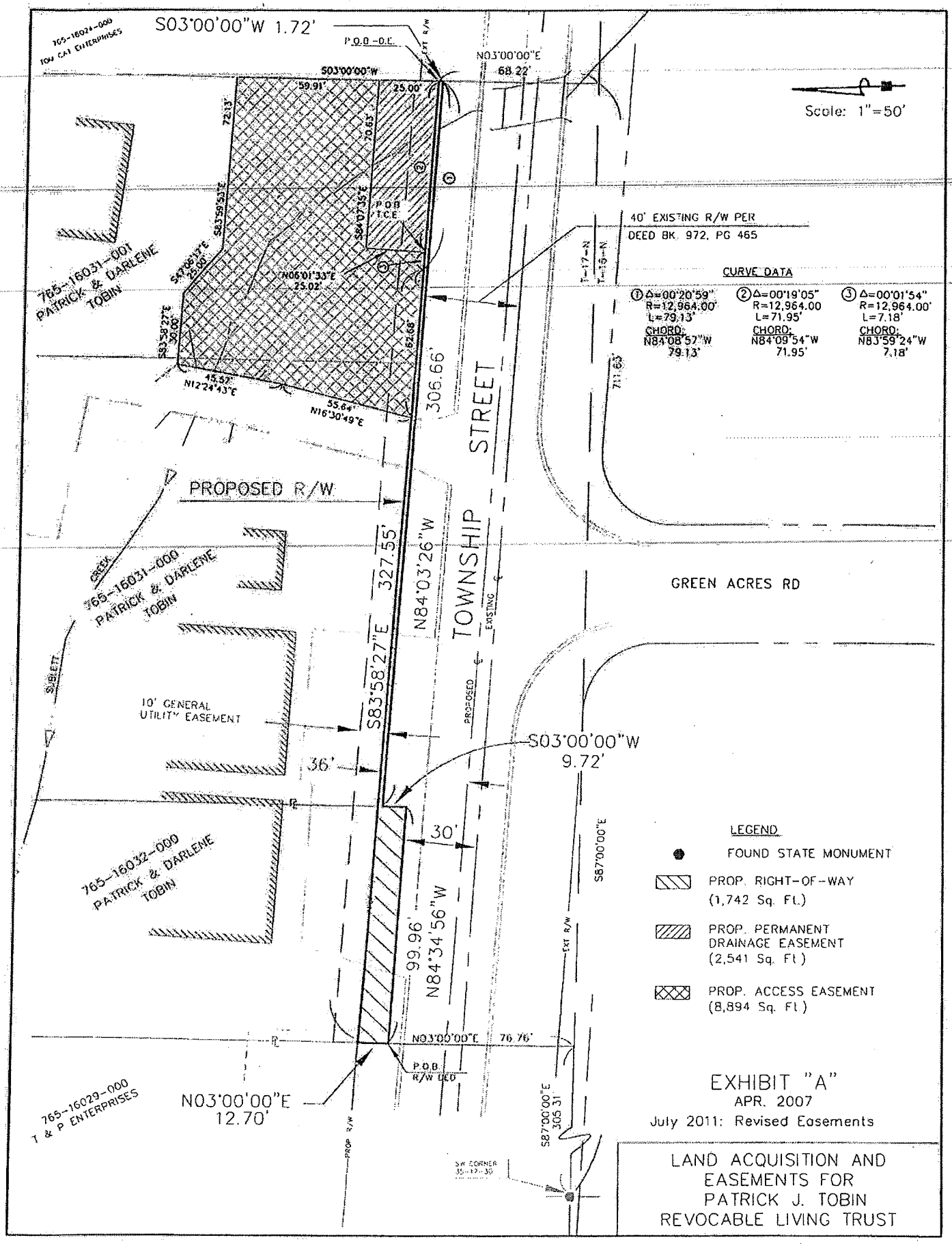
We will bring this proposed settlement to the Fayetteville City Council tomorrow, October 18, 2011. Assuming the Council and Mayor approve, I will draft a dismissal precedent for Judge Mason directing all registry funds remaining be paid to Mr. Tobin. I will also begin the process of having a check issued for the additional $16,500.00. We will need deeds signed, and I will make sure those are prepared and forwarded to you for signature. Once the deeds are ready, we will trade the deeds for the check.

Please contact me concerning this matter should the need arise.

Sincerely,

Jason B. Kelley
Assistant City Attorney

cc: C. Brown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PATRICK & DARLENE
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T-17-N
T-16-N
CURVE DATA
① Δ=00°20'59" R=12,964.00' L=79.13' CHORD: N84°08'57"W 79.13'
② Δ=00°19'05" R=12,964.00 L=71.95' CHORD: N84°09'54"W 71.95'
③ Δ=00°01'54" R=12,964.00' L=7.18' CHORD: N83°59'24"W 7.18'
711.63'
PROPOSED R/W
TOWNSHIP STREET
EXISTING
PROPOSED
GREEN ACRES RD
765-16031-000
PATRICK & DARLENE
TOBIN
CREEK
S83°58'27"E 327.55'
N84°03'26"W
S SECT
10' GENERAL
UTILITY EASEMENT
36'
S03°00'00"W
9.72'
30'
765-16032-000
PATRICK & DARLENE
TOBIN
S87°00'00"E
EXT R/W
99.96'
N84°34'56"W
N03°00'00"E 76.76'
P.O.B.
R/W DED
765-16029-000
T & P ENTERPRISES
N03°00'00"E
12.70'
PROP R/W
S87°00'00"E
305.31'
SW CORNER
35-17-35
LEGEND
FOUND STATE MONUMENT
PROP. RIGHT-OF-WAY
(1,742 Sq. Ft.)
PROP. PERMANENT
DRAINAGE EASEMENT
(2,541 Sq. Ft.)
PROP. ACCESS EASEMENT
(8,894 Sq. Ft.)
EXHIBIT "A"
APR. 2007
July 2011: Revised Easements
LAND ACQUISITION AND
EASEMENTS FOR
PATRICK J. TOBIN
REVOCABLE LIVING TRUST

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 18, 2011

A meeting of the Fayetteville City Council will be held on October 18, 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 October 4, 2011 City Council meeting minutes.

2. **Animal Services Division Donation Revenue:** A resolution approving a budget adjustment in the amount of $31,943.12 representing citizen donation revenue to the Animal Services Division for the first, second and third quarters of 2011.

3. **Botanical Garden of the Ozarks:** A resolution approving a participation and unsecured loan agreement with the Botanical Garden of the Ozarks to install ten (10) LED lights and poles in the amount of $34,911.38 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

4. **Bid #10-36 Premier Lighting Group:** A resolution authorizing purchase of ten (10) additional LED fixtures and poles in the amount of $19,042.28 pursuant to Bid #10-36, from Premier Lighting Group for installation at the Botanical Garden of the Ozarks as part of the Community Revolving Loan Fund for Energy Efficiency Program.

B. Unfinished 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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   Left on the Second Reading

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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   Left on the Second Reading

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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   Left on the Second Reading

C. New Business:

1. **VAC 11-3931 (510 W. 11th St. & 989 S. School Ave./Campus Crest):** An ordinance approving VAC 11-3931 submitted by Morrison Shipley Engineers, Inc. for property located at 510 West 11th Street and 989 South School Avenue to vacate unconstructed street right-of-way.

2. **VAC 11-3940 (Summit Place Subdivision):** An ordinance approving VAC 11-3940 submitted by Coover Consultants for property located in the Summit Place Subdivision to vacate a portion of a utility easement throughout the subdivision.

3. **ADM 11-3934 (Amend UDC Chapters 164.12 and 164.13):** An ordinance amending the Unified Development Code of the City of Fayetteville related to Nonconforming Uses and Structures and Non Residential Uses in R Districts.

4. **NWA Entertainment, LLC:** An ordinance waiving competitive bidding and approving a cost-share agreement with NWA Entertainment, LLC in the amount of $75,255.00 for water line design and construction for the Arkansas Music Pavilion.

D. City Council Agenda Session Presentations:

1. **Annual Parking Update – First Year Report – Terry Gulley, Sharon Waters and Don Marr**

City Council Tour:
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

10/18/2011
City Council Meeting Date
Agenda Items Only

Justine Middleton	Community Services	Development Services
Submitted By	**Division**	**Department**

Action Required:

Approval of Budget Adjustment budgeting the Donation Revenue Balance for the first, second, and third quarters of 2011 in the amount of $31,943.12.

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

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

Department Director — 09.28.2011 Date

City Attorney — 9-29-11 Date

Finance and Internal Services Director — 9-29-2011 Date

Chief of Staff — 10-3-11 Date

Mayor — 10/3/11 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 09-28-11 P04:36 RCVD Kim O.

Received in Mayor's Office ENTERED 9/29/11 AM

Comments: Staff recommends approval of this budget adjustment.

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Yolanda Field, Dir. Community Services; Jeremy Pate, Dir. Community Development

From: Justine Middleton, Animal Services Superintendent

Date: September 28, 2011

Subject: Approval of a Budget Adjustment for Animal Services Division

PROPOSAL:

Animal Services would like to recognize donation revenue from the first, second, and third quarters of 2011. These funds are donated by private citizens and organizations to benefit the animals cared for by Animal Services.

RECOMMENDATION:

Staff recommends approval of a budget adjustment to budget the Animal Services Donation Revenue for the first, second, and third quarters of 2011.

BUDGET IMPACT:

Recognize Animal Shelter Donations in the amount of $31943.12.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $31,943.12 REPRESENTING CITIZEN DONATION REVENUE TO THE ANIMAL SERVICES DIVISION FOR THE FIRST, SECOND AND THIRD QUARTERS OF 2011

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A", in the amount of $31,943.12 representing citizen donation revenue to the Animal Services Division for the first, second and third quarters of 2011.

PASSED and **APPROVED** this 18th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Division: Animal Services Department: Development Services	Request Date	Adjustment Number
2011		9/28/2011	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Recognizing donation revenue to the Fayetteville Animal Shelter from the first, second, and third quarters of 2011.

Division Head	Date	Prepared By:	Justine Middleton jmiddleton
Budget Director	Date	Reference:	
Department Director	09.28.2011 Date	Budget & Research Use Only Type: A B C D E P	
Finance Director	9-28-2011 Date	General Ledger Date	
Chief of Staff	10-3-11 Date	Posted to General Ledger	Initial / Date
Mayor	10/3/11 Date	Checked / Verified	Initial / Date

TOTAL BUDGET ADJUSTMENT 31,943 31,943

Account Name	Account Number	Increase / (Decrease) Expense	Increase / (Decrease) Revenue	Project.Sub Number
Donations-Animal Shelter	1010.0001.4808.00		31,725	03048 . 1
Donation-AnShelSpay/Neute	1010.0001.4808.01		218	03049 . 1
Veterinary supplies	1010.2740.5200.03	25,983		03048 . 1
Veterinary supplies	1010.2720.5200.03	218		03049 . 1
Office supplies/printing	1010.2740.5200.00	5,742		03048 . 1

EXHIBIT
tabbies
A

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

10/18/2011
City Council Meeting Date
Agenda Items Only

John Coleman		Sustainability & Strategic Planning
Submitted By	**Division**	**Department**

Action Required:

A resolution to approve an agreement with the Botanical Garden of the Ozarks to install ten (10) LED lights and poles in the amount of $34,911.38 through the Community Revolving Loan Fund. The project will light the garden area and allow for expanded hours at BGO. The project is funded by the Energy Efficiency and Conservation Block Grant.

$ 34,911.38	$ 220,000.00	Energy Block Grant
Cost of this request	Category / Project Budget	Program Category / Project Name
2240.9240.5342.99	$ 16,866.36	Energy Block Grant
Account Number	Funds Used to Date	Program / Project Category Name
09011.0020	$ 203,133.64	Energy Block Grant
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director	9/30/11 Date	Previous Ordinance or Resolution #
City Attorney	9/30/11 Date	Original Contract Date:
Finance and Internal Services Director	9-30-2011 Date	Original Contract Number:
Chief of Staff	10-3-11 Date	
Mayor	10/4/11 Date	

Received in City Clerk's Office 09-30-11 P02:22 RCVD

Received in Mayor's Office ENTERED 10/3/11

Comments:

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

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

CORRESPONDENCE

TO:	Lioneld Jordan, Mayor
FROM:	John Coleman, Director of Sustainability & Strategic Planning JC
Thru:	Don Marr, Chief of Staff
DATE:	September 30, 2011
SUBJECT:	Community Revolving Loan Fund – Botanical Garden of the Ozarks

Description

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

The purpose of this resolution is to approve an agreement in the amount of $34,911.38 with the Botanical Garden of the Ozarks. Through this agreement the City will pay for energy efficient lighting and set a schedule for repayment. The scope of work includes ten (10) LED light fixtures and poles to light the garden area utilizing Resolution 102-10 with Premier Lighting Group. The scope also includes electrical wiring and installation of lights through an annual service contract with King Electrical Contractors.

Budget Impact

The $34,911.38 cost of the project will be paid for by Energy Efficiency and Conservation Block Grant funding as obtained by the City of Fayetteville in September 2009.

RESOLUTION NO. _____

A RESOLUTION APPROVING A PARTICIPATION AND UNSECURED LOAN AGREEMENT WITH THE BOTANICAL GARDEN OF THE OZARKS TO INSTALL TEN (10) LED LIGHTS AND POLES IN THE AMOUNT OF $34,911.38 AS PART OF THE CITY OF FAYETTEVILLE COMMUNITY REVOLVING LOAN FUND FOR ENERGY EFFICIENCY

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a participation and unsecured loan agreement with the Botanical Garden of the Ozarks in the amount of $34,911.38 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

PASSED and **APPROVED** this 18th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

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

THIS AGREEMENT, made and entered this _____ day of _____, 20____, by and between the City of Fayetteville, Arkansas, an Arkansas municipal corporation with its principal offices at 113 W. Mountain Street, Fayetteville, Arkansas 72701 ("City"), and _____, an Arkansas (corporation/limited liability company) with its principal offices at _____ ("Borrower"), herein collectively referred to as the "parties".

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

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

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

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

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

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

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

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

(a) Borrower's failure to pay the City the costs incurred by the City for energy efficiency upgrades to the property;

(b) Borrower's failure to execute a promissory note payable to the City in the total amount of the cost of the energy efficiency upgrades to the property;

(c) Borrower's failure to observe, perform, or comply with any non-monetary conditions or covenants of this Agreement, including failure to abide by applicable local, state or federal law, or applicable federal grant requirements of the City, or any other condition of the fund;

(d) Any change in the status of the Borrower as an Arkansas corporation or limited liability company authorized to do business in the State of Arkansas;

(e) Borrower's failure to pay any debt when due or Borrower's filing for bankruptcy protection under Title 11, United States Code.

(f) Any sale, pledge, assignment, transfer or hypothecation of the property in any manner without the City's prior written consent;

(g) Borrower's failure to comply with any requirement relating to its corporate status or qualification; and

(h) Borrower's failure to comply with any condition, requirement or purpose of the City's fund, as created and authorized pursuant to federal grant funding provided pursuant to the American Recovery and Reinvestment Act of 2009 and applicable federal regulations.

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

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

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

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

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

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

To Borrower: _____
_____
_____

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

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

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

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

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

CITY OF FAYETTEVILLE, ARKANSAS,
An Arkansas Municipal Corporation

By:_____
Mayor

Attest:_____
City Clerk/Treasurer

_____,
An Arkansas corporation/limited liability company

By:_____
Name
Authorized Agent

COMMUNITY REVOLVING LOAN FUND FOR ENERGY EFFICIENCY
UNSECURED NOTE

$ 34,911.38

29th day of September, 20 11

FAYETTEVILLE, ARKANSAS

FOR VALUE RECEIVED, the undersigned (the "Borrower") promises to pay to the order of THE CITY OF FAYETTEVILLE, ARKANSAS ("Payee"), the principal sum of Thirty-four thousand nine hundred eleven and 38/100 ($34,911.38). Provided that no event of default exists hereunder, this Promissory Note shall bear interest from the date of this Promissory Note at the rate of ONE percent (1 %) per annum. In the event of a default hereunder, this Promissory Note shall bear interest at the maximum rate of interest allowable under the laws of the state of Arkansas. This Promissory Note shall become due and payable, as follows:

> Principal and interest shall be due and payable in Forty (40) consecutive monthly/quarterly (select one) installments of $881.51 each. The first such installment shall be due and payable on January 6, 2012 and each successive monthly installment shall be due and payable on the first day of each calendar month thereafter until this Promissory Note is paid in full. All payments shall be applied first to interest and the balance to principal.

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

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

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

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

If to Payee:

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

If to Borrower:

Ron Cox, Executive Director
P.O. Box 10407
Fayetteville, AR 72703

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

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

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

BORROWER:

Botanical Garden Society of the Ozarks

By: Walt Fulton
AUTHORIZED AGENT
BGSO, Chair

BGO LEDs

1 message

John Coleman <jcoleman@ci.fayetteville.ar.us> **Fri, Sep 23, 2011 at 11:12 AM**
To: Mikel Lolley <mikel.lolley@gmail.com>

Cost for poles & LEDs = $19,042.28

KING ELECTRICAL CONTRACTORS
2145 W MOORE LANE
FAYETTEVILLE AR 72701
479-443-0006 FAX 479-443-1719
Email Chris@ckingelectric.net

PROPOSAL

TO: City of Fayetteville	PHONE	DATE 9-19-11
	JOB NAME Botanical Garden Pole Lights and Bollards	

JOB DESCRIPTION

Furnish and install wiring for 10 pole lights and 0 bollard lights. Includes ditch by walk behind trencher, 5-bores under obstacles, conduit, wire, pole bases, breakers. Lights to be fed from existing breaker boxes, lights to be turned on and off by breakers.

Does not include light poles, fixtures or lamps. Does not include removing plants for ditch digging, replace plants, sod, seeding or maintaining trench backfill.

Botanical garden will be responsible for clearing area for trencher, pole bases, equipment paths, and restoring areas of construction back to original.

Contractors License #0063870412

PROPOSAL GOOD FOR 30 DAYS	DOLLARS: Base Bid $15,869.10
TERMS: PAYMENT DUE UPON RECEIPT OF INVOICE A FINANCE CHARGE WILL BE CHARGED ON ALL PAST DUE ACCOUNTS OF .0833% PER MONTH. ALL ATTORNEY FEES WILL BE COLLECTED ON PAST DUE ACCOUNTS.	AUTHORIZED SIGNATURE
THE ABOVE PRICES SPECIFICATIONS AND CONDITIONS ARE SATISFACTORY AND ARE HEREBY ACCEPTED. YOU ARE AUTHORIZED TO DO WORK AS SPECIFIED. PAYMENT WILL BE MADE AS OUTLINED ABOVE.	ACCEPTANCE SIGNATURE

Proposal

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

City of Fayetteville

Attn:

Date 9/21/2011
Job Name: Fayetteville Botanical Gardens LED lighting
Descriptior

	Botanical Gardens 10 Poles and 0 Bollards	
Material		$7,713.00
Tax		$713.45
Total		$8,426.45
MU 10%		$842.65
Grand Total Material		$9,269.10
Labor	$30.00	
Hours	120.00	$3,600.00
Labor	$25.00	
Hours	120.00	$3,000.00
Grand Total Material and Labor		$15,869.10

RESOLUTION NO. 102-10

A RESOLUTION AWARDING BID #10-36 AND APPROVING THE PURCHASE OF THIRTY-TWO (32) LED LIGHT FIXTURES AND POLES IN THE AMOUNT OF $60,935.28 FROM DYNAMIC LIGHTING SOLUTIONS FOR INSTALLATION AS PART OF THE BLOCK STREET IMPROVEMENT PROJECT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #10-36 and approves the purchase of thirty-two (32) LED light fixtures and poles in the amount of $60,935.28 from Dynamic Lighting Solutions for installation as part of the Block Street Improvement Project.

PASSED and **APPROVED** this 15th day of June, 2010.

APPROVED: ATTEST:

By: _____ By: _____
LIONELD JORDAN, Mayor **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~~ 10/18/2011
City Council Meeting Date
Agenda Items Only

John Coleman		Sustainability & Strategic Planning
Submitted By	Division	Department

Action Required:

Staff requests approval of a resolution for the purchase of ten (10) LED fixtures and poles in the amount of $19,042.28 utilizing Resolution 102-10 (Bid 10-36) from Premier Lighting Group to be installed at the Botanical Garden of the Ozarks.

$19,042.28	$ 220,000.00	Energy Block Grant
Cost of this request	Category / Project Budget	Program Category / Project Name
2240.9240.5342.99	$ -	Energy Block Grant
Account Number	Funds Used to Date	Program / Project Category Name
09011.0020	$ 220,000.00	Energy Block Grant
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — 7/9/11 Date

City Attorney — 10/3/11 Date

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

Chief of Staff — 10-4-11 Date

Mayor — 10/5/11 Date

Previous Ordinance or Resolution # 102-10

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office 09-30-11 P02:22 RCVD
Kim B.

Received in Mayor's Office ENTERED 10/3/11 TH

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

From: John Coleman, Sustainability & Strategic Planning Director JC

Date: September 9, 2011

Subject: Botanical Garden LED – Community Revolving Loan Fund

PROPOSAL:

Staff requests approval of a resolution for the purchase of ten (10) LED fixtures and poles in the amount of $19,042.28 utilizing Resolution 102-10 (Bid 10-36) from Premier Lighting Group to be installed at the Botanical Garden of the Ozarks.

The purchase of the LED fixtures was advertised on March 17, 2010 as Bid #10-36 with official bids received on April 9, 2010. Premier Lighting Company was low bid. The official bid tab is attached as well as the original resolution.

The LEDs will light the Botanical Garden of the Ozarks thus providing greater flexibility in hours of operation.

BUDGET IMPACT:

The LED fixtures will be purchased using funds from the Energy Efficiency and Conservation Block Grant as part of the American Recovery and Reinvestment Act (ARRA) in the amount of $19,042.28.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING PURCHASE OF TEN (10) ADDITIONAL LED FIXTURES AND POLES IN THE AMOUNT OF $19,042.28 PURSUANT TO BID 10-36, FROM PREMIER LIGHTING GROUP FOR INSTALLATION AT THE BOTANICAL GARDEN OF THE OZARKS AS PART OF THE COMMUNITY REVOLVING LOAN FUND FOR ENERGY EFFICIENCY PROGRAM

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 purchase of ten (10) additional LED fixtures and poles in the amount of $19,042.28 pursuant to bid 10-36 from Premier Lighting Group for installation at the Botanical Garden of the Ozarks as part of the Community Revolving Loan Fund for Energy Efficiency Program.

PASSED and **APPROVED** this 18th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

P-Cards shall be used when possible. If a vendor does not accept P-Card, please note at the bottom (Call x256 with questions)

All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.:			Date: 9/9/2011
P.O Number:			Expected Delivery Date
Vendor #	Vendor Name: Premier Lighting	Mail Yes:__ No:____	
Address: 8040 B Counts Massie Road		Fob Point:	Taxable Yes:_ No:____
			Quotes Attached Yes:___x__
City: North Little Rock	State: AR	Zip Code: 72113	Ship to code:
Requester: John Coleman		Requester's Employee #: 2974	Divison Head Approval:
			Extension: 272

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #
1	**Bid 10-36 - LEDs**	**10**	**EA**	**1,743.00**	**$17,430.00**			
2								
3								
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:	**$17,430.00**
Tax:	**$1,612.28**
Total:	**$19,042.28**

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ Chief Of Staff: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

RESOLUTION NO. 102-10

A RESOLUTION AWARDING BID #10-36 AND APPROVING THE PURCHASE OF THIRTY-TWO (32) LED LIGHT FIXTURES AND POLES IN THE AMOUNT OF $60,935.28 FROM DYNAMIC LIGHTING SOLUTIONS FOR INSTALLATION AS PART OF THE BLOCK STREET IMPROVEMENT PROJECT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #10-36 and approves the purchase of thirty-two (32) LED light fixtures and poles in the amount of $60,935.28 from Dynamic Lighting Solutions for installation as part of the Block Street Improvement Project.

PASSED and **APPROVED** this 15th day of June, 2010.

APPROVED: ATTEST:

By: _____ By: _____
LIONELD JORDAN, Mayor **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

6/15/2010
City Council Meeting Date
Agenda Items Only

John Coleman		Sustainability
Submitted By	**Division**	**Department**

Action Required:

Approve the purchase of 32 LED fixtures and 32 poles from Dynamic Lighting Solutions for Block Avenue project.

$39,399.92 (lights) $21,535.36 (poles) Cost of this request	$150,000 $ 525,860.00 Category / Project Budget	Energy Block Grant Block Avenue Program Category / Project Name
2240.9240.5315.00 (lights) 4470.9470.5210.00 (Poles) Account Number	$18,483.27 (lights) $ 81,797.61 Funds Used to Date	Energy Block Grant Block Avenue Program / Project Category Name
09011.0030 (lights) 02053.001 (Poles) Project Number	$131,516.73 (lights) $ 444,062.39 Remaining Balance	Energy Block Grant Block Avenue Fund Name

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

Department Director — 6/3/10 Date

City Attorney — 6-3-10 Date

Finance and Internal Services Director — 6-3-2010 Date

Chief of Staff — 6-3-10 Date

Mayor — 6/4/10 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office — ENTERED 6-3-10

Received in Mayor's Office — ENTERED 6/3/10

Comments:

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

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

CORRESPONDENCE

TO: Mayor Jordan and City Council
FROM: John Coleman, Sustainability Director
Thru: Jeremy Pate, Development Services Director
Don Marr, Chief of Staff
DATE: May 28, 2010
SUBJECT: Block Avenue Lights

Project Description

Using funds from the Energy Efficiency and Conservation Block Grant (EECBG) as part of the American Recovery and Reinvestment Act (ARRA), the City is set to purchase 32 LED lights at a cost of $9,399.92 from Dynamic Lighting Solutions. Funds from the Block Avenue project will cover the $21,535.36 cost for the 32 poles. The lights and poles will be installed on Block Avenue.

Background

In September 2009, the City was awarded $724,900 for energy efficiency and renewable energy projects. As part of the grant application, the City committed $150,000 from the grant towards the installation of LED street, pedestrian, and trail lights as part of a gradual transition towards using this technology exclusively.

The intent of the EECBG program is to push the market towards emerging technologies such as LEDs. As we have seen with LED traffic lights in Fayetteville, the Block Avenue LEDs are expected to last ten years or more, reduce energy consumption by greater than fifty percent, and reduce long-term maintenance requirements.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #10-36 AND APPROVING THE PURCHASE OF THIRTY-TWO (32) LED LIGHT FIXTURES AND POLES IN THE AMOUNT OF $60,935.28 FROM DYNAMIC LIGHTING SOLUTIONS FOR INSTALLATION AS PART OF THE BLOCK STREET IMPROVEMENT PROJECT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #10-36 and approves the purchase of thirty-two (32) LED light fixtures and poles in the amount of $60,935.28 from Dynamic Lighting Solutions for installation as part of the Block Street Improvement Project.

PASSED and **APPROVED** this 15th day of June, 2010.

APPROVED: ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

P-Cards shall be used when possible. If a vendor does not accept P-Card, please note at the bottom (Call x256 with questions)

All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Vendor #: NEW	Vendor Name: DYNAMIC LIGHTING SOLUTIONS						Requisition No.:	Date:	
							P.O Number:	Expected Delivery Date:	
Address: 5220 SHANK ROAD				Fob Point:			Mail Yes:__ No:__	BLOCK AVENUE LIGHTS	
							Taxable Yes: x No:__	Quotes Attached Yes:__ No:__	
City: PEARLAND	State: TX			Zip Code: 77581	Ship to code: 217		Divison Head Approval:		
Requester: JOHN COLEMAN				Requester's Employee #: 2974			Extension: 272		

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Lights for Block Ave.	32	each	1,127.00	$36,064.00	2240.9240.5315.00	09011.0030		
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:

Per Bid 10-36, Block Ave. LED Lighting Equipment

Subtotal:	$36,064.00
Tax:	$3,335.92
Total:	$39,399.92

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ Chief Of Staff: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 07.06.09

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

P-Cards shall be used when possible. If a vendor does not accept P-Card, please note at the bottom (Call x256 with questions)

All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.:		Date:	
P.O Number:		Expected Delivery Date:	
Vendor #: NEW	Vendor Name: DYNAMIC LIGHTING SOLUTIONS	Mail Yes:__ No:___	BLOCK AVENUE POLES
Address: 5220 SHANK ROAD	Fob Point:	Taxable Yes: x No:___	Quotes Attached Yes:___ No:___
City: PEARLAND	State: TX	Zip Code: 77581 / Ship to code: 217	Divison Head Approval:
Requester: JOHN COLEMAN	Requester's Employee #: 2974	Extension: 272	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	POLES for street lights on Block Ave.	32	each	616.00	$19,712.00	4470.9470.5210.00	02053.1001		
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:

Per Bid 10-36, Block Ave. LED Lighting Equipment; POLES for street lights

Subtotal:	$19,712.00
Tax:	$1,823.36
Total:	$21,535.36

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ Chief Of Staff: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: 479.575.8220
TDD (Telecommunication Device for the Deaf): 479.521.1316

INVITATION TO BID

INVITATION TO BID: BID 10-36, Block Avenue LED Lighting Equipment
DEADLINE: Friday, April 9, 2010 at 2:00 PM, Central Standard Time
DELIVERY LOCATION: Room 306 – 113 W. Mountain, Fayetteville, AR 72701
PURCHASING AGENT: Andrea Foren, CPPB, aforen@ci.fayetteville.ar.us, 479.575.8220
DATE OF ISSUE AND ADVERTISEMENT: Wednesday, March 17, 2010

INVITATION TO BID
BID 10-36, Block Avenue LED Lighting Equipment

No late bids will be accepted. All bids shall be submitted in sealed envelopes labeled "Bid 10-36, Block Avenue LED Lighting Equipment" with the name and address of the bidder.

All bids shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each bidder is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection. Any bid, proposal, or statements of qualification will be rejected that violates or conflicts with state, local, or federal laws, ordinances, or policies.

The undersigned hereby offers to furnish & deliver the articles or services as specified, at the prices & terms stated herein, and in strict accordance with the specifications and general conditions of bidding, all of which are made a part of this offer. This offer is not subject to withdrawal unless upon mutual written agreement by the Proposer/Bidder and City Purchasing Manager.

Name of Firm: DYNAMIC LIGHTING SOLUTIONS THROUGH PREMIER LIGHTING GROUP

Contact Person: HAROLD BELOTE Title: VICE PRES/PREMIER LIGHTING GROUP AGENT

E-Mail: harold@premier-lhg.com Phone: 479-466-4967

Business Address: 8040 B COUNTS MASSIE ROAD

City: NORTH LITTLE ROCK State: AR Zip: 72113

Signature: Harold Belote Date: 5/7/10

City of Fayetteville
Bid 10-36, Block Avenue LED Lighting Equipment
Bid Proposal Form (shall be submitted with bid)

*GUARANTEED DELIVERY DATE: 4 to 6 WEEKS AFTER RECIEPT of ORDER
Days from notice of award

F.O.B. 1455 South Happy Hollow Road, Fayetteville, AR 72701

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:	*TOTAL PRICE
1.	Pole (12 feet)	32	$ 616.00	$ 19,712.00

Please Specify for Unit(s) Bid:
*MANUFACTURER: DYNAMIC LIGHTING MODEL: D1305-12/CST

2.	Arm, fixture, and LED unit	32	$ 1127.00	$ 36,064.00

Please Specify for Unit(s) Bid:
*MANUFACTURER: DYNAMIC LIGHTING MODEL: D733A0/AC-T3/LED72-T3/CST

TOTAL BID PRICE: $ 55,776.00

Vendors shall provide the following pricing:

This bid form continues on the next page...

EXECUTION OF BID -
Bidders are requested to indicate by check mark or "Yes/No" on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option. The City reserves the right to award by all, none, or line item.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

*NAME OF FIRM: Dynamic Lighting Solutions
Purchase Order and /Payments shall be issued to this name

*BUSINESS ADDRESS: 5220 Shank Road

*CITY: Pearland *STATE: TX *ZIP: 77581

*PHONE: 479-466-4967 FAX: 501-753-6567

*E-MAIL: harold@premier-ltg.com

*BY: (PRINTED NAME) Harold Belote

*AUTHORIZED SIGNATURE: Harold Belote

*TITLE: Vice President Premier Lighting Group agent for Dynamic Lighting

City of Fayetteville
Bid 10-36, Block Avenue LED Lighting Equipment
Statement of Disclosure – To Be Submitted With ALL Bids

This page does not count towards page limitations set forth in this request for proposal or bid.

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Your response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

✓ 1.) NO KNOWN RELATIONSHIP EXISTS

_____ 2.) RELATIONSHIP EXISTS (Please explain)

_____

_____

_____

PLEASE FILL OUT THE SECTION BELOW AND SUBMIT THIS FORM WITH YOUR BID OR PROPOSAL:

1.) I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and

2.) My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

HAROLD BELOTE
Printed Name

Signature

5/7/10
Date

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

BID 10-36, Addendum 1

Bid 10-36, Block Avenue LED Lighting Equipment

City of Fayetteville – Purchasing Division
113 W. Mountain – Room 306
Fayetteville, AR 72701
Phone: 479.575.8220
E-Mail: aforen@ci.fayetteville.ar.us

Date: Thursday, April 22, 2010

To: All interested parties

From: Andrea Foren, CPPB, Purchasing Agent

Notice: This addendum is hereby made a part of the bid documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject vendor to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

1. The deadline to submit a bid is **Friday, May 7, 2010 before 3:00 PM, CST**. All bids shall be sealed and delivered to City Hall, 113 W. Mountain, Suite 306, Fayetteville, AR 72701.

Acknowledge Addendum #1:

Printed Name: Harold Belote

Signature: Harold Belote

Title: Vice President Date: 5/7/10

Company: Premier Lighting Group for Dynamic Lighting

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

City of Fayetteville – Purchasing Division
113 W. Mountain – Room 306
Fayetteville, AR 72701
Phone: 479.575.8220
E-Mail: aforen@ci.fayetteville.ar.us

BID 10-36, Addendum 2

Bid 10-36, Block Avenue LED Lighting Equipment

Date: Monday, May 3, 2010

To: All interested parties

From: Andrea Foren, CPPB, Purchasing Agent

Notice: This addendum is hereby made a part of the bid documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject vendor to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

1) The above referenced bid shall be for 12 foot poles only as stated on the bid form.

Acknowledge Addendum #1:

Printed Name: HAROLD BELOTE

Signature: Harold Belote

Title: Vice President Date: 5/7/10

Company: Premier Lighting Group for Dynamic Lighting

City of Fayetteville
Bid 10-36, Block Ave. LED Lighting Equipment
Terms and Conditions

1. All interested parties shall return the form titled "Statement of Disclosure" with bid or proposal documents.

2. All bids shall be submitted in a sealed envelope and must be submitted on forms acquired by the vendor from the City of Fayetteville Purchasing website (www.accessfayetteville.org). Bids with missing pages or missing any requested attachment are subject to being deemed incomplete.

3. The item bid and the bid number shall be stated on the face of the sealed bid envelope.

4. Bids received after the date and time set for receiving bids will not be considered.

5. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City.

6. Bidder is presumed to be familiar with all federal, state, and city laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or the materials or equipment used, or that in any way affect the Work and shall in all respects comply with said laws, ordinances, and regulations. No claim of misunderstanding or ignorance on the part of Bidder or Proposer will in any way serve to modify the provisions of the contract. No representations shall be binding unless embodied in the contract.

7. The quantities listed are based on the needs of the City and availability of funds at the time bids are posted. The City shall be able to purchase more or less than the quantity indicated subject to availability of funds or change in needs.

8. The bid price shall remain good and firm until project is completed. Payment to the vendor by the City will be made within 30 days following delivery and acceptance in accordance with these specifications and the City's Purchase Order to the vendor. Faster payment is offered through acceptance of Visa.

9. All products delivered shall comply with applicable standards of quality.

10. Any exceptions to the specification requirements of the City of Fayetteville must be noted on the Bid Form.

11. Prices shall include all labor, materials, overhead, profit, insurance, shipping, freight, etc., to cover the furnishing of the items bid. ***Sales tax is not to be included in the bid price.*** Applicable Arkansas sales tax laws will apply to this bid, but will not be considered in award of the bid.

12. Each bidder shall state on the face of the bid form the anticipated number of days from the date of receipt of an order for delivery of equipment and installation to the City of Fayetteville.

Failure to deliver on or before the time specified in the contract may subject the contractor to payment of damages or other appropriate sanctions.

13. Copy of the warranty shall accompany the bid, and any exceptions to the warranty shall be clearly noted on the bid form. Written warranties shall specify the greater of the manufacturer's standard warranty or the minimum warranty specified herein by the City.

14. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.

15. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.

16. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation of bid.

17. If products and/or components other than those described in this bid document are proposed, the bidder must include complete descriptive literature and technical specifications. All requests for additional information must be received within five working days following the request. Each apparent low bid will be reviewed line by line to ensure compliance with specifications prior to recommendation for award.

18. Bids must be received by mail or hand delivery in the ***Purchasing Office, Room 306, 113 W. Mountain St. Fayetteville, AR 72701***, on or before the time of closing listed on the face of the bid. **No bids shall be accepted via e-mail or fax.**

19. The City will not be responsible for misdirected bids. Vendor should call the Purchasing Office at (479) 575-8220 to insure receipt of their bid documents prior to opening time and date listed on the bid form.

20. Items bid must be delivered FOB City of Fayetteville Transportation Division, 1455 S. Happy Hollow Road, Fayetteville, AR 72701. Units must be fully assembled, serviced, and ready for operation as delivered unless otherwise specified. No dealer/distributor logo or other identification will be installed other than standard manufacturer name badges and specification plates.

21. Any discrepancy between the specifications and plans should be brought to attention immediately, in writing, to Andrea Foren at aforen@ci.fayetteville.ar.us .

22. Any reference to a particular brand or manufacturer is done in an effort to establish an acceptable level of quality for this project. Brands or manufacturers that are included in bid that are of at least equal quality, size, design, and specification as to what has been specified, will be acceptable for consideration only if approved by the City of Fayetteville Purchasing Division. The City of Fayetteville reserves the right to accept or reject any requested equal.

23. Price bid shall include warranty, including but not limited to parts and labor, at no additional cost to the City of Fayetteville, as specified herein.

24. **NOTE: Any uncertainties shall be brought to the attention to Andrea Foren immediately via telephone (479.575.8220) or e-mail (aforen@ci.fayetteville.ar.us). It is the intent and goal of the City of Fayetteville Purchasing Division to provide bid packets that provide a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all bidders to be on equal bidding terms & documents.**

25. "Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all *qualified* small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to *qualified* small, minority and women business enterprises."

26. The City of Fayetteville shall take ownership of product when products bid arrive undamaged at the specified shipping location.

27. **ANY EXCEPTION TAKEN TO THESE SPECIFICATIONS AND BID DOCUMENTS SHALL BE NOTED ON THESE DOCUMENTS. BIDDERS SHALL NOTE THE DIFFERENCE NEXT TO THE RELATED SPECIFICATION. THE CITY RESERVES THE RIGHT TO ACCEPT OR REJECT EXCEPTIONS TO SPECIFICATIONS.**

28. **American Recovery and Reinvestment Act (ARRA) Provisions:**
Buy American Clause – Section 1605 of the Recovery Act requires that all iron, steel, and manufactured goods used in the project must be produced within the United States except as provided in the following:

   a. The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
   b. The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
   c. The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

   If all received quotes do not meet the Section 1605 of the Recovery Act the City of Fayetteville is required to receive independent verification from the Federal Government to move forward.

29. Diagrams are included with these bid documents (Attachment A – Drawings: Pole and Fixture).

30. Vendors are encouraged to submit multiple bids for multiple options. Bid SHALL not be submitted with alternatives. Each different option shall be submitted as a separate bid. The City will begin the evaluation process with the low bidder for a complete unit (pole, arm, fixture, and LED). In the event the low bidder does not pass testing or does not meet specifications, the City will proceed to the next low bidder and so on.

31. The City is not requiring pre-approval for equals; therefore, vendors are encouraged to research manufacturers and submit bids on units of equal quality to manufacturers that have been specified. The City desires a fixture equal to the Dynamic both in appearance and specification. The City reserves the right to reject products that are not considered equal.

32. Prices bid shall include the following to allow the City to test LED/fixture:

    a. Shipping a fixture with LED to the City at no additional cost
    b. Paying for shipping cost associated with returning the fixture with LED to the Vendor.
    c. All of the costs for shipping the testing products shall be the responsibility of the bidder.
    d. All products that are sent for testing SHALL be the exact same as the items bid.

33. All units shall arrive at the City of Fayetteville with the fixture and LED completely assembled. Bidders are allowed to ship the arm and pole not attached to the fixture or to each other.

34. The City reserves the right to award by all, none, or line item.

35. All fixtures shall remain Dark-Sky Compliant.

36. All products bid must comply with Buy American requirements as reviewed and determined by the Department of Energy (DOE) and City of Fayetteville. Bidders will be required to submit documentation justifying the Buy American requirement before award of bid. The City of Fayetteville reserves the right to reject bids based on non-approval (DOE not approving the products as meeting Buy American) from the DOE.

37. **Bidders are *strongly encouraged* to submit products equal to the fixture specified in the bid documents. Bidders are encouraged to match the current design of the fixture as close as possible. Items bid that are comparable to the specified equipment will be acceptable for consideration.**

38. **All products bid are required to meet specification listed.**

39. **Attachment A – Lighting Unit Diagram is provided with this bid packet in order to provide all interested parties with a picture of the desired design and requirements of this bid.**

City of Fayetteville
Bid 10-36, Block Avenue LED Lighting Equipment
Technical Specifications:

Project Description:

- Provide 29 (twenty-nine) complete Light Emitting Diodes (LED) fixtures **to match** a D733 AO Dynamic Lighting, Inc. Luminaire fixture -- Model #D733AO/AC-T3/175 MH – 240V/CC/FDR.
- **Metal Halides shall NOT be bid. All products bid shall have LED lighting.**

Details of Existing Equipment:

- Pole (29) – D1305-14 – 5" OD Fluted – 3" Tenon – Custom color to match the lights installed around the Fayetteville Square. Sample color chip is on file with Dynamic Lighting.

Specifications for LED Inserts:

- LED luminaire
- Power Factor of > .90
- Thermal losses should be less than 10% when operated at a steady state at an average ambient operating temperature of 25°C (77°F), and optical losses should be less than 15%. A thermal management system shall be included.
- Luminaire Efficacy > 70 lm/W - A certified LM 79 report with Photometric/IES file shall be provided.
- LED retrofit shall not alter the exterior dimensions of the fixture and shall insure the fixture remains dark sky compliant.
- Minimum .25 ft candle at 37.5 feet from pole.
- Nominal CCT - 5700K = CCT 5665K ± 355K
- CRI >70
- 3- Year full warranty on manufacturer defects and 5-Year Limited Warranty covering LEDs, power supply and combined performance of the two -- warranty documentation required for file.
- All LED and power supply components shall be rated for 100,000 hours.
- Average delivered lumens over 50,000 hours should be minimum of 70% of initial delivered lumens. Lumen maintenance must be approved through one of two LM80 validation methods.
- Ingress Protection (Dust and Water Intrusion) – IP 65 or 66 for fixture and luminaire. Fixture shall not have any openings where insects can enter. Unit shall be rated "WET LOCATION" by United Laboratories or other Nationally Recognizes Testing Laboratory (NRTL) listed for wet locations.
- LED specification sheet required to be submitted with all bids.
- Wiring cavity shall be field accessible for service or repair needs
- Optical cavity shall be minimum IEC60529/IP65

City of Fayetteville
Bid 10-36, Block Avenue LED Lighting Equipment
Statement of No Bid – If Applicable

In order to assist the Purchasing Division of Fayetteville in evaluating and improving our solicitation process, we are asking for completion of this form and returning via fax or e-mail. By submitting this form, it will assist us in evaluating all response, improving our bid solicitation process, and to maintain a positive relationship with our vendors.

We, the undersigned, have declined to bid for the following reason(s):

1. _____ We do not offer this service/product
2. _____ Our schedule would not permit us to perform
3. _____ Unable to meet specifications
4. _____ Insufficient time to respond to the Invitation to Bid
5. _____ We are unable to meet bond requirements
6. _____ Other (Explain)

*NAME OF FIRM: _____

*BUSINESS ADDRESS: _____

*CITY:_____ *STATE:_____ *ZIP: _____

*PHONE:_____ FAX: _____

*E-MAIL ADDRESS: _____

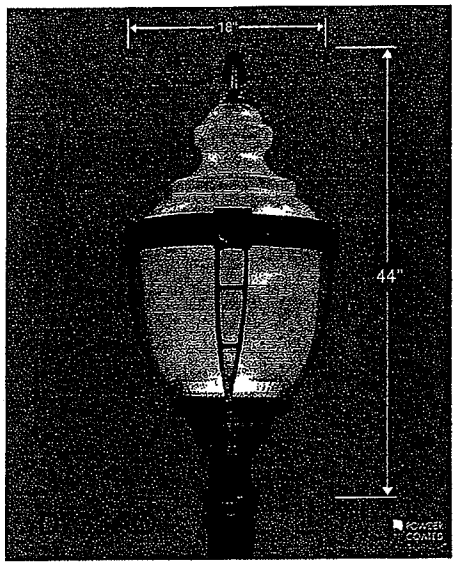
*BY :(PRINTED NAME) _____

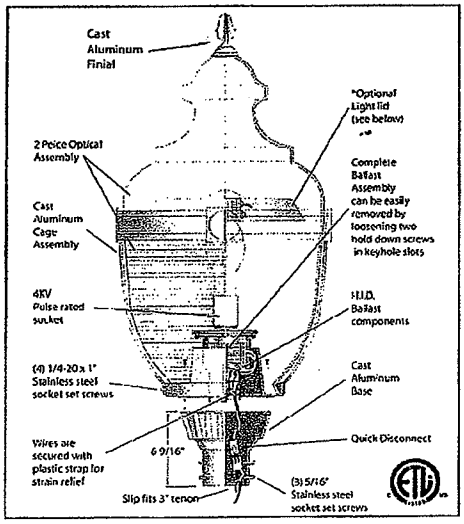
*AUTHORIZED SIGNATURE: _____

*TITLE: _____ *DATE: _____

*PLEASE LIST OTHER COMMENTS BELOW:

*Please note: We appreciate your feedback on this form and are very interested in your reason for not bidding. Please do not hesitate to contact us at 479-575-8220 if you have questions, comments, or concerns regarding these bid documents.

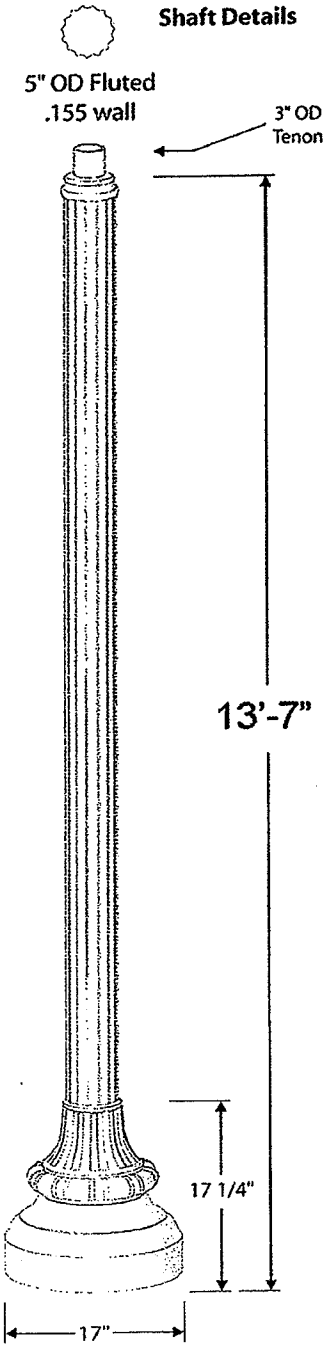




FIXTURE ORDERING GUIDE
D733AO/AC-T3/175 MH - 240V/CC/FDR

POLE ORDERING GUIDE
D1305-14 - 5" OD FLUTED - 3" TENON
CUSTOM COLOR TO MATCH FIXTURE

Shaft Details



D1305-14

FEATURES

17" diameter fluted and tapered aluminum base cast from a permanent mold

5" OD fluted (15 flat flutes) .155 wall

Extruded shaft is circumferentially welded to the base

3" tenon for luminaire mounting

Strong yet lightweight for ease of installation

Galvanized anchor bolts included

Access door for anchor bolts and wiring is secured with tamper resistant stainless steel screws

Ground lug provided inside base

Capable of supporting multiple light brackets

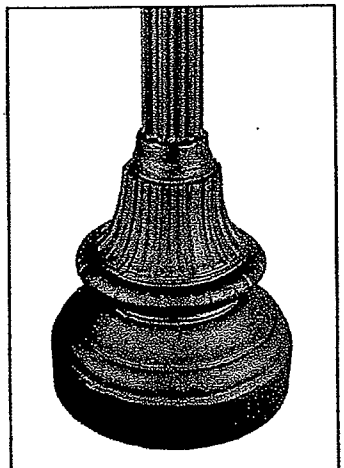
MATERIALS

Base - Cast aluminum (A319)

Shaft - Extruded Aluminum (6005-T5)

Tenon - Cast aluminum (A319)

Anchor Bolts - Hot dipped galvanized steel



*CUSTOM COLOR FOR POLE AND FIXTURE TO MATCH THE NEW LIGHTS INSTALLED AROUND THE SQUARE. SAMPLE COLOR CHIP IS ON FILE WITH DYNAMIC LIGHTING.

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 — 09-16-2011 Date

City Attorney — 9-16 2011 Date

Previous Ordinance or Resolution # ____

Original Contract Date: ____

Original Contract Number: ____

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

Chief of Staff — 9-16-11 Date

Mayor — 9/19/11 Date

Received in City Clerk's Office 09-15-11 P02:28 RCVD

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

Comments:

Left on 2nd Reading at the 10/4/11 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: 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

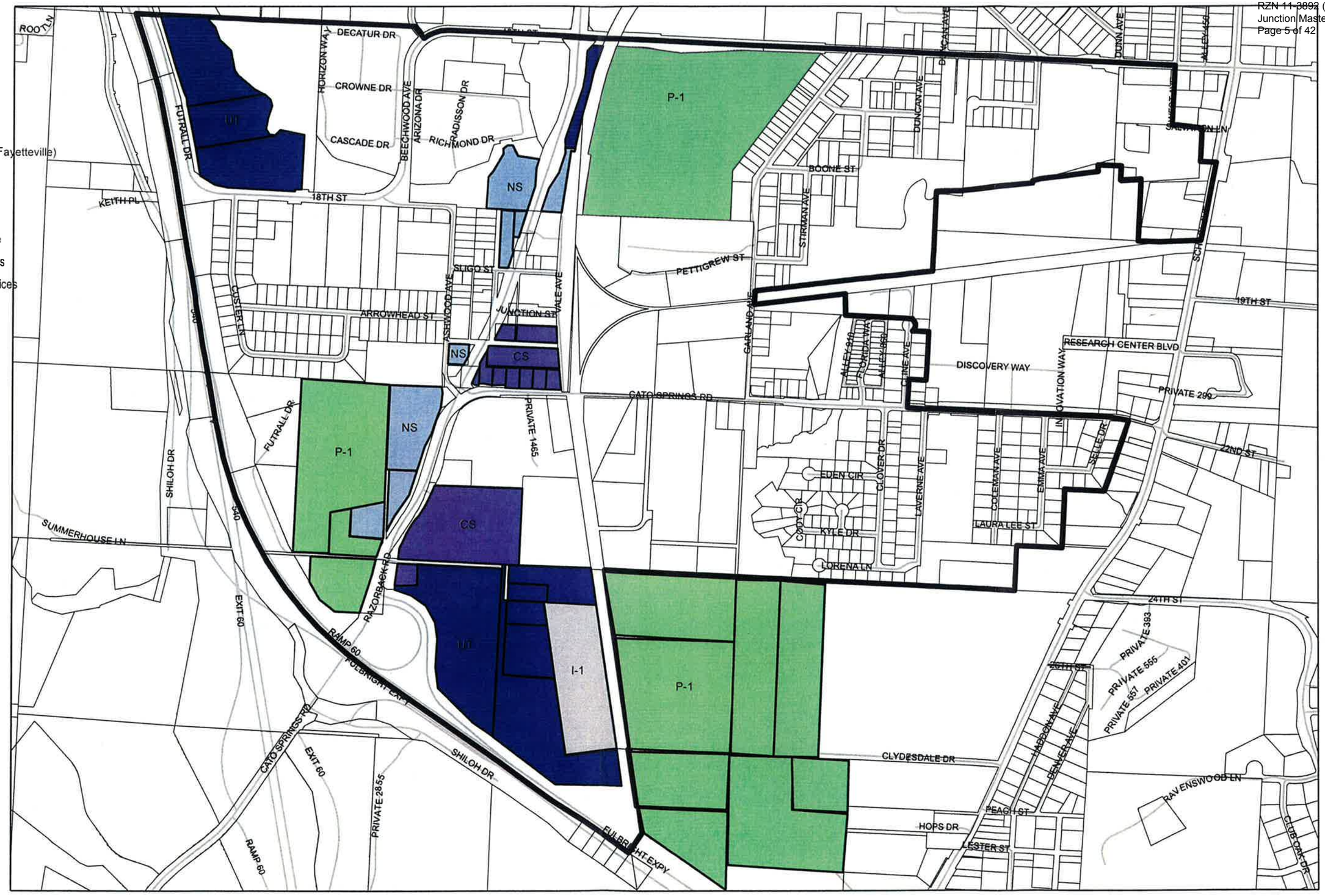
EXHIBIT A

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



N

Fayette Junction Rezoning (Draft)

09.14.2011

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.**

Integrate the built and natural environments. 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.

Create a clean tech cluster. 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.

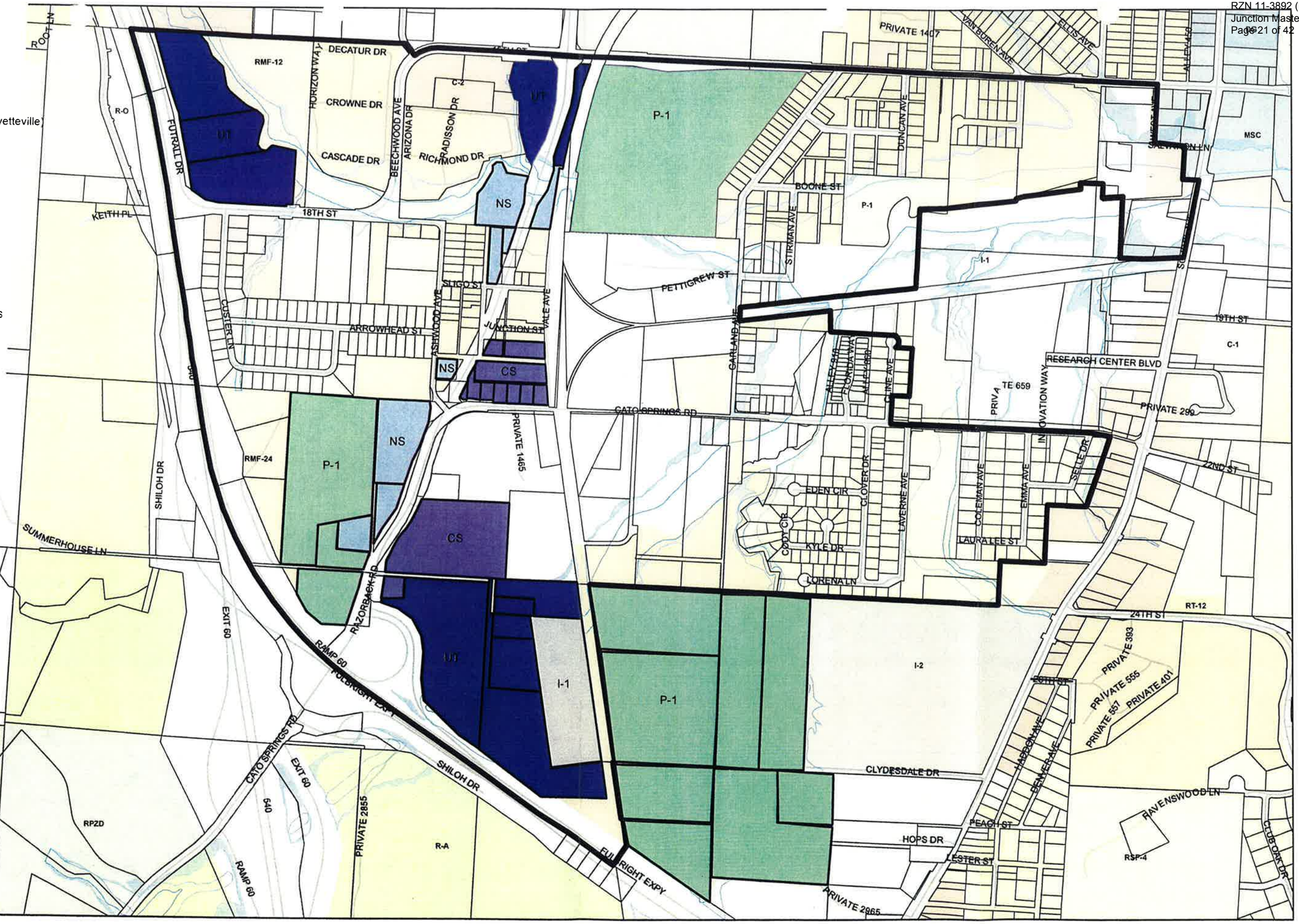
B. 1
RZN 11-3892 (Fayette Junction Master Plan)
Page 20 of 42

Legend

- County Parcels
- xxxWash Co Parcels (Fayetteville)
- Fayette_Junction
- FLOODWAY
- 100 YEAR
- 500 YEAR

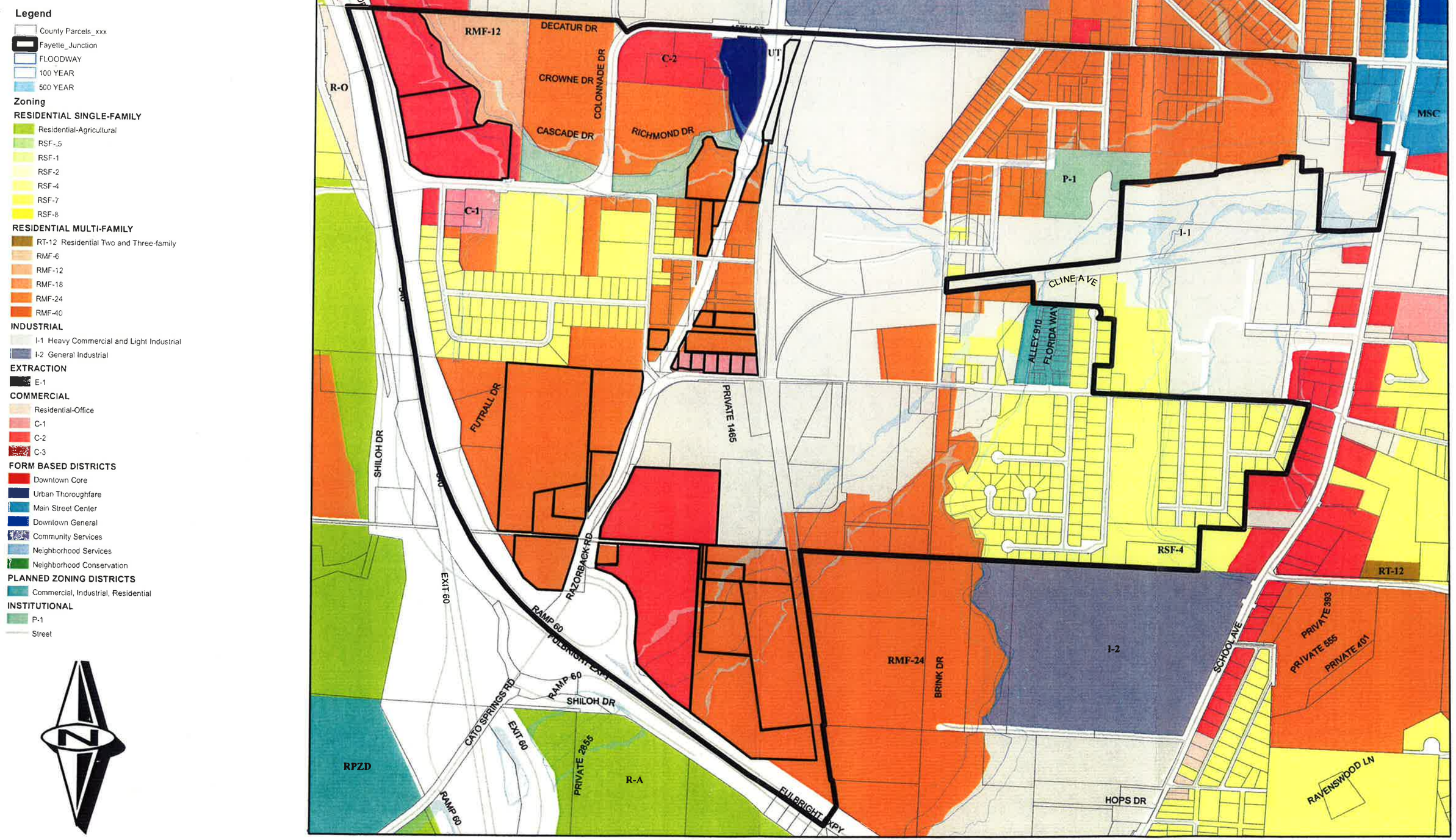
Proposed Zoning

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



Fayette Junction Rezoning (Draft)

07.14.2011



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 within 30 days of your receipt of this letter 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

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

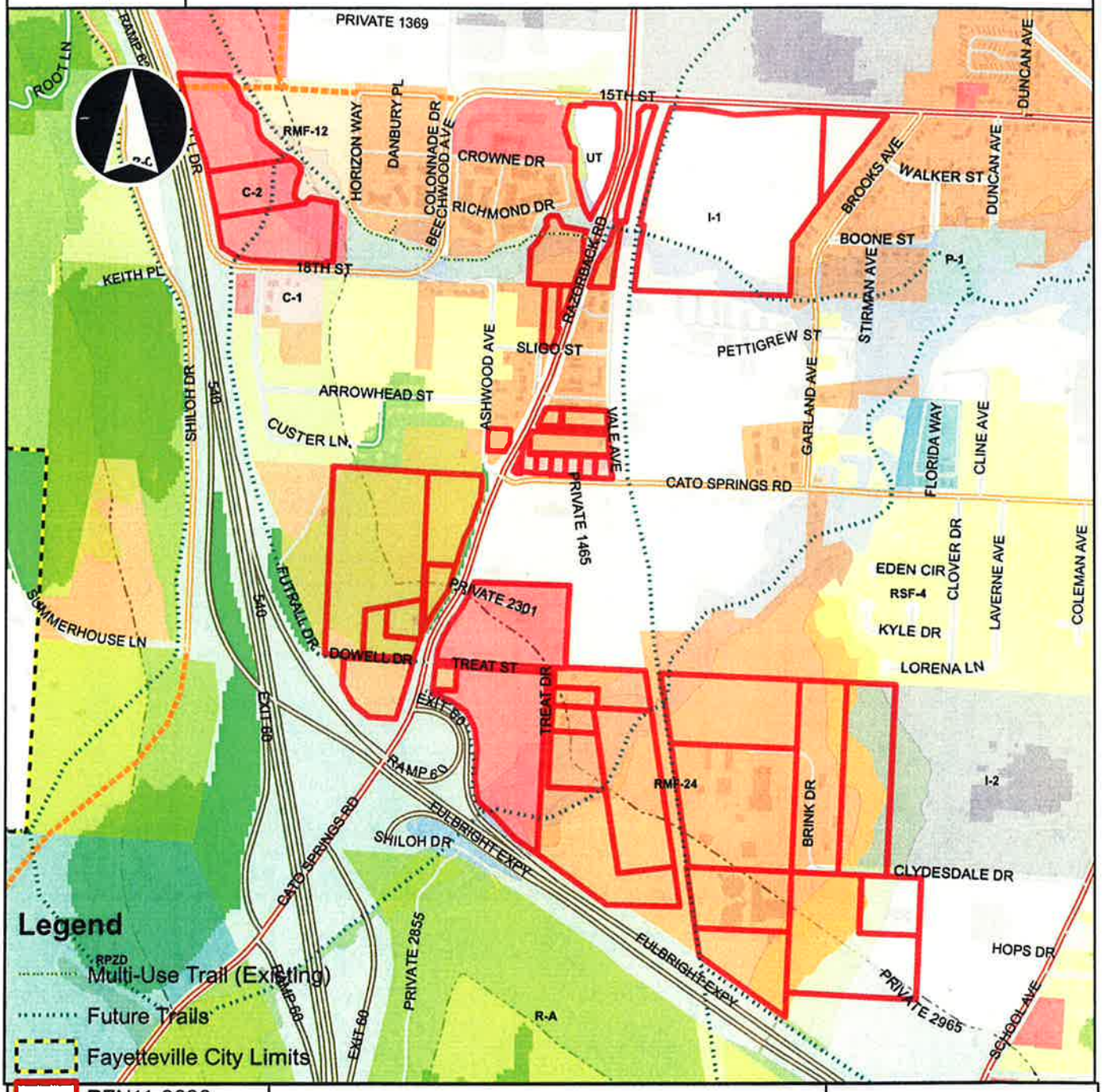
2506 Treat Dr. 72701
587-8707

Dara - Under I-1, we could not sell our home as a residence. Doris

RZN11-3892

Close Up View

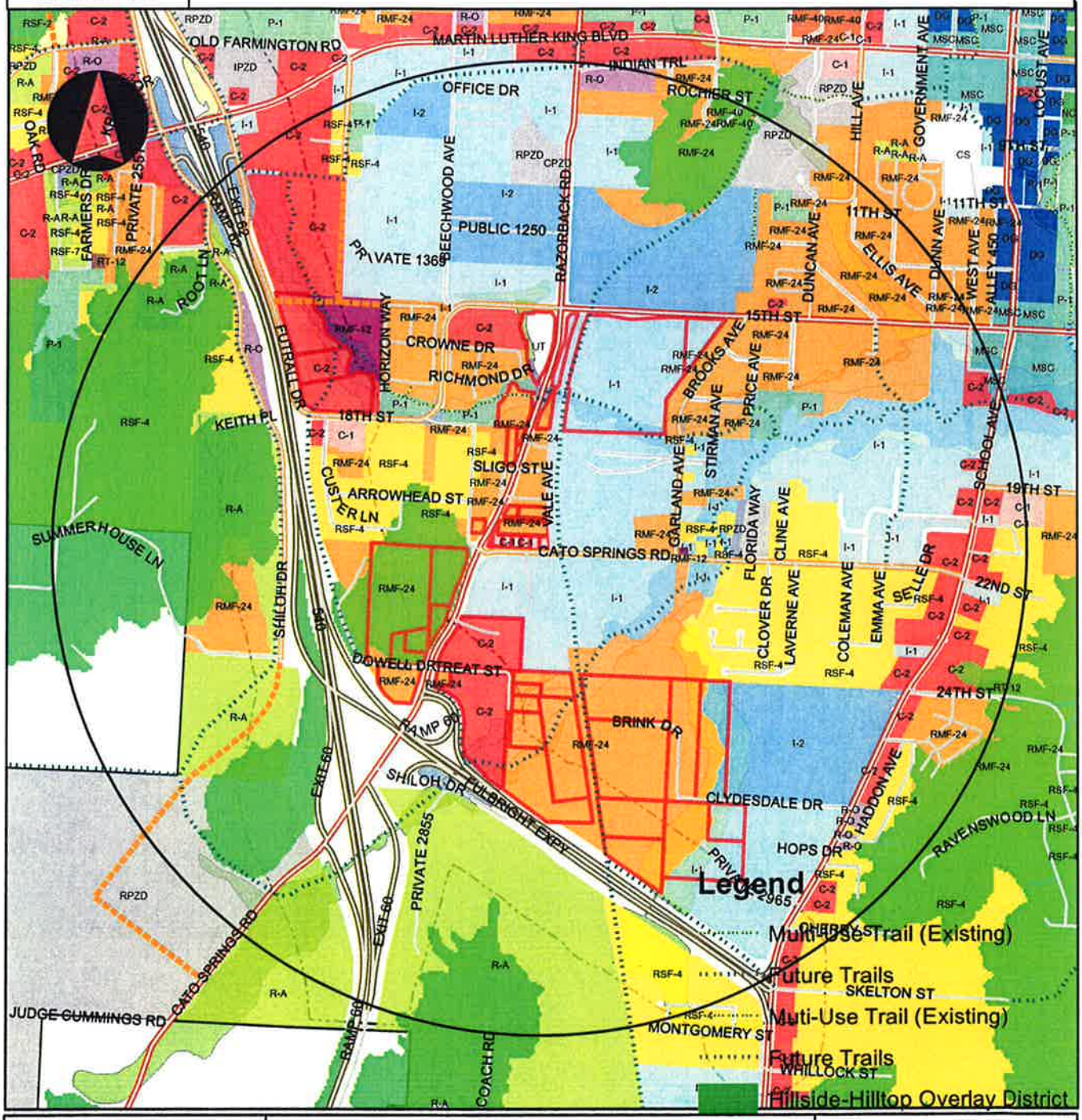
FAYETTE JUNCTION MASTER PLAN



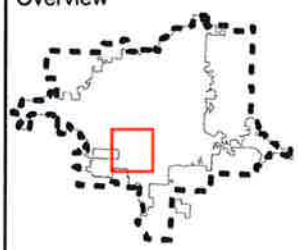
RZN11-3892

One Mile View

FAYETTE JUNCTION MASTER PLAN



Overview



Legend

Subject Property

RZN11-3892

Boundary

RZN11-3892

Design Overlay District

Planning Area

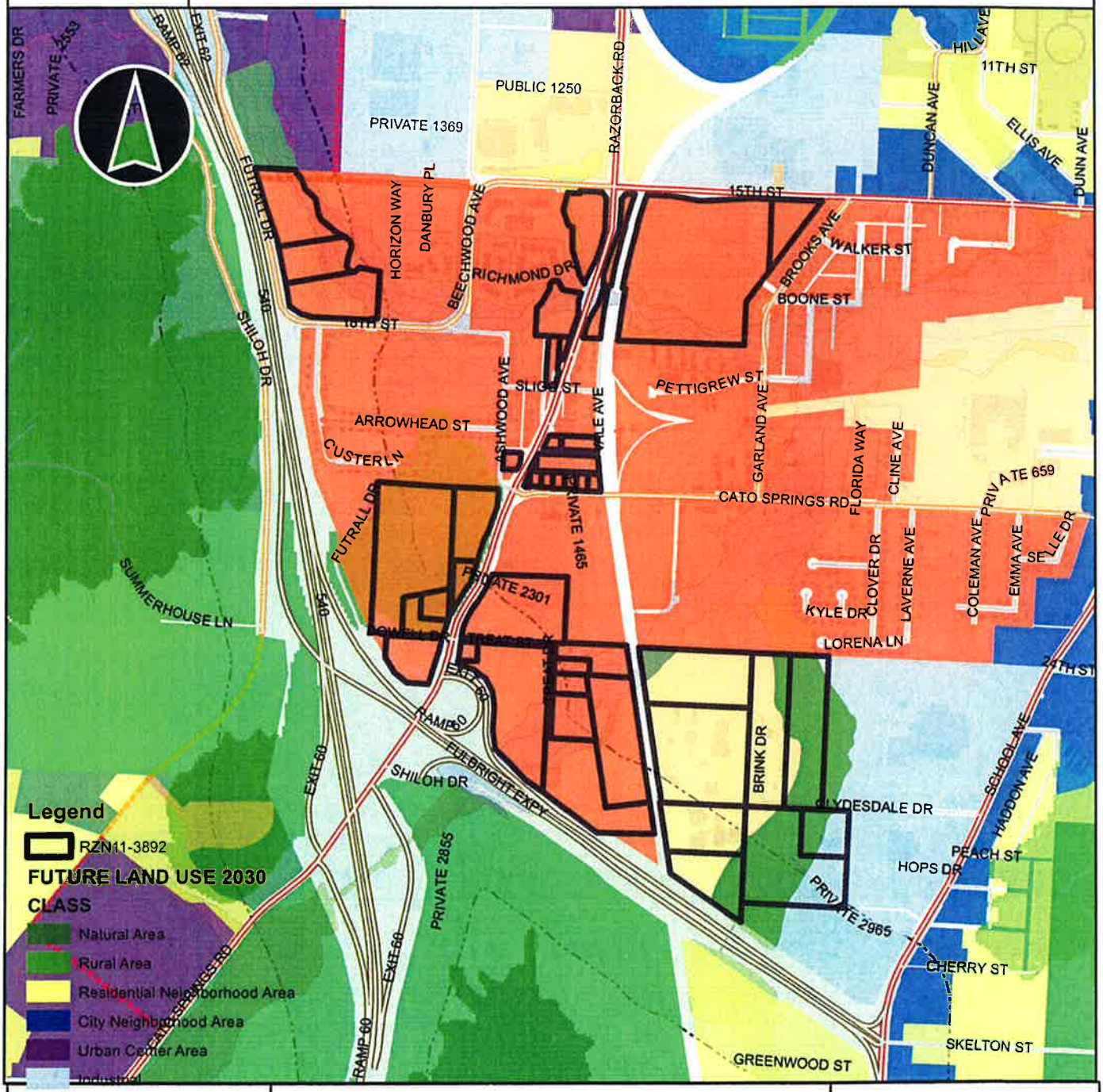
Fayetteville

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 — 09.15.2011 Date

City Attorney — 9-15-2011 Date

Finance and Internal Services Director — 9-15-2011 Date

Chief of Staff — 9-15-11 Date

Mayor — 9/16/11 Date

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:

Revised January 15, 2009

Left on the 2nd Reading at the 10/4/11 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: 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: ATTEST:

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

EXHIBIT "A"

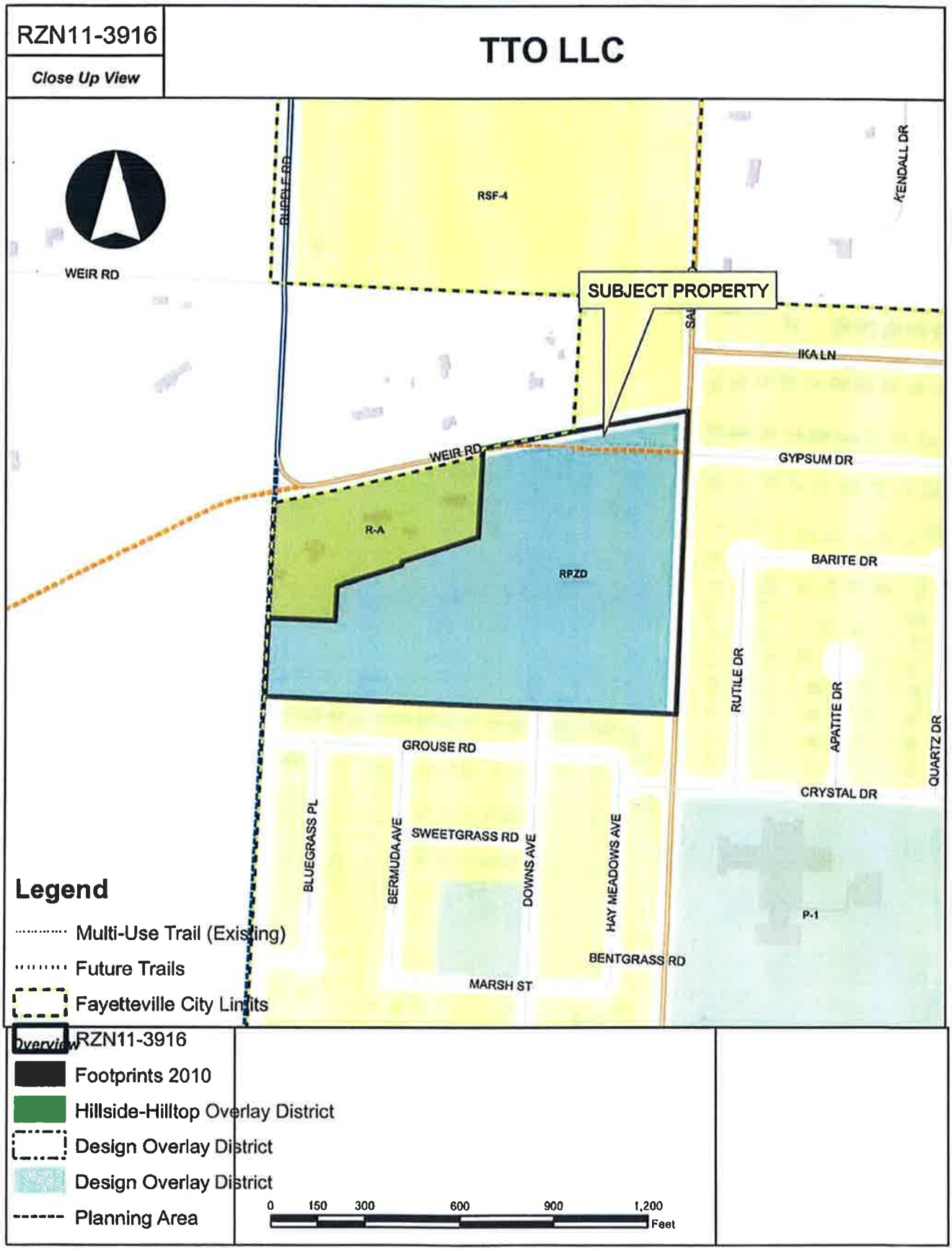

RZN11-3916
Close Up View
TTO LLC
WEIR RD
RSF-4
KENDALL DR
SUBJECT PROPERTY
IKA LN
WEIR RD
GYPSUM DR
R-A
RPZD
BARITE DR
RUTILE DR
APATITE DR
QUARTZ DR
GROUSE RD
CRYSTAL DR
BLUEGRASS PL
BERMUDA AVE
SWEETGRASS RD
DOWNS AVE
HAY MEADOWS AVE
P-1
BENTGRASS RD
MARSH ST
Legend
Multi-Use Trail (Existing)
Future 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

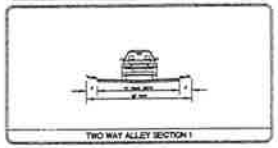
B-12
RZN 11-3916 (Holcomb Heights PZD/TH LLC)
Page 15 of 20

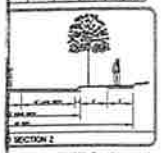
Holcomb Heights- Phase I II

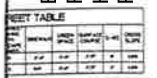
R-PZD SUBMITTAL

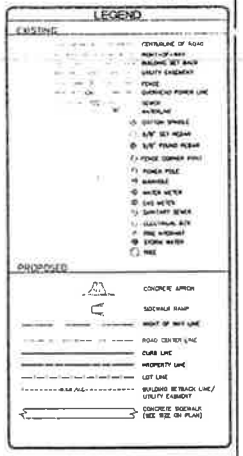
SITE DATA TABLE			
PLANNED AREA	ACRES	DWELLING NUMBER	LAND USE DESIGNATION
PA1	0.47	5	Single Family
PA2	1.63	11	Single Family
PA3	3.19	20	Single Family
PA4	48	0	Park/Tree Mit. And Greenspace

PROPOSED LOT TYPES	
UNITS	PLANNING AREA NAME
5	(PA1) VILLAGE GREEN HOUSES
11	(PA2) ROW HOUSES
20	(PA3) PATIO HOUSES
0	(PA4) COMMUNITY GREENSPACE









SITE PLAN GENERAL NOTES

1. ALL DIMENSIONS ARE FROM BACK OF CURB UNLESS OTHERWISE SPECIFIED.
2. ALL CURBS ADJACENT TO ASPHALT SHALL BE BUILT WITH 1' GUTTERS UNLESS OTHERWISE NOTED.
3. CURBS WITH LESS THAN 6 3/4" RADIUS SHALL BE CONSTRUCTED OF CONCRETE.
4. THIS PROPOSED DEVELOPMENT IS SUBJECT TO THE ARCHITECTURAL STANDARDS AND CONCEPTS PRESENTED IN THE PLATTE AND PRODUCT ADOPTED AS PART OF THE PZD.
5. ALL NEW LIGHTING IS REQUIRED TO COMPLY WITH CITY'S LIGHTING ORDINANCE.
6. LOTS NOT SERVED OFF ALLEY MUST SHALL HAVE SHARED DRIVES

BOUNDARY DESCRIPTION

CONVERSE TRACT A-2 R.S.

OWNER/DEVELOPER
HOLCOMB HEIGHTS, LLC
1313 Lamar Ste 800
Houston, TX 77010
OFFICE: (346) 263-4343
FAX: (346) 443-3440

ENGINEER/SURVEYOR
LJA ENGINEERING, INC.
2929 BRIARPARK DR., SUITE 210
HOUSTON, TX 77042
OFFICE: (713) 953-5200
FAX: (713) 953-5026

WEIR ROAD

N 29°49'03" E 666.69'

S 76°04'57" W 249.82'

GYPSUM DR.

SALEM ROAD

OWENS AVE.

Phase I

Lot 70 Village Green

Lot 110 Green Space

Lot 69 DETENTION AREA

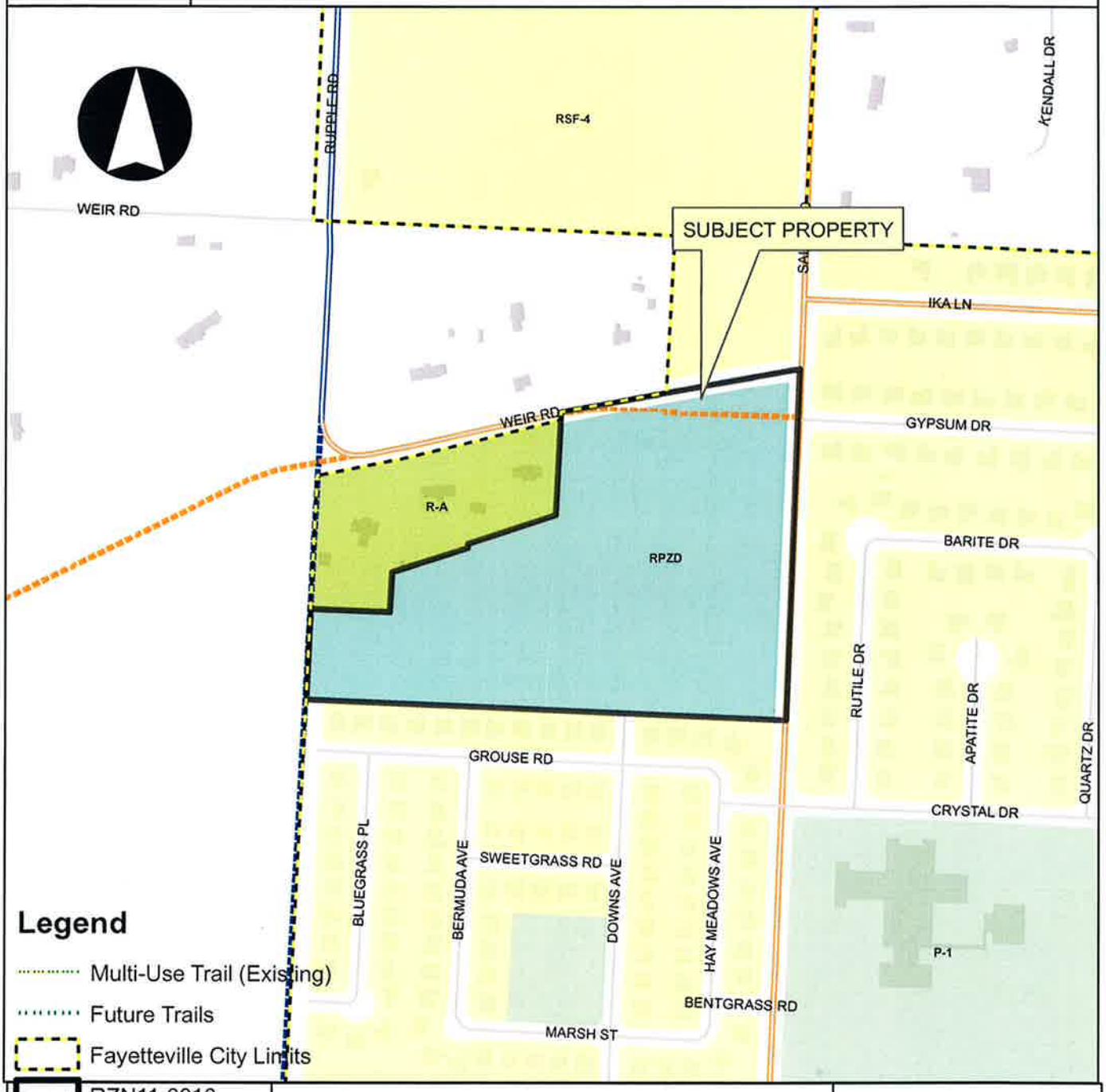
N 87°34'37" W 662.54'

S 87°45'11" E 215.44'

RZN11-3916

Close Up View

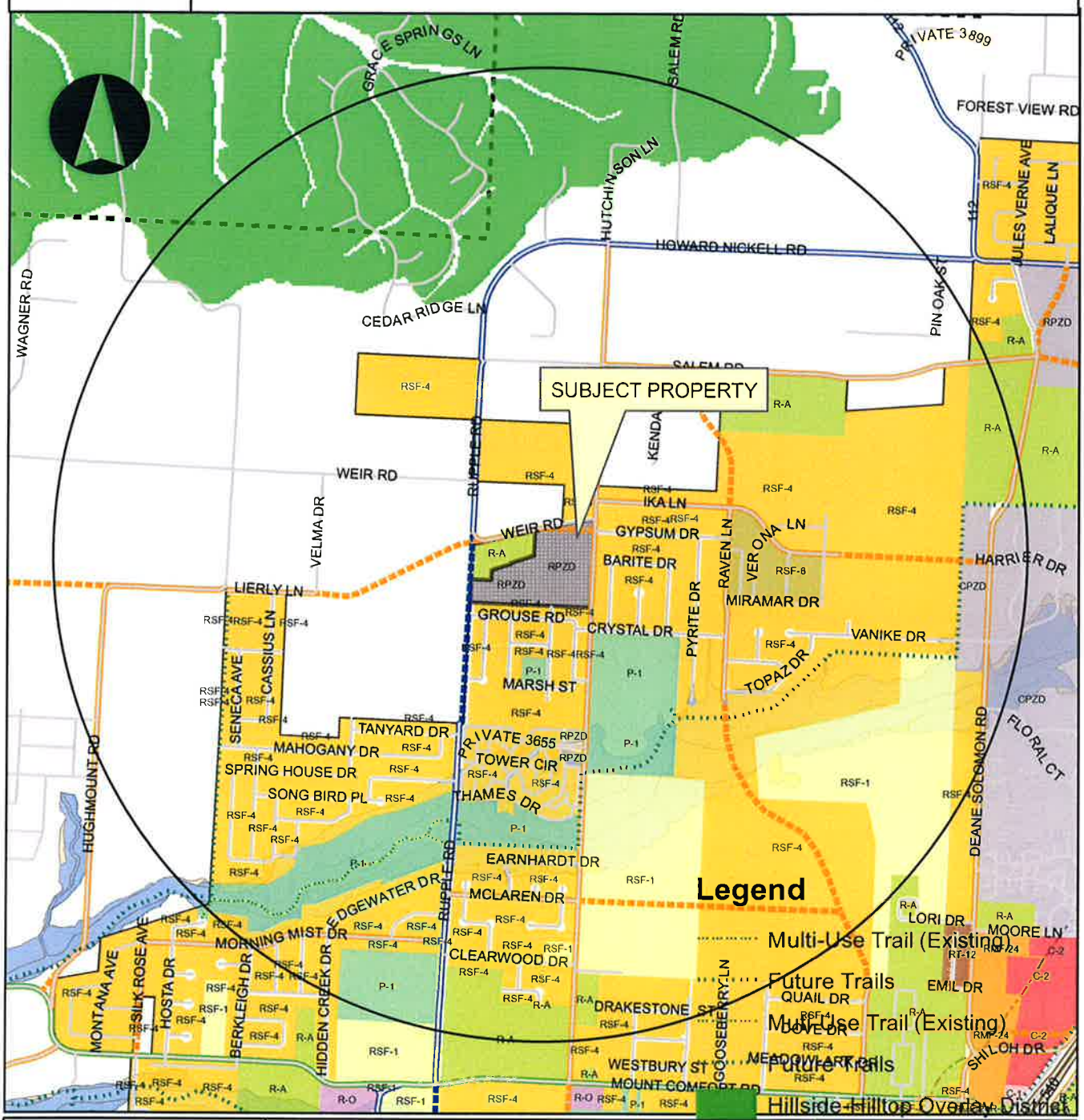
TTO LLC



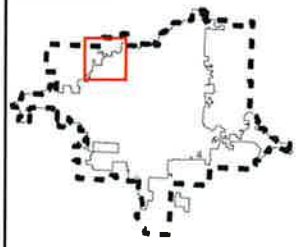
RZN11-3916

One Mile View

TTO, LLC



Overview



Legend

Subject Property

RZN11-3916

Boundary

RZN11-3916

Design Overlay District

Planning Area

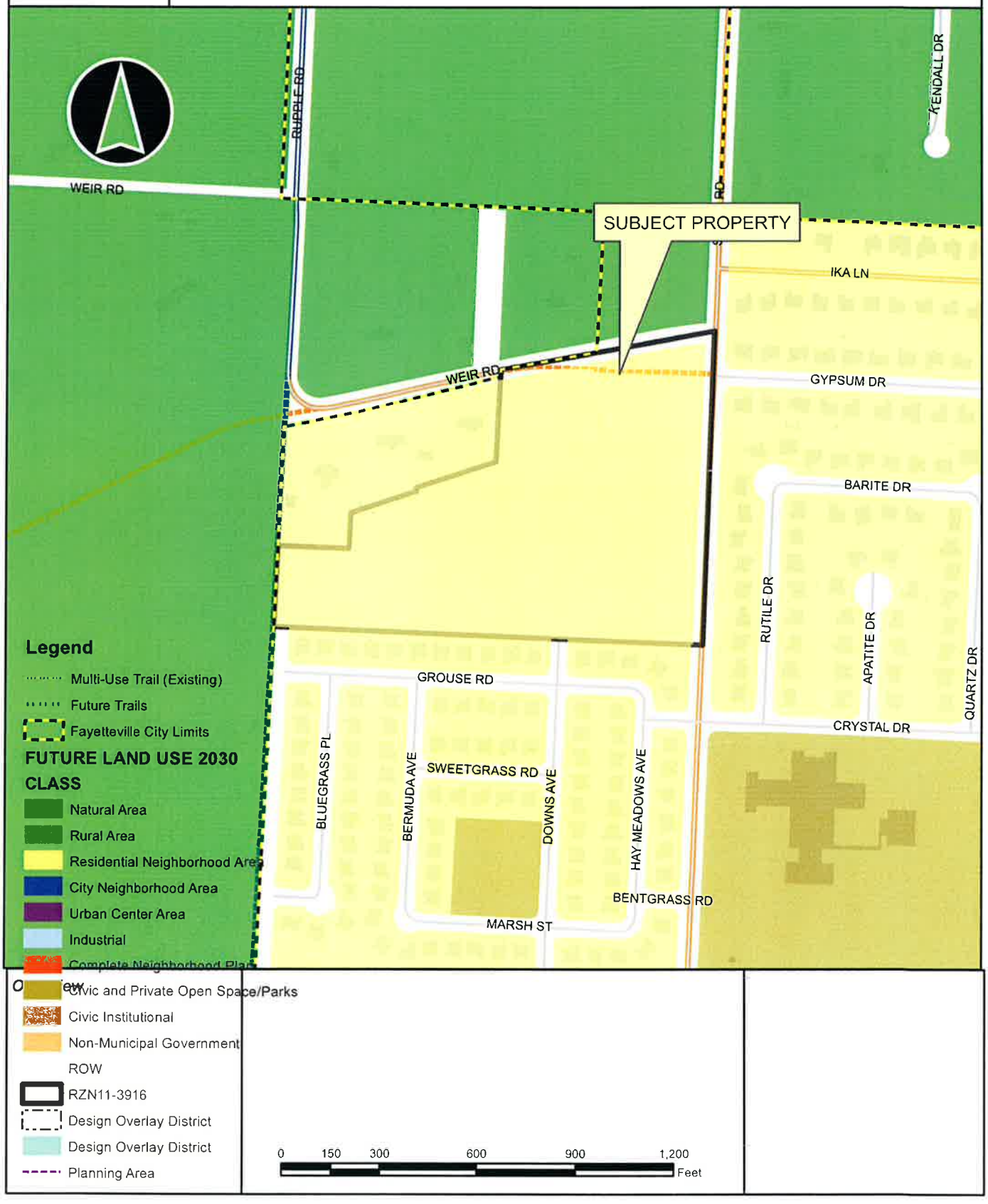
Fayetteville

0 0.25 0.5 1 Miles

RZN11-3916

Future Land Use

TTO, LLC



RZN11-3916

TTO LLC

Current Land Use

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 — 09.16.2011 Date

City Attorney — 9-16-2011 Date

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

Chief of Staff — 16 Sep 11 Date

Mayor — 9/19/11 Date

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 BKP

Comments:

Revised January 15, 2009

Left on the 2nd Reading at the 10/4/11 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: 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, Mayor

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

By: _____
SONDRA SMITH, City Clerk

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

Chad White
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

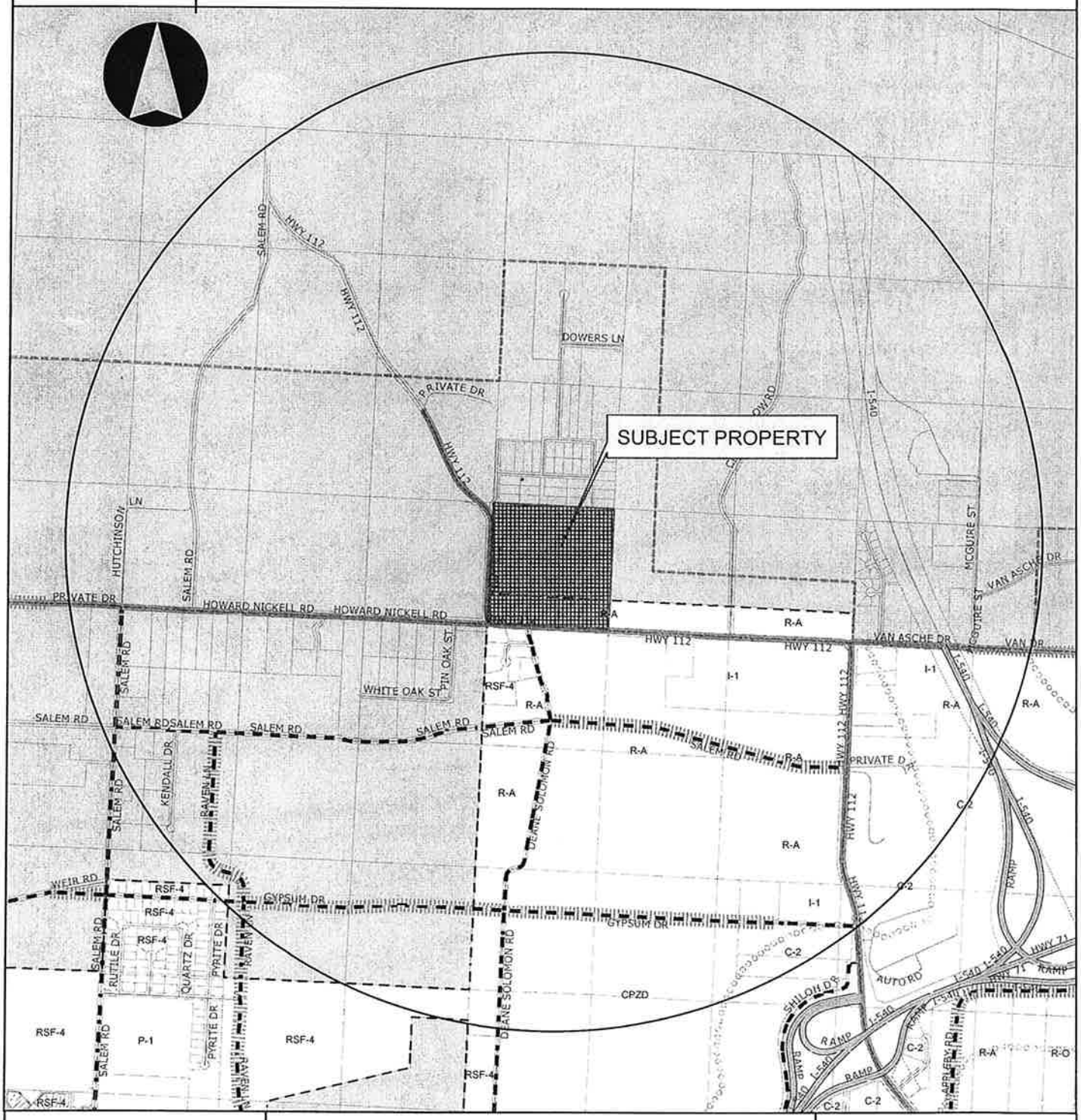
My Commission Expires:
May 06, 2010

CLARICE BUFFALOHEAD-PEARMAN NOTARY PUBLIC WASHINGTON CO., AR

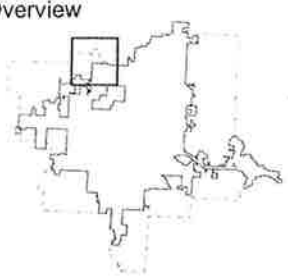
RZN04-12.00

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

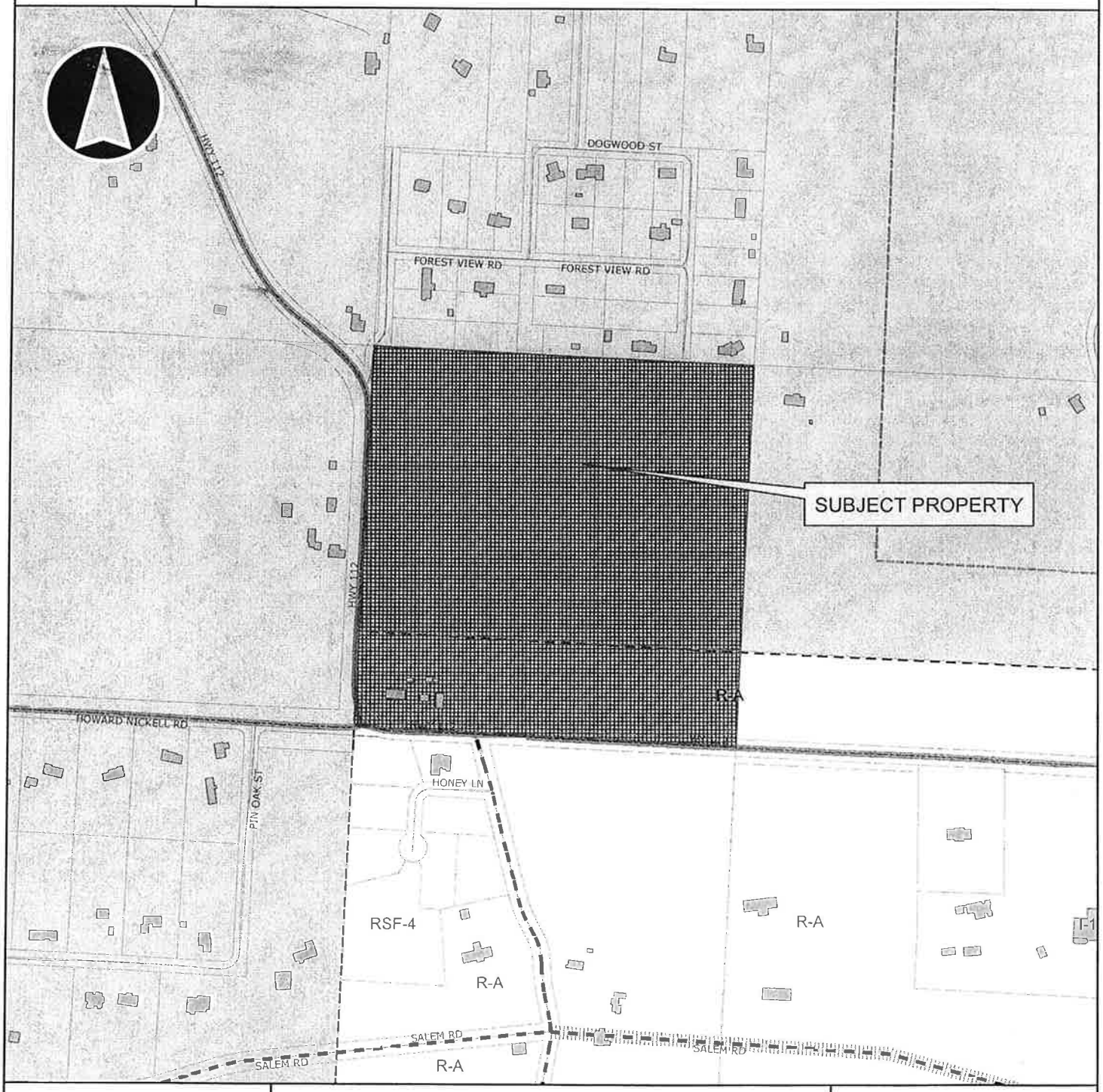
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

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

10/18/2011
City Council Meeting Date
Agenda Items Only

Jesse Fulcher	Planning	Development Services
Submitted By	**Division**	**Department**

Action Required:

VAC 11-3931: Vacation (510 W. 11 th St. & 989 S. School Ave./Campus Crest, 562): Submitted by MORRISON SHIPLEY ENGINEERS, INC. for property located at 510 WEST 11TH STREET & 989 SOUTH SCHOOL AVENUE. The property is zoned CS, COMMUNITY SERVICES. The request is to vacate unconstructed street right-of-way.

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 — 09.30.2011 Date

City Attorney — 9-30-2011 Date

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

Chief of Staff — 10-3-11 Date

Mayor — 10/3/11 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 09-30-11P01:46 RCVD

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

Comments:

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Jeremy Pate, Development Services Director

From: Jesse Fulcher, Current Planner

Date: September 30, 2011

Subject: VAC 11-3931 (510 W. 11th St. & 989 S. School Ave./Campus Crest)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating unconstructed right-of-way.

BACKGROUND

The subject property is located south of Martin Luther King Jr. Boulevard and west of South School and was formally used as the Washington County Sale Barn. The approximately 12-acre project boundary has frontage onto South School, 11th Street, Dunn Avenue, National Street, and Government Avenue.

The applicant's request is to vacate unconstructed right-of-way for West Street, a portion of 5th Street, a portion of 9th Street, and an alley, as indicated on the attached survey. All of the right-of-way was dedicated with Ferguson's Addition in the late 1800's or early 1900's. However, none of the streets were ever constructed, and a portion of 9th Street has already been vacated, making any future connection unlikely. The extension of West Avenue or Fifth Street would require a crossing over Tanglewood Branch, a costly and unnecessary project, given the relatively short block length in the area.

The applicant also makes mention of existing easements for Ozarks Electric and Southwestern Bell. However, these are private easements between the property owner and utility provider, and do not require vacation approval from the City of Fayetteville. Approval of the right-of-way vacation will not vacate any portion of these private easements.

DISCUSSION

On September 26, 2011, the Planning Commission forwarded this item to the City Council with a recommendation for approval with a vote of 8-0-0.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 11-3931 SUBMITTED BY MORRISON SHIPLEY ENGINEERS, INC. FOR PROPERTY LOCATED AT 510 WEST 11TH STREET AND 989 SOUTH SCHOOL AVENUE TO VACATE UNCONSTRUCTED STREET RIGHT-OF-WAY.

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

WHEREAS, the City Council has determined that the following described portion of the platted rights-of-way are not required for corporate purposes;

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

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

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached and labeled Exhibit A shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to conditions of approval and shall not be in effect until the conditions are met herein.

1. Any damage or relocation of utilities shall be at the owner/developer's expense.
2. The existing easement within the 9th Street right-of-way shall remain in effect.

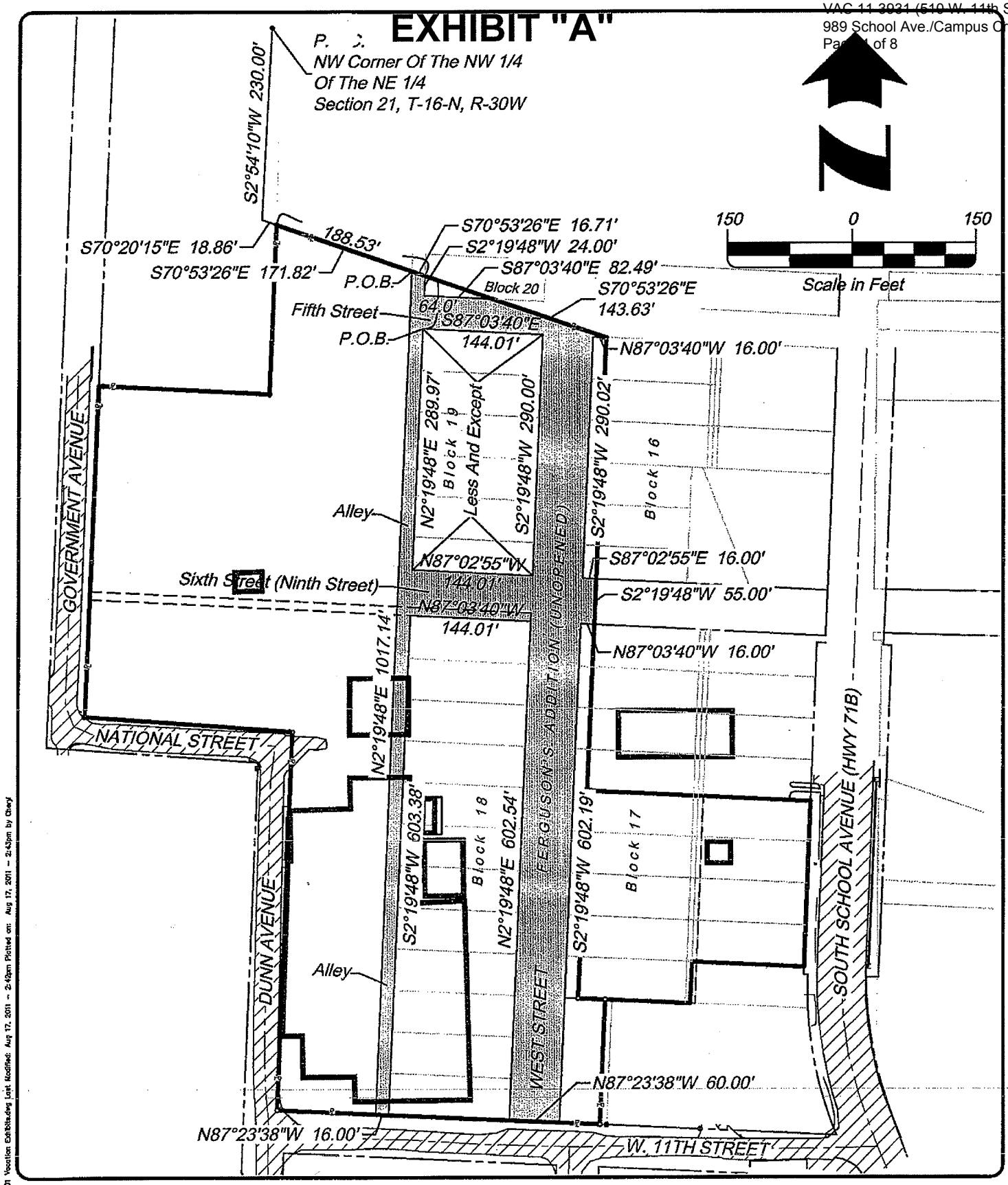
PASSED and **APPROVED** this day of , 2011.

APPROVED: ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"



MORRISON SHIPLEY
ENGINEERS ▪ SURVEYORS
2407 SE Cottonwood Street ▪ Bentonville, AR 72712 ▪ 479.273.2209 ▪ morrisonshipley.com

RIGHT-OF-WAY VACATION EXHIBIT #3

Fayetteville, Washington County, Arkansas

Drawn By	CLD
Date	8-11-11
Project No.	CCD-01
Drawing Name	Vacation Exhibits

Drawing Name: P:\CCD-01\dwg\CCD-01 Vacation Exhibits.dwg Last Modified: Aug 17, 2011 - 2:42pm Plotted on: Aug 17, 2011 - 2:43pm by Cheryl

EXHIBIT "B"
VAC 11-3931

ROW VACATION:
A PART OF WEST STREET, SIXTH STREET (KNOWN NOW AS NINTH STREET), FIFTH STREET, AND AN ALLEY LYING ON THE WEST SIDE OF BLOCKS 18, 19, AND 20 OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, SITUATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, IN FAYETTEVILLE, WASHINGTON COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER THENCE SOUTH 02° 54'10" WEST A DISTANCE OF 230 FEET; THENCE SOUTH 70°20'15" EAST A DISTANCE OF 18.86 FEET TO A FOUND ½" REBAR WITH CAP, P.S. #1298; THENCE SOUTH 70°53'26" EAST A DISTANCE OF 171.82 FEET, TO A POINT ON THE WEST LINE OF THE AFOREMENTIONED ALLEY, FOR A POINT OF BEGINNING; THENCE SOUTH 70°53'26" EAST A DISTANCE OF 16.71 FEET, TO A POINT ON THE EAST LINE OF THE ALLEY, SAID POINT ALSO BEING ON THE WEST LINE OF THE AFOREMENTIONED BLOCK 20; THENCE SOUTH 02°19'48" WEST, ALONG THE WEST LINE OF BLOCK 20, A DISTANCE OF 24.00 FEET, TO THE SOUTHWEST CORNER OF BLOCK 20; THENCE ALONG THE SOUTH LINE OF BLOCK 20, SOUTH 87°03'40" EAST A DISTANCE OF 82.49 FEET; THENCE LEAVING SAID SOUTH LINE SOUTH 70°53'26" EAST A DISTANCE OF 143.63 FEET, TO A POINT 16 FEET EAST OF THE NORTHWEST CORNER OF LOT 7, BLOCK 16; THENCE ALONG THE NORTH LINE OF SAID LOT 7, NORTH 87°03'40" WEST A DISTANCE OF 16.00 FEET TO THE NORTHWEST CORNER OF BLOCK 16; THENCE ALONG THE WEST LINE OF BLOCK 16, SOUTH 02°19'48" WEST A DISTANCE OF 290.02 FEET TO THE SOUTHWEST CORNER OF BLOCK 16; THENCE ALONG THE SOUTH LINE OF BLOCK 16, SOUTH 87°02'55" EAST A DISTANCE OF 16.00 FEET; THENCE SOUTH 02°19'48" WEST A DISTANCE OF 55.00 FEET, TO A POINT ON THE NORTH LINE OF BLOCK 17; THENCE ALONG SAID NORTH LINE, NORTH 87°03'40" WEST A DISTANCE OF 16.00 FEET, TO THE NORTHWEST CORNER OF BLOCK 17; THENCE ALONG THE WEST LINE OF BLOCK 17, SOUTH 02°19'48" WEST A DISTANCE OF 602.19 FEET, TO A POINT ON THE NORTH RIGHT OF WAY LINE OF SEVENTH STREET (KNOWN NOW AS ELEVENTH STREET); THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 87°23'38" WEST A DISTANCE OF 60.00 FEET, TO THE SOUTHEAST CORNER OF BLOCK 18; THENCE ALONG THE EAST LINE OF BLOCK 18; NORTH 02°19'48"EAST A DISTANCE OF 602.54 FEET, TO THE NORTHEAST CORNER OF BLOCK 18; THENCE ALONG THE NORTH LINE OF BLOCK 18, NORTH 87°03'40" WEST A DISTANCE OF 144.01 FEET, TO THE NORTHWEST CORNER OF BLOCK 18; THENCE ALONG THE WEST LINE OF BLOCK 18, SOUTH 02°19'48" WEST 603.38 FEET, TO A POINT ON THE AFOREMENTIONED NORTH RIGHT OF WAY LINE OF SEVENTH STREET; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 87°23'38" WEST A DISTANCE OF 16.00 FEET TO A POINT ON THE WEST LINE OF THE AFOREMENTIONED ALLEY; THENCE

ALONG SAID WEST LINE, NORTH 02°19'48" EAST A DISTANCE OF 1017.14 FEET, TO THE POINT OF BEGINNING. CONTAINING 2.98 ACRES MORE OR LESS.
LESS AND EXCEPT;
ALL OF BLOCK 19 OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, SITUATE IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, IN FAYETTEVILLE, WASHINGTON COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER THENCE SOUTH 02° 54'10" WEST A DISTANCE OF 230 FEET; THENCE SOUTH 70°20'15" EAST A DISTANCE OF 18.86 FEET TO A FOUND ½" REBAR WITH CAP, P.S. #1298; THENCE SOUTH 70°53'26" EAST A DISTANCE OF 188.53 FEET, THENCE SOUTH 02°19'48" WEST A DISTANCE OF 64.00 FEET, TO THE NORTHWEST CORNER OF BLOCK 19, FOR A POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF BLOCK 19, SOUTH 87°03'40"EAST 144.01 FEET, TO THE NORTHEAST CORNER OF BLOCK 19; THENCE ALONG THE EAST LINE OF BLOCK 19, SOUTH 02°19'48" WEST A DISTANCE OF 290.00 FEET, TO A THE SOUTHEAST CORNER OF BLOCK 19; THENCE ALONG THE SOUTH LINE OF BLOCK 19, NORTH 87°02'55" WEST A DISTANCE OF 144.01 FEET, TO THE SOUTHWEST CORNER OF BLOCK 19; THENCE ALONG THE WEST LINE OF BLOCK 19, NORTH 02°19'48" EAST A DISTANCE OF 289.97 FEET TO THE POINT OF BEGINNING. CONTAINING 0.96 ACRES MORE OR LESS.
TOTAL AREA TO BE VACATED IS 2.02 ACRES MORE OR LESS.

Fayetteville
ARKANSAS

PC Meeting of September 26, 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 19, 2011~~ *Updated September 30, 2011*

VAC 11-3931: Vacation (510 W. 11th St. & 989 S. SCHOOL AVE./CAMPUS CREST, 562): Submitted by MORRISON SHIPLEY ENGINEERS, INC. for properties located at 510 WEST 11TH STREET AND 989 SOUTH SCHOOL AVENUE. The property is zoned CS, COMMUNITY SERVICES and contains approximately 12.16 acres. The request is to vacate unconstructed street right-of-way. Planner: Jesse Fulcher

Findings:

Property Description and Background: The subject property is located south of Martin Luther King Jr. Boulevard and west of South School and was formally used as the Washington County Sale Barn. The approximately 12-acre project boundary has frontage onto South School, 11th Street, Dunn Avenue, National Street, and Government Avenue.

Request: The applicant's request is to vacate unconstructed right-of-way for West Street, a portion of 5th Street, a portion of 9th Street, and an alley, as indicated on the attached survey. All of the right-of-way was dedicated with Ferguson's Addition in the late 1800's or early 1900's. However, none of the streets were ever constructed, and a portion of 9th Street has already been vacated, making any future connection unlikely. The extension of West Avenue or Fifth Street would require a crossing over Tanglewood Branch, a costly and unnecessary project, given the relatively short block length in the area.

The applicant also makes mention of existing easements for Ozarks Electric and Southwestern Bell. However, these are private easements between the property owner and utility provider, and do not require vacation approval from the City of Fayetteville. Approval of the right-of-way vacation will not vacate any portion of these private easements.

The applicant has submitted the required easement vacation notification forms to the utility companies and to the City with the result summarized below.

UTILITIES	RESPONSE
Ozarks Electric	No Objections

Cox Communications	No Objections
Southwestern Electric Power Company	No Objections
Arkansas Western Gas	No Objections
AT&T	No easement or right-of-way shall be vacated until existing AT&T facilities have been relocated and new easement dedicated.

CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections
Transportation	No Objections
Solid Waste	No Objections

Public Comment: No public comment has been received.

Recommendation: Finding that adequate access exists to serve the subject property and the vacation of un-constructed right-of-way will have no adverse impact, staff recommends forwarding **VAC 11-3931** to the City Council with a recommendation for approval subject to the following conditions:

1. Any damage or relocation of utilities shall be at the owner/developer's expense.
2. The existing easement within the 9th Street right-of-way shall remain in effect.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: √ **Forwarded** ❒ **Denied** ❒ **Tabled**

Date: September 26, 2011
Motion: Chesser
Second: Bunch
Vote: 8-0-0

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

10/18/2011
City Council Meeting Date
Agenda Items Only

Andrew Garner	Planning	Development Services
Submitted By	**Division**	**Department**

Action Required:

VAC 11-3940: Vacation (Summit Place Subdivision, 329): Submitted by COOVER CONSULTANTS for property located at the SOUTH SIDE OF TOWNSHIP STREET AND EAST OF COLLEGE AVENUE. The property is zoned NC, NEIGHBORHOOD CONSERVATION. The request is to vacate a portion of a utility easement throughout the subdivision.

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 — 09.30.2011 Date

City Attorney — 9-30 2011 Date

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

Chief of Staff — 10-3-11 Date

Mayor — 10/3/11 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 09-30-11 P01:46 RCVD

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

Comments:

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Jeremy Pate, Development Services Director

From: Andrew Garner, Senior Planner

Date: September 30, 2011

Subject: VAC 11-3940 (Summit Place Utility Easement Vacation)

RECOMMENDATION

Planning Staff and the Planning Commission recommend approval of an ordinance vacating a portion of a utility easement throughout the Summit Place neighborhood.

BACKGROUND

The subject property is located approximately 500 feet east of College Avenue on the south side of Township Street. The final plat for the Summit Place Subdivision was filed of record on January 22, 2008. This final plat created 50 single family lots.

This property was recently rezoned from RSF-4, Residential Single Family Four Units Per Acre to NC, Neighborhood Conservation. The applicant proposes to re-plat the Summit Place subdivision from 50 single family lots into 123 single family lots (PPL 11-3902). Because the NC zoning district is a form-based zoning district homes are required to be placed close to the street within a 0-25-foot build-to zone. The original Summit Place Subdivision platted a 25-foot front setback and utility easement adjacent to the street. In order to be able to construct homes within the build-to zone, the applicant proposes to vacate the rear 5-feet of the 25-foot utility easement adjacent to the public streets throughout this neighborhood.

The applicant's request is to vacate the rear five feet of a general utility easement located adjacent to all of the interior streets in the Summit Place Subdivision. The applicant has submitted the required easement vacation notification forms to the utility companies with no objections.

DISCUSSION

On September 26, 2011, the Planning Commission forwarded this item to the City Council with a recommendation for approval with a vote of 7-0-0.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 11-3940 SUBMITTED BY COOVER CONSULTANTS FOR PROPERTY LOCATED IN THE SUMMIT PLACE SUBDIVISION TO VACATE A PORTION OF A UTILITY EASEMENT THROUGHOUT THE SUBDIVISION.

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

WHEREAS, the City Council has determined that the following described portion of the platted utility easements are not required for corporate purposes;

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

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

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached and labeled Exhibit A shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to conditions of approval and shall not be in effect until the conditions are met herein.

1. Easements for water and sewer lines shall be 10 feet from centerline of pipes to the edge of easements. No easements shall be vacated that result in less than 10 feet from the centerline of a pipe to the edge of an easement. The owner/developer shall be required to coordinate water and sewer locates and survey the marked locations of all water and sewer lines and present the findings to the City of Fayetteville for review.

2. Any rearrangements in the electric distribution system which may be required by the customer shall be paid for by the customer. New easements will be required to serve the new subdivision layout.

3. Relocation or damage to utilities will be at the owner/developer's expense.

PASSED and **APPROVED** this day of , 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

EXHIBIT "A"
VAC 11-3940

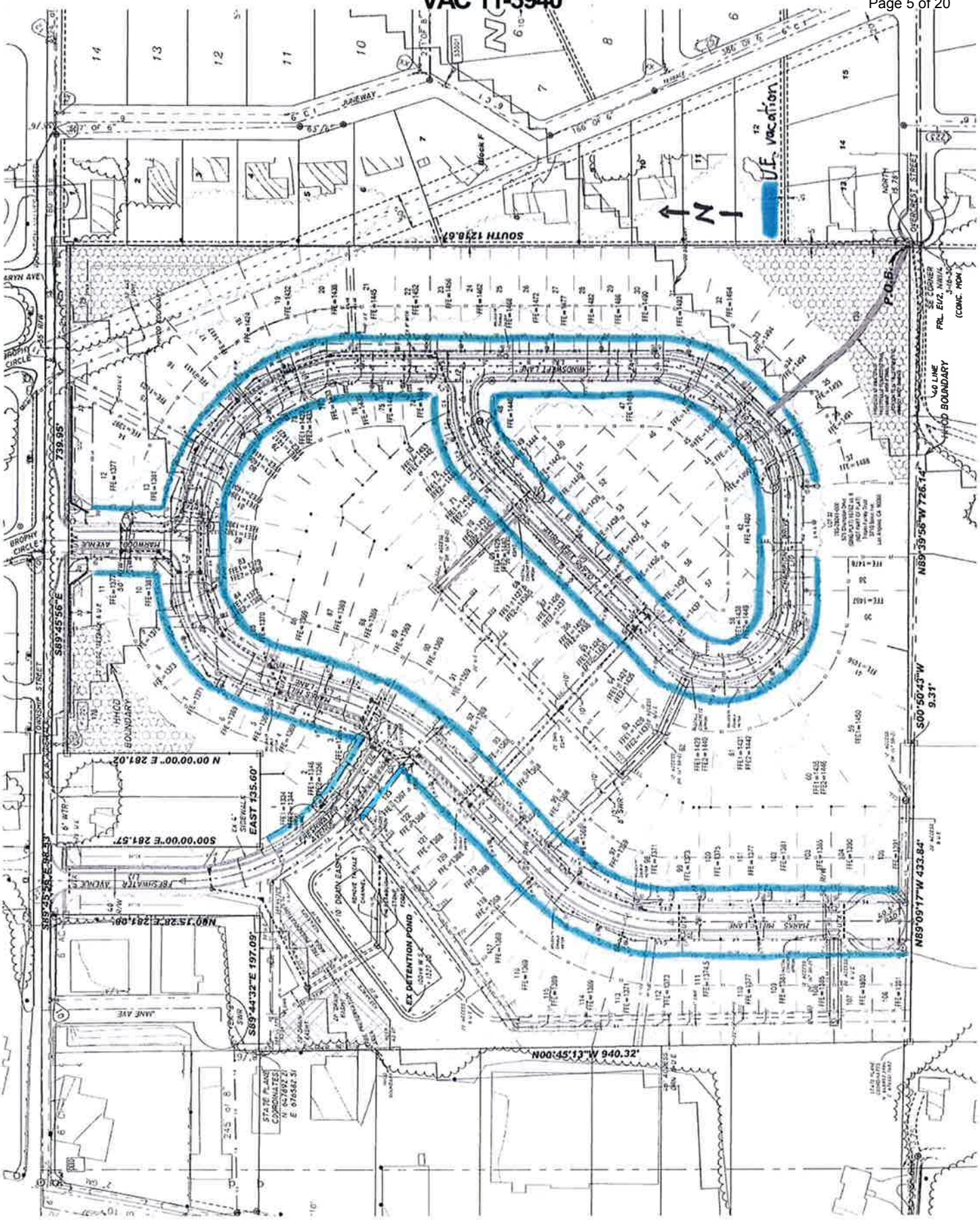


EXHIBIT "B"
VAC 11-3940

THE 5-FOOT PORTION OF THE EXISTING 25-FOOT UTILITY EASEMENT THAT IS FARTHEST FROM THE STREET RIGHT-OF-WAY, RESULTING IN A FINAL UTILITY EASEMENT WIDTH OF 20 FEET ALONG MARKS MILL LANE, MARWOOD AVENUE, WINDSWEPT LANE, OZARK VIEW DRIVE AND CHAMPION DRIVE IN THE SUMMIT PLACE SUBDIVISION, EXCEPT ALONG THE EAST SIDE OF FRESHWATER AVENUE WHERE A 10-FOOT PORTION OF THE EXISTING EMPTY 25-FOOT UTILITY EASEMENT IS TO BE VACATED RESULTING IN A FINAL UTILITY EASEMENT WIDTH OF 15 FEET.

Fayetteville
ARKANSAS

PC Meeting of September 26, 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:	~~September 19, 2011~~ *Updated September 30, 2011*

VAC 11-3940: Vacation (SUMMIT PLACE SUBDIVISION, 329): Submitted by COOVER CONSULTANTS for property located the SOUTH SIDE OF TOWNSHIP STREET EAST OF COLLEGE AVENUE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 30.13 acres. The request is to vacate a portion of a utility easement throughout the subdivision.

Planner: Andrew Garner

Findings:

Property Description and Background: The site is the Summit Place Subdivision located approximately 500 feet east of College Avenue on the south side of Township Street. The final plat for the Summit Place Subdivision was filed of record on January 22, 2008. This final plat created 50 single family lots.

This property was recently rezoned from RSF-4, Residential Single Family Four Units Per Acre to NC, Neighborhood Conservation. The applicant proposes to re-plat the Summit Place subdivision from 50 single family lots into 123 single family lots (PPL 11-3902). Because the NC zoning district is a form-based zoning district homes are required to be placed close to the street within a 0-25-foot build-to zone. The original Summit Place Subdivision platted a 25-foot front setback and utility easement adjacent to the street. In order to be able to construct homes within the build-to zone, the applicant proposes to vacate the rear 5-feet of the 25-foot utility easement adjacent to the public streets throughout this neighborhood.

Request: The applicant's request is to vacate the rear five feet of a general utility easement located adjacent to all of the interior streets in the Summit Place Subdivision. The applicant has submitted the required easement vacation notification forms to the utility companies and to the City with the result summarized below.

UTILITIES	RESPONSE
Ozarks Electric	No Objections
Cox Communications	No Objections

Southwestern Electric Power Company	No Objections
Arkansas Western Gas	No Objections
AT&T	No Objections
CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections
Transportation	No Objections
Solid Waste	No Objections
Engineering	No Objections

Public Comment: No public comment has been received.

Recommendation: Staff recommends forwarding **VAC 11-3940** to the City Council with a recommendation for approval subject to the following conditions:

1. Easements for water and sewer lines shall be 10 feet from centerline of pipes to the edge of easements. No easements shall be vacated that result in less than 10 feet from the centerline of a pipe to the edge of an easement. The owner/developer shall be required to coordinate water and sewer locates and survey the marked locations of all water and sewer lines and present the findings to the City of Fayetteville for review.

2. Any rearrangements in the electric distribution system which may be required by the customer shall be paid for by the customer. New easements will be required to serve the new subdivision layout.

3. Relocation or damage to utilities will be at the owner/developer's expense.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: **X Forwarded** ☐ **Denied** ☐ **Tabled**

Date: September 26, 2011
Motion: Chesser
Second: Cook
Vote: 7-0-0
Note: On consent agenda

Coover Consultants
site/civil/planning/infrastructure

Summit Place Subdivision Replat

PARTIAL EASEMENT VACATION REQUEST

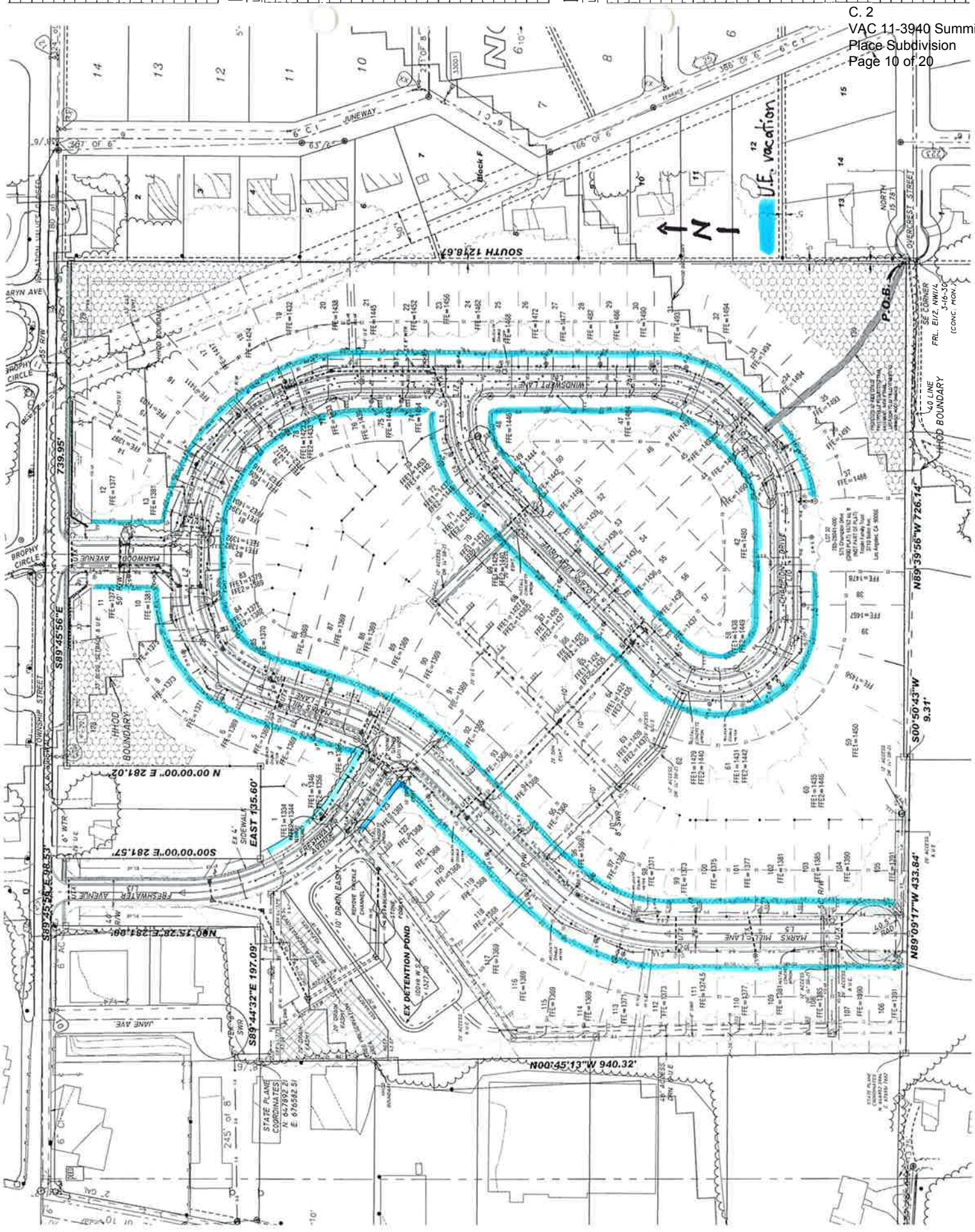
August 26, 2011

In order to better meet the requirements of the Neighborhood Conservation Zoning designation, we are requesting to vacate a 5' portion of the existing 25' Utility Easement (UE) along the streets. More specifically:

The 5-foot portion of the existing 25-foot Utility Easement in the Summit Place Subdivision (Lots 1-30 and 32-54 of the Summit Place per Subdivision File # 023A-00000321) that is farthest from the street right-of-way, resulting in a final utility easement width of 20 feet along Marks Mill Lane, Marwood Avenue, Windswept Lane, Ozark View Drive and Champion Drive in the Summit Place Subdivision, except along the east side of Freshwater Avenue where a 10-foot portion of the existing empty 25-foot Utility Easement is to be vacated resulting in a final utility easement width of 15 feet.

Neighborhood Conservation Zoning requires a build-to area within the first 25' along the front property line. At the present time, there is an existing 25' UE along the front property line, which effectively precludes development of the lots, specifically lots with curved front lot lines. The vacation of 5' of this 25' UE will allow builders enough room to meet the requirements of Neighborhood Conservation Zoning.

# # #


U.E. vacation
P.O.B.
SOUTH 1218.67'
N89°39'56"W 726.14'
S00°50'43"W 9.31'
N89°09'17"W 433.84'
N00°45'13"W 940.32'
S89°45'56"E 739.95'
S89°45'56"E 98.53'
N 00°00'00" E 281.02'
EAST 135.60'
S00°00'00"E 281.57'
N89°15'28"E 281.88'
S89°44'32"E 197.09'
EX DETENTION POND
10' DRAIN EASEMENT
WINDSWEPT LANE
MARKS MILL LANE
FRESHWATER AVENUE
JUNEWAY
QUEENCREST STREET
BROPHY CIRCLE
MARWOOD AVENUE
JANE AVE
TOWNSHIP STREET
HHOD BOUNDARY
STATE PLANE COORDINATES
N: 0476892.21
E: 6765825.51

PETITION

PETITION TO VACATE A PORTION OF AN EASEMENT LOCATED IN THE SUMMIT PLACE SUBDIVISION, CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be partially abandoned and vacated, lying adjacent to the street right-of-way in Summit Place Subdivision, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a portion of an easement which is described as follows:

The 5-foot portion of the existing 25-foot Utility Easement that is farthest from the street right-of-way, resulting in a final utility easement width of 20 feet along Marks Mill Lane, Marwood Avenue, Windswept Lane, Ozark View Drive and Champion Drive in the Summit Place Subdivision, except along the east side of Freshwater Avenue where a 10-foot portion of the existing empty 25-foot Utility Easement is to be vacated resulting in a final utility easement width of 15 feet.

That the abutting real estate affected by said abandonment of the easement are all lots in Summit Place Subdivision, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public.

Dated this 26th day of August, 2011.

MARK COURDIN
Printed Name

Signature

UTILITY APPROVAL FORM

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

DATE: August 25, 2011

UTILITY COMPANY: Source Gas

APPLICANT NAME: TMS DEVELOPMENT, INC. APPLICANT PHONE: (479) 601-1197
REQUESTED VACATION (*applicant must check all that apply*):

√ Utility Easement (portion)

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

I have been notified of the petition to vacate the following portion of a Utility Easement, described as follows:

The 5-foot portion of the existing 25-foot Utility Easement that is farthest from the street right-of-way, resulting in a final utility easement width of 20 feet, except along the east side of Freshwater Avenue where a 10-foot portion of the existing 25-foot Utility Easement is to be vacated resulting in a final utility easement width of 15 feet.

Attached is a copy of the Preliminary Replat showing the 5' portion of the 25' UE to be vacated

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

Any natural gas facilities that are existing and may be within said 5', if relocation required will be at owners expense

Terry M Eng Cond
Signature of Utility Company Representative

Division Operating Manager
Title

UTILITY APPROVAL FORM

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

DATE: August 25, 2011

UTILITY COMPANY: City of Fayetteville Transportation

APPLICANT NAME: TMS DEVELOPMENT, INC. APPLICANT PHONE: (479) 601-1197
REQUESTED VACATION (***applicant must check all that apply***):

√ Utility Easement (portion)

☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

☐ Alley

☐ Street right-of-way

I have been notified of the petition to vacate the following portion of a Utility Easement, described as follows:

The 5-foot portion of the existing 25-foot Utility Easement that is farthest from the street right-of-way, resulting in a final utility easement width of 20 feet, except along the east side of Freshwater Avenue where a 10-foot portion of the existing 25-foot Utility Easement is to be vacated resulting in a final utility easement width of 15 feet.

Attached is a copy of the Preliminary Replat showing the 5' portion of the 25' UE to be vacated

UTILITY COMPANY COMMENTS:

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

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

- No objections provided the following conditions are met:

Terry L Gulley
Signature of Utility Company Representative

Transportation Services Director
Title

UTILITY APPROVAL FORM

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

DATE: August 25, 2011

UTILITY COMPANY: OZARKS ELECTRIC

APPLICANT NAME: TMS DEVELOPMENT, INC. APPLICANT PHONE: (479) 601-1197
REQUESTED VACATION (***applicant must check all that apply***):

√ Utility Easement (portion)

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

I have been notified of the petition to vacate the following portion of a Utility Easement, described as follows:

The 5-foot portion of the existing 25-foot Utility Easement that is farthest from the street right-of-way, resulting in a final utility easement width of 20 feet, except along Freshwater Avenue where a 10-foot portion of the existing 25-foot Utility Easement is to be vacated resulting in a final utility easement width of 15 feet.

Attached is a copy of the Preliminary Replat showing the 5' portion of the 25' UE to be vacated

UTILITY COMPANY COMMENTS:

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

_____

_____

- ( ) No objections provided the following conditions are met:

_____

_____

_____
Signature of Utility Company Representative

Lead Staking Tech
Title

UTILITY APPROVAL FORM

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

DATE: August 25, 2011

UTILITY COMPANY: AEP/SWEPCO

APPLICANT NAME: TMS DEVELOPMENT, INC. APPLICANT PHONE: (479) 601-1197

REQUESTED VACATION (***applicant must check all that apply***):

√ Utility Easement (portion)

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

I have been notified of the petition to vacate the following portion of a Utility Easement, described as follows:

The 5-foot portion of the existing 25-foot Utility Easement that is farthest from the street right-of-way, resulting in a final utility easement width of 20 feet, except along Freshwater Avenue where a 10-foot portion of the existing 25-foot Utility Easement is to be vacated resulting in a final utility easement width of 15 feet.

Attached is a copy of the Preliminary Replat showing the 5' portion of the 25' UE to be vacated

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

Any rearrangements in the electric distribution system which may be required by the customer shall be paid for by the customer, also new easements will be required to serve the new layout.

Ronald R Bentzen

Signature of Utility Company Representative

Project Engineer

Title

FILED

UTILITY APPROVAL FORM

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

DATE: August 25, 2011

UTILITY COMPANY: ATT (SWBT)

APPLICANT NAME: TMS DEVELOPMENT, INC. APPLICANT PHONE: (479) 601-1197
REQUESTED VACATION (*applicant must check all that apply*):

√ Utility Easement (portion)

– Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

– Alley

– Street right-of-way

I have been notified of the petition to vacate the following portion of a Utility Easement, described as follows:

The 5-foot portion of the existing 25-foot Utility Easement that is farthest from the street right-of-way, resulting in a final utility easement width of 20 feet, except along the east side of Freshwater Avenue where a 10-foot portion of the existing 25-foot Utility Easement is to be vacated resulting in a final utility easement width of 15 feet.

Attached is a copy of the Preliminary Replat showing the 5' portion of the 25' UE to be vacated

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

Susan K. Clauser 08-26-11
Signature of Utility Company Representative

MANAGER ENG. DESIGN
Title

UTILITY APPROVAL FORM

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

DATE: August 25, 2011

UTILITY COMPANY: Solid Waste + Recycling

APPLICANT NAME: TMS DEVELOPMENT, INC. APPLICANT PHONE: (479) 601-1197
REQUESTED VACATION (***applicant must check all that apply***):

√ Utility Easement (portion)

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

I have been notified of the petition to vacate the following portion of a Utility Easement, described as follows:

The 5-foot portion of the existing 25-foot Utility Easement that is farthest from the street right-of-way, resulting in a final utility easement width of 20 feet, except along Freshwater Avenue where a 10-foot portion of the existing 25-foot Utility Easement is to be vacated resulting in a final utility easement width of 15 feet.

Attached is a copy of the Preliminary Replat showing the 5' portion of the 25' UE to be vacated

UTILITY COMPANY COMMENTS:

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

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

• No objections provided the following conditions are met:

Brian Pugh
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

UTILITY APPROVAL FORM

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

DATE: August 25, 2011

UTILITY COMPANY: City of Fayetteville – Water/Sewer

APPLICANT NAME: TMS DEVELOPMENT, INC. APPLICANT PHONE: (479) 601-1197
REQUESTED VACATION (*applicant must check all that apply)*:

√ Utility Easement (portion)

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

I have been notified of the petition to vacate the following portion of a Utility Easement, described as follows:

The 5-foot portion of the existing 25-foot Utility Easement that is farthest from the street right-of-way, resulting in a final utility easement width of 20 feet, except along Freshwater Avenue where a 10-foot portion of the existing 25-foot Utility Easement is to be vacated resulting in a final utility easement width of 15 feet.

Attached is a copy of the Preliminary Replat showing the 5' portion of the 25' UE to be vacated

UTILITY COMPANY COMMENTS:

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

Easements for water and sewer lines shall be 10' from centerline of pipes to the edge of easements. No easements shall be vacated that result in less than 10' from the centerline of a pipe to the edge of an easement. TMS Development, Inc. will be required to coordinate water and sewer locates and survey the marked locations off all water and sewer lines and present the findings to the City of Fayetteville for review.

An 8-inch water line extension will be required along Freshwater Avenue to loop the water line into the 12-inch water line located along Township Street. The water line shall be installed in the existing platted utility easement. At least 10' from centerline of the water line to the edge of the easement shall be provided.

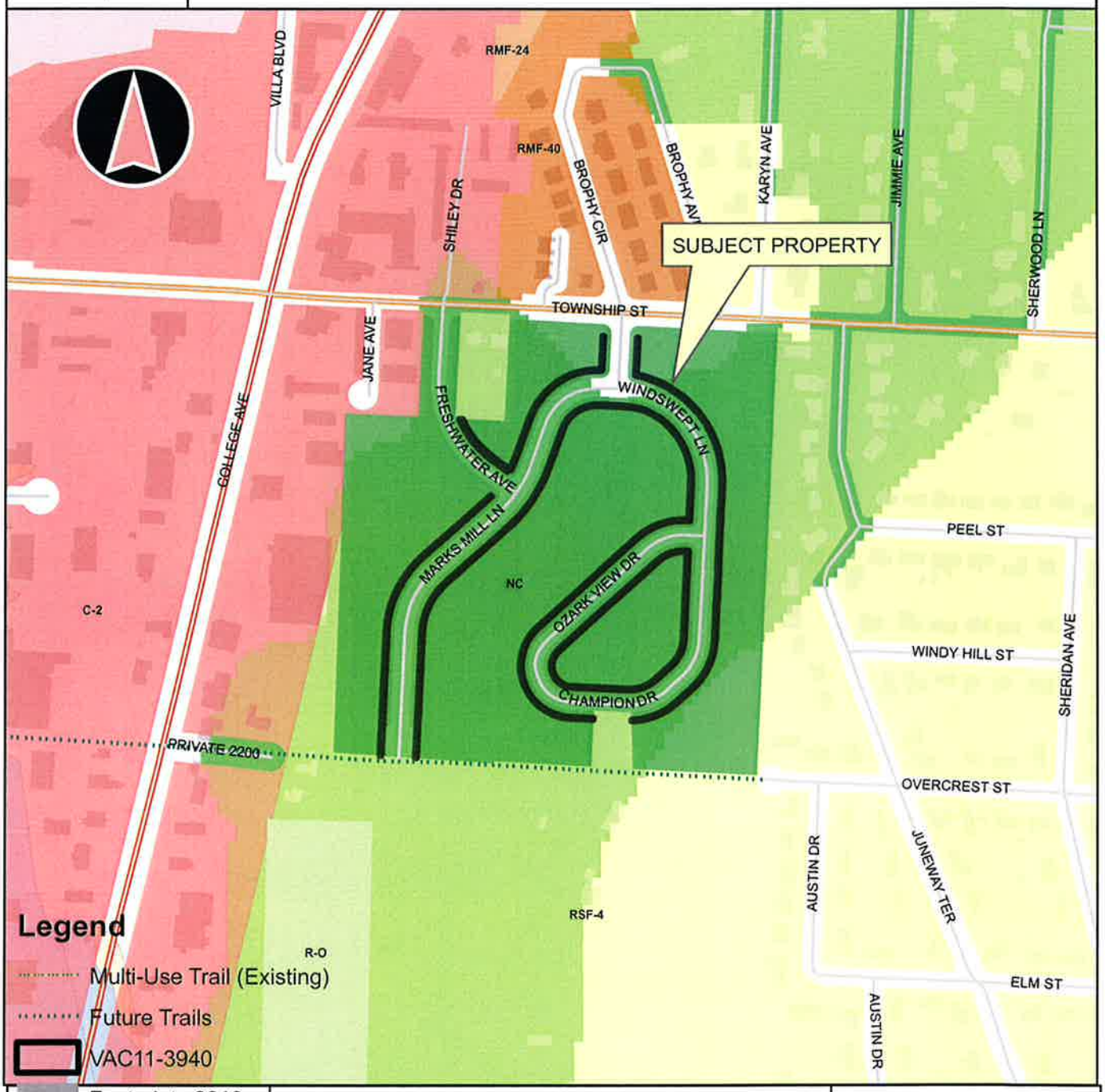
Signature of Utility Company Representative

Utilities Engineer
Title

VAC11-3940

Close Up View

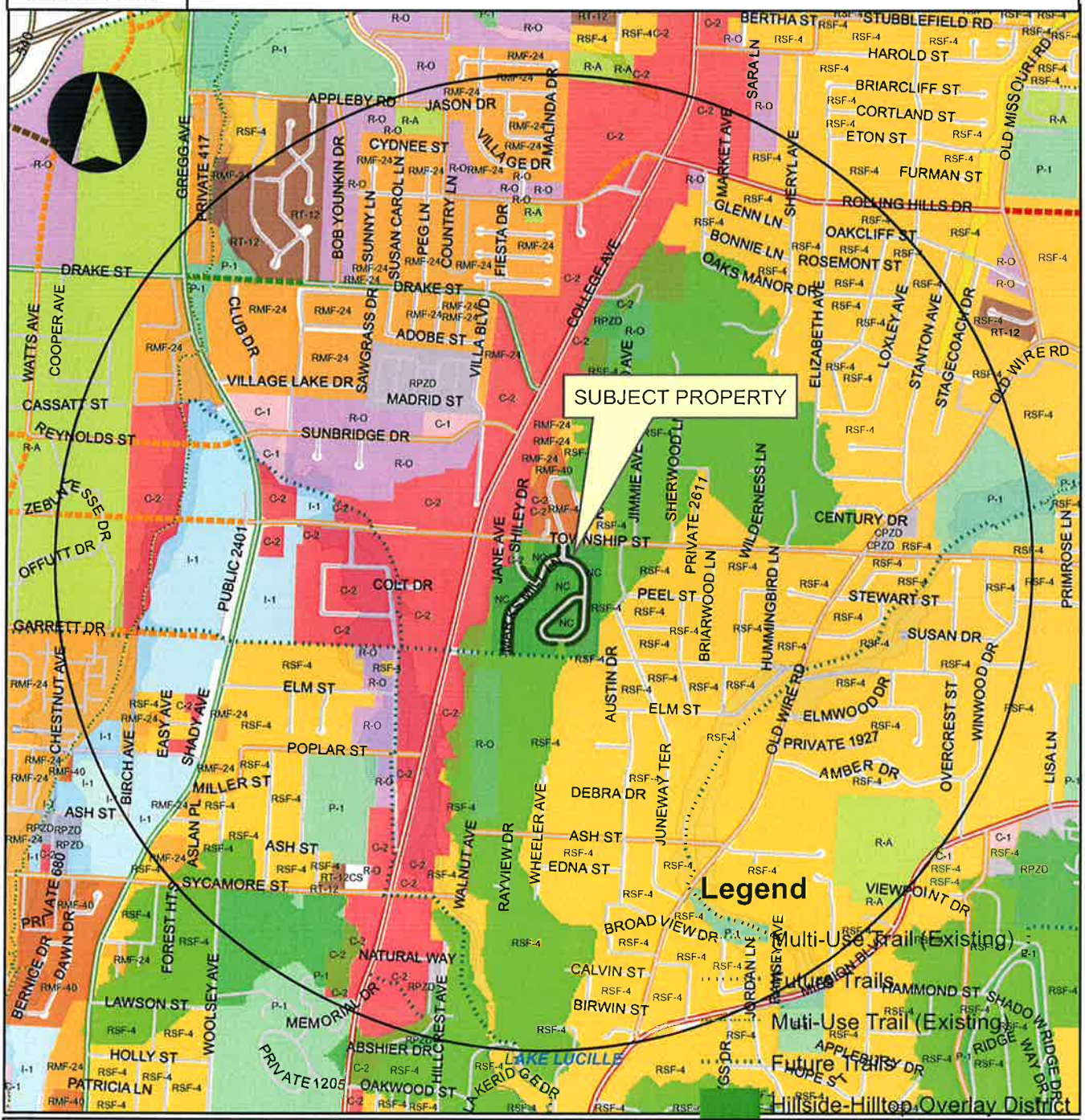
SUMMIT PLACE S/D



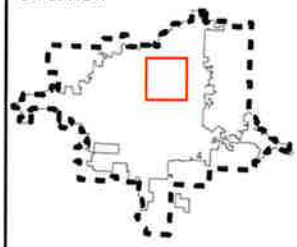
VAC11-3940

One Mile View

SUMMIT PLACE S/D



Overview



Legend

Subject Property

VAC11-3940

Boundary

VAC11-3940

Design Overlay District

Planning Area

Fayetteville

0 0.25 0.5 1

Miles

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

10/18/2011
City Council Meeting Date
Agenda Items Only

Jesse Fulcher		Sustainability and Strategic Planning
Submitted By		**Department**

Action Required:

ADM 11-3934: (UDC CHAPTERS 164.12 AND 164.13): Submitted by CITY PLANNING STAFF. The proposal is to amend Chapters 164.12 Nonconforming Uses and Structures and 164.13 Non Residential Uses in R Districts.

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	09.30.2011 Date	Previous Ordinance or Resolution #
City Attorney	9-30-2011 Date	Original Contract Date: / Original Contract Number:
Finance and Internal Services Director	9-30-2011 Date	Received in City Clerk's Office 09-30-11P01:45 RCVD
Chief of Staff	10-3-11 Date	
Mayor	10/5/11 Date	Received in Mayor's Office ENTERED 9/30/11

Comments:

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Jeremy Pate, Development Services Director

From: Jesse Fulcher, Current Planner

Date: September 30, 2011

Subject: ADM 11-3934 UDC 164.12 Nonconforming uses and structures & 164.13 Non Residential uses in R Districts

RECOMMENDATION

Staff and the Planning Commission recommends approval of an ordinance amending Chapters 164.12 Nonconforming Uses and Structures and 164.13 Non Residential uses in R Districts of the Unified Development Code.

BACKGROUND

The City of Fayetteville first began regulating nonconforming uses in 1951 with the adoption of Ordinance 1002, which "regulated and restricted the use of land and location of buildings." This same general use restriction continued until 1970 when the city expanded these regulations and adopted a comprehensive zoning ordinance. Article 4 of this ordinance set out regulations concerning nonconforming lots, nonconforming uses of land, nonconforming structures, nonconforming uses of structures and premises, and nonconforming characteristics of use. These regulations have continued almost unchanged for 40 years.

The intent of the ordinances was to allow lots, structures, and uses established prior to the zoning ordinance to continue ("grandfather clause"), but "not to encourage their survival." This position was appropriate for nonconforming uses. Regulating nonconforming uses was intended to, as in many urban areas around the country, to prevent the encroachment of industrial and heavy commercial uses into residential districts, and to regulate such uses that had already been established. However, applying this same rigid standard to nonconforming structures has created an additional burden for property owners, and is fundamentally in conflict with the city's current policy, which is to revitalize older neighborhoods and creatively adapt old structures for new uses.

Staff proposes to repeal and replace all of section 164.12 Nonconforming uses and structures. These changes are intended to reduce the number of restrictions applied to nonconforming structures. The regulations governing nonconforming uses, or uses and land in combination will remain relatively unchanged. A new definition for nonconforming structures, uses and lots is being provided for clarification, and a few minor changes to section

164.13 are also being proposed to clarify separation requirements between certain residential and nonresidential uses.

Summary of changes:

- Revised intent. "Nonconforming structures are permitted to exist for continued and creative reuse to contribute to the surrounding character, diversity, and services in the neighborhood until such structures are removed."
- No limitation on building repairs and maintenance.
- Building expansions are permitted in compliance with current setbacks.
- Structures removed by fire, winds or other calamity are permitted to be reconstructed on same footprint.
- Voluntary removal requires conformance with code.
- Two or more nonconforming lots with continuous frontage (adjacency) in single ownership shall be considered separate lots as long as each lot has at least 50% of the required lot width required by the underlying zoning.
- Clarified separation requirements between specific nonresidential facilities and single-family zoning districts.

DISCUSSION

On September 26, 2011 the Planning Commission voted 8-0-0 in favor of a recommendation of approval for ADM 11-3934. Staff will present these proposed amendments to the Board of Adjustment on October 3, 2011.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE RELATED TO NONCONFORMING USES AND STRUCTURES AND NON RESIDENTIAL USES IN R DISTRICTS.

WHEREAS, the City of Fayetteville encourages infill, historic preservation, adaptive reuse of buildings and revitalization; and

WHEREAS, the regulations of the City of Fayetteville should encourage the survival and creating reuse of nonconforming structures, but existing ordinances currently discourage their survival and reuse; and

WHEREAS, the regulations of the City of Fayetteville should permit development of single-family homes on existing lots of record to encourage reinvestment in neighborhoods and appropriate infill development.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends the Unified Development Code Chapter 151: Definitions by replacing the definition for *Nonconforming use* with the following term:

Nonconforming structures, uses, and lots. A structure or building, use or activity, or lot which was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby repeals §164.12 Nonconforming Uses and Structures and §164.13 Non Residential Uses in R Districts and enacts a replacement §164.12 and §164.13, shown as Exhibit "A" attached hereto and made a part hereof.

PASSED and **APPROVED** this ____ day of ____, 2011.

APPROVED:

By:_____
LIONELD JORDAN, Mayor

ATTEST:

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

EXHIBIT "A"

TITLE XV UNIFIED DEVELOPMENT CODE
CHAPTER 164: SUPPLEMENTARY ZONING REGULATIONS

164.01 ACCESSORY COMMERCIAL USES 3
164.02 ACCESSORY STRUCTURES AND USES 3
164.03 ACCESSORY RESIDENTIAL USES IN NONRESIDENTIAL DISTRICTS 3
164.04 ANIMALS AND FOWL 4
164.05 MOTOR VEHICLE REPAIR 5
164.06 RESERVED 5
164.07 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT OF RECORD 5
164.08 EXTRACTION 5
164.09 FENCES, WALLS, AND VEGETATION 6
164.10 GARAGE SALES 6
164.11 HEIGHT OR SETBACK REGULATIONS; EXCEPTIONS 6
164.12 NONCONFORMING USES AND STRUCTURES 7
164.13 NON RESIDENTIAL USES IN R DISTRICTS 9
164.14 PARKING AND STORAGE OF CERTAIN VEHICLES 10
164.15 PREFABRICATED CONSTRUCTION 10
164.16 STRUCTURES TO HAVE ACCESS 10
164.17 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL/NONRESIDENTIAL DISTRICTS 11
164.18 SUPPLEMENTARY USE REGULATIONS 11
164.19 ACCESSORY DWELLING UNITS (ADU) 12
164.20 APPROVAL OF VITAL MUNICIPAL FACILITIES 14
164.21 LIMITED BUSINESS 15
164.22-164.99 RESERVED 15

EXHIBIT "A"

Fayetteville Code of Ordinances

CHAPTER 164: SUPPLEMENTARY ZONING REGULATIONS

164.12 Nonconforming Uses And Structures

It is the intent of this section to regulate nonconforming structures, uses or lots that are created when zoning designations or regulations are created or changed such than an existing lawfully established structure, use, or lot no longer conforms to the regulations of the Unified Development Code. It is also the intent of this section to permit nonconformities to continue as they exist presently and to guide future uses and development to be consistent with the City's planning policy and regulations.

(A) *Nonconforming structures.*

(1) Nonconforming structures are permitted to exist for continued and creative reuse to contribute to the surrounding character, diversity, and services in the neighborhood until such structures are removed.

(2) Repairs to nonconforming structures or portions thereof are permitted, so long as the nonconforming portion of the structure is not enlarged in volume, area or footprint.

(3) Reconstruction of nonconforming structures or portions thereof amounting to less than 50% of the existing square feet are permitted so long as the nonconforming portion of the structure is not enlarged in volume, area or footprint.

(4) Voluntary removal, damage or destruction of a nonconforming structure or portion thereof amounting to 50% or more of the existing square feet shall require either complete removal of the structure or its reconstruction in conformance with existing regulations.

(5) Involuntary damage to or destruction of a nonconforming structure (from fire, winds or other calamity) shall permit the owner to rebuild, reconstruct or restore the structure on the same footprint of the original structure plus any addition or expansion that is allowed by the underlying zoning district. Such reconstruction is permitted as long as it begins within 18 months of the loss and complies with all other applicable zoning, development and building codes.

(6) For nonconforming structures located in a zoning district utilizing conventional building setbacks, building additions/expansions are permitted so long as the addition is in compliance with all current setbacks, building area and building height requirements of the underlying zoning district, along with all other applicable zoning and development ordinances.

(7) For nonconforming structures located in zoning districts utilizing build-to zones and requirements for a minimum buildable street frontage, all new construction that increases the existing building(s) footprint or volume of habitable space by 50% or more shall comply with the standards of the underlying zoning district. Building additions/expansions that increase the existing building(s) footprint or volume of habitable space on a property by less than 50% may be located outside of the build-to zone, so long as they are compliant with all other applicable zoning and development ordinances.

(8) Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(9) A structure or portion thereof within any zoning district may be altered to decrease its nonconformity.

(10) Owners of nonconforming structures are encouraged to keep such structures in good condition by regular maintenance and prompt repairs when necessary. If the City's Building Official notifies the owner of any unsafe or unlawful condition of the building, the owner must repair such unsafe or unlawful condition promptly. The Building Official may impose a reasonable time limit for the repairs to be complete. Failure of the owner to promptly and satisfactorily complete the necessary repairs may result in the City Council ordering a raze and removal of the structure.

(11) A nonconforming structure may be brought into conformity by way of an approved variance from the Board of Adjustment, a rezoning action, or by altering the structure to comply with the standards of the underlying zoning district. A structure constructed unlawfully shall not be considered a nonconforming structure for the purposes of this chapter and is a prohibited structure unless it is brought into compliance as provided herein.

(B) *Nonconforming uses.* Nonconforming uses are declared by the underlying zoning district to be incompatible and are regulated to further restrict actions that would make the uses more

EXHIBIT "A"

permanent in their location or expand their nonconformity.

(1) *Nonconforming uses of land, structures or of structures and land in combination.* Where a permitted or otherwise lawful use of land or of structure and land in combination exists which would not be permitted by subsequent regulations imposed by the Unified Development Code, the use may be continued as long as it remains otherwise lawful, subject to the following provisions.

(a) *Enlargement.* No use of land or an existing structure devoted to a use not permitted in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the land or structure to a use permitted in the district in which it is located or as required by other ordinances.

(b) *Extending use.* Any nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such buildings.

(c) *Change of use.* Any nonconforming use of land, structure, or structure and land in combination may as a conditional use be changed to another nonconforming use provided that the Planning Commission, either by general rule or by making finding in the specific case, finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change the Planning Commission may require appropriate conditions and safeguards in accord with the provisions of the Unified Development Code.

(d) *Conditional use provisions not nonconforming uses.* Any use which is permitted as a conditional use in a district under the terms of this chapter and has been approved by the Planning Commission (other than a change through Planning Commission action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall be without further action considered a conforming use.

(e) *Superseded by permitted use.* Any land, structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

(f) *Abandonment of use.* When a nonconforming use of land, a structure, or structure and land in combination is discontinued or abandoned for six consecutive months, (except where government action impedes access to the premises), the land, structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(g) *Destruction.* Removal or destruction of a structure with a nonconforming use shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50% of the existing gross square feet of the structure.

(2) A nonconforming use may be brought into conformity through a rezoning action by the City Council or by Conditional Use Permit by the Planning Commission, as applicable. A use established unlawfully shall not be considered a nonconforming use for the purposes of this chapter and is a prohibited use unless it is brought into compliance as provided herein.

(C) *Nonconforming Lots.* Lots that do not fully meet the requirements of the Unified Development Code to be considered a conforming lot for development, and thus are considered nonconforming lots, may be utilized for development in accordance with the following provisions:

(1) A proposed structure must meet all applicable building setbacks, height and lot coverage requirements and other applicable zoning and development codes, with the specific exception of the reason for which the lot is nonconforming.

(2) Such lot shall have frontage onto a public street, and water and sewer shall be provided to the lot at the time of development.

EXHIBIT "A"

(3) Such lot shall have at least 50% of the required lot width and area of the underlying zoning district.

(4) A nonconforming lot that does not meet the provisions above may be brought into conformity by way of an approved variance from the Board of Adjustment, a rezoning action, or by combining a lot(s) in order to meet the standards of the underlying zoning district. A lot that was established unlawfully shall not be considered a legal lot of record for the purposes of this chapter and no building or development permit may be granted until the lot is legally established as provided herein.

(Code 1965, App. A., Art. 7 (14); Ord. No. 1747, 6-29-70; Code 1991, §160.088; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5296, 12-15-09)

164.13 Non Residential Uses In RSF Districts

The following requirements apply to ~~charitable, cultural, educational, recreational, health, institutional, religious, social, and similar~~ specific nonresidential facilities where permitted in or abutting an RSF District. The Planning Commission may reduce these requirements after receiving and reviewing a development plan under the provisions of §166. ~~Separation of structures of areas for uses listed above shall be as follows:~~ For the uses listed, the minimum separation shall be measured from the actual nonresidential use or structure to the closest single-family residential structure.

Type of Structures or Element of the Facility	Minimum Separation (ft.)
~~**Outdoor Facility or Use:**~~	
~~Eating or picnic area~~	~~100 ft.~~
~~Entrance driveway~~	~~20 ft.~~
~~Outdoor activity area~~	~~75 ft.~~
~~Outdoor lighted area~~	~~200 ft.~~
Outdoor spectator facilities	50 ft.
Outdoor sports area without spectator facilities	100 ft.
Tool or equipment storage	~~200~~ 50 ft.
~~**Indoor Facilities:**~~	
Air conditioning tower or dispenser unit	50 ft.
~~Auditorium, ballroom, dining room, or meeting room having a floor area of more than 1, 200 square feet, game court, game room, gymnasium, locker or shower room, place where alcoholic beverages are served, spectator facilities, swimming pool, theater, or similar indoor facility:~~ ~~If fully air-conditioned~~ ~~If not fully air-conditioned~~	 ~~100 ft.~~ ~~200 ft.~~
~~Building of a general hospital or convalescent home~~	~~50 ft.~~
~~Building of a hospital, sanitarium or convalescent home for alcoholic, mental, nervous, narcotic or contagious patients~~	~~200 ft.~~
~~**All Other Facilities:**~~	
~~If fully air-conditioned~~	~~50 ft.~~
~~If not fully air-conditioned~~	~~100 ft.~~

TITLE XV UNIFIED DEVELOPMENT CODE
CHAPTER 151: DEFINITIONS

151.01 Definitions..... 2

CHAPTER 151: DEFINITIONS

151.01 Definitions

For the purpose of Title XV, Unified Development Code, the following definitions shall apply to the divider sections, chapters, sections or subsections, unless the context clearly indicates or requires a different meaning.

N

Native woodlands. (Tree Preservation and Protection) A biological community of trees and woody shrubs native to the Ozark Plateau, covering an area of 10,000 square feet or greater. A list of species to the Ozark Plateau may be found in the City of Fayetteville *Tree Preservation, Protection, and Landscape Manual.*

Natural drainage ways. (Physical Alteration of Land) Ephemeral, intermittent and perennial streams. Chapter 169 is not concerned with ephemeral streams.

New construction. (Flood Damage Prevention) For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of this development code.

New Development. (Water and Wastewater Impact Fees) Construction of a new single family home and the construction or expansion of any other building or structure. The change in use of a building or structure that results in increased demand from water and wastewater facilities shall also be considered new development.

Nonconforming sign. (Signs) A sign existing on 12-19-72 which could not be built under the terms of the UDC.

Nonconforming use. (Airport Zone) Any pre-existing structure, object of natural growth, or use of land which does not conform to the provisions of Chapter 165 or an amendment thereto.

~~*Nonconforming use.* (Zoning) A use that lawfully occupied a building or structure or land on the effective date of the zoning ordinance, adopted June 29, 1970, and that does not conform to the use regulations of the district in which it is located.~~

Nonconforming structures, uses, and lots. (Zoning) A structure or building, use or activity, or lot which was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

Non-native woodlands. (Tree Preservation and Protection) A biological community of trees and woody shrubs, covering the area of 10,000 square feet or greater, descended from non-native species brought to the area during urban settlement. A list of typical non-native species may be found in the City of Fayetteville *Tree Preservation, Protection, and Landscape Manual.*

Nudity or state of nudity. (Zoning)

(A) The appearance of the bare human buttocks, anus, male genitals, female genitals or female breast.

(B) A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

O

Obstruction. (Airport Zone) Any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in Chapter 165.

Off-site sign. (Signs) A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed. The term of-site sign shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or noncommercial message.

One-hundred year flood. (100-year)(Flood Damage Prevention) A flood which has a one percent annual probability of being equaled or exceeded. It is identical to the "base flood," which will be the term used throughout Chapter 168.

On-site sign. (Signs) A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing on the same lot where such sign is displayed; provided, an on-site sign may also display a noncommercial message.

Operator's permit. (Manufactured Homes and Parks) (Manufactured Homes and Parks opened or expanded after 4-20-72) A written permit issued by the enforcement officer permitting the manufactured home park to operate under Chapter 175 and regulations promulgated thereunder.

Original tower height. (Wireless Telecommunications Facilities) Height of a tower, not

Fayetteville
ARKANSAS

PC Meeting of September 26, 2011
Board of Adjustment Meeting of October 3, 2011

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission and Board of Adjustment Members
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~September 21, 2011~~ *Updated September 30, 2011*

ADM 11-3938: Administrative Item (UDC CHAPTERS 164.12 & 164.13): Submitted by CITY PLANNING STAFF. The proposal is to amend Chapters 164.12 Nonconforming Uses and Structures and 164.13 Non Residential uses in R Districts. Planner: Jesse Fulcher

BACKGROUND

Background: The City of Fayetteville first began regulating nonconforming uses in 1951 with the adoption of Ordinance 1002, which "regulated and restricted the use of land and location of buildings." This same general use restriction continued until 1970 when the city expanded these regulations and adopted a comprehensive zoning ordinance. Article 4 of this ordinance set out regulations concerning nonconforming lots, nonconforming uses of land, nonconforming structures, nonconforming uses of structures and premises, and nonconforming characteristics of use. These regulations have continued almost unchanged for 40 years.

The intent of the ordinances was to allow lots, structures, and uses established prior to the zoning ordinance to continue ("grandfather clause"), but "not to encourage their survival." This position was appropriate for nonconforming uses. Regulating nonconforming uses was intended to, as in many urban areas around the country, to prevent the encroachment of industrial and heavy commercial uses into residential districts, and to regulate such uses that had already been established. However, applying this same rigid standard to nonconforming structures has created an additional burden for property owners, and is fundamentally in conflict with the city's current policy and practice.

Nonconforming structures:
A property owner who has a nonconforming structure is severally limited by what improvements can be permitted without further action by the Board of Adjustment, the appointed body that reviews variances for nonconforming structures and lots. The code currently allows a 25% expansion to an owner-occupied single-family home, but no such expansions are permitted for non owner-occupied homes, multi-family, commercial or industrial buildings. Owners of these buildings are restricted to making repairs and improvements to the interior of the structure only, and the value of work performed is severely limited. This flexibility may work for some property owners, but many others who must exceed these restrictions in order to rehabilitate a

dilapidated home, or restore a historic structure, must make application for a variance, unnecessarily delaying a project that adds value to the property and the community.
Additionally, many buildings in Fayetteville have significant historical value. However, due to the age of construction, or simply because of changes to development regulations over time, these structures are often found to be nonconforming. As written, the nonconforming structures code discourages the survival of these buildings. This is an obvious conflict with our adopted polices for infill and revitalization, reinvestment in neighborhoods, historic preservation and adaptive reuse of buildings.

Nonconforming lots:
The code currently recognizes older platted lots that may not meet the minimum lot width or lot area required by current zoning. These are considered nonconforming lots of record and may be developed with a single-family dwelling. Depending on specific conditions, development may be allowed by right or with approval from the Subdivision Committee. Two or more nonconforming lots with continuous frontage and owned by separate entities may be developed as individual lots. However, the same condition under common ownership results in the lots being considered one undivided lot. These properties are most often found in the center of the city, in neighborhoods that were developed prior to current zoning regulations, and provide great opportunities for infill development. However, the code prescribes a double-standard based on ownership, which the city does not regulate or monitor. Eliminating the common ownership standard, and setting minimum standards for nonconforming lots will encourage infill and revitalization, and reduce the need to request a variance based on ownership.

Proposal: Staff proposes to repeal and replace all of section 164.12 Nonconforming uses and structures. These changes are intended to reduce the number of restrictions applied to nonconforming structures. The regulations governing nonconforming uses, or uses and land in combination will remain relatively unchanged. A new definition for nonconforming structures, uses and lots is being provided for clarification, and a few minor changes to section 164.13 are also being proposed to clarify separation requirements between certain residential and nonresidential uses.

Summary of changes:

- Revised intent. "Nonconforming structures are permitted to exist for continued and creative reuse to contribute to the surrounding character, diversity, and services in the neighborhood until such structures are removed."
- No limitation on building repairs and maintenance.
- Building expansions are permitted in compliance with current setbacks.
- Structures removed by fire, winds or other calamity are permitted to be reconstructed on same footprint.
- Voluntary removal requires conformance with code.
- Two or more nonconforming lots with continuous frontage (adjacency) in single ownership shall be considered separate lots as long as each lot has at least 50% of the required lot width required by the underlying zoning.
- Clarified separation requirements between specific nonresidential facilities and single-

family zoning districts.

Recommended Motion: This code section of the Unified Development Code is technically more appropriate for the Board of Adjustment to review, due to the fact that this board administers zoning variances, which is the manner of relief for nonconformities. Staff has asked both the Planning Commission and the Board of Adjustment to review these changes, along with the City Attorney's office, and requests that each board forward **ADM 11-3938** to the City Council with a recommendation for approval:

Planning Commission Action: √ **Forwarded** ❒ **Tabled**
Motion: Chesser
Second: Cook
Vote: 8-0-0
Planning Commission Meeting Date: September 26, 2011

Board of Adjustment Action: ❒ **Forwarded** ❒ **Tabled**
Motion:
Second:
Vote:
Board of Adjustment Meeting Date: October 3, 2011

Existing Law

164.12 Nonconforming Uses And Structures

(A) *Intent.*

(1) Within the districts established by this chapter or amendments that may later be adopted, if there exist lots, structure, uses of land and structures, and characteristics of use which are lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(2) It is not the intent of this section to prohibit the improvement of nonconforming residences by adding bath facilities or connecting to utilities as long as the bulk and area requirements of the RMF-40 District are met.

(3) Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the district involved.

(4) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this chapter by the addition of other uses of a nature which would be prohibited generally in the district involved.

(B) *Nonconforming lots of record.*

(1) *Single-family dwellings.* In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that setback dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. In a previously developed subdivision, platted prior to June 29, 1970, and with the approval of the Subdivision Committee, a new single-family dwelling, or an addition, or repair to an existing single-family dwelling may be constructed in all residential zones in keeping with the existing standard in the neighborhood so long as the interior side setback is no less than five (5) feet. Variance of setback requirements shall be obtained only through action of the Board of Adjustment.

(2) *Combined lots.* If two or more, or combination of lots and portion of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all parts of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements stated in this chapter. The prohibition prescribed hereby shall not apply to a nonconforming lot on which a principal structure existed on the effective date of adoption of this chapter and which adjoins a nonconforming lot on which a principal structure existed on the effective date of the adoption of this chapter.

(C) *Nonconforming uses of land (or land with minor structures only).* Where at the time of passage of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where such use involves no individual structure with a replacement cost exceeding $1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

(1) *Enlargement.* No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(2) *Moving of use.* No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter.

(3) *Cease of use.* If any such nonconforming use of land ceases for any reason for a period of more than 120 days, any subsequent use of such land shall conform to the regulations in which such land is located; and

(4) *Additional structures.* No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

(D) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restriction on areas, lot coverage, height, setbacks, its location in the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) *Alterations.* No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity, provided, the following structures may be enlarged or altered as hereinafter provided:

(a) Nonconforming residential structures may be enlarged or altered by increasing the height of said structures.

(b) Carports in residential zones may be extended into the required setback setbacks if:

(i) The carport is setback at least 10 feet from the street right-of-way;

(ii) The carport is setback at least five feet from any interior side property line;

(iii) The carport is setback at least 10 feet from the rear property line;

(iv) The area below the roof is open on the sides; and

(v) The carport does not materially obstruct vision.

(c) In residential zones, detachable awnings which are not structurally a part of the building may be erected in any required front setback or rear setback if the awning does not project more than six feet. Detachable awnings which are not structurally a part of the building and which project no more than four feet may be erected in any required interior side setback.

(d) In residential zones, porch roofs and open porches may extend into required setbacks by one foot on each side of the entry door to maximum depth of six feet in required front setbacks and rear setbacks and to a maximum depth of four feet in required interior side setbacks.

(e) *Build-to-zone.* Nonconforming structures located on properties with a build-to zone may be altered to permit expansion up to 25% of the existing square footage.

(2) *Destruction.* Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(3) *Moving.* Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(E) *Nonconforming uses of structures or of structures and premises in combination.* If lawful use involving individual structures with a replacement cost of $1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions.

(1) *Enlargement of structure.* No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located or as required by other ordinances.

(2) *Extending use.* Any nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such buildings.

(3) *Change of use.* If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a conditional use be changed to another nonconforming use provide that the Planning Commission either by general rule or by

making finding in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change the Planning Commission may require appropriate conditions and safeguards in accord with the provision of this chapter.

(4) *Superseded by permitted use.* Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

(5) *Abandonment of use.* When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months, or for 18 months during any three year period (except where government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(6) *Destruction.* Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this division is defined as damage to an extent of more than 50% (or other figure) of the replacement cost of time of destruction.

(7) *Outdoor advertising signs.* All outdoor advertising signs (billboards) not conforming with the provisions of this chapter shall be removed within the period prescribed by §174.06.

(F) *Repairs and maintenance.*

(1) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10% of the current replacement cost of the nonconforming structure, or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

(2) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe, or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe, or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt, except in conformity with the regulations of the district in which it is located, or as required by other ordinances.

(G) *Conditional use provisions not nonconforming uses.* Any use which is permitted as a conditional use in a district under the terms of this chapter (other than a change through Planning Commission action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall be without further action considered a conforming use.

(H) *Owner-occupied nonconforming residences.* Notwithstanding any other provision in this subchapter, any owner-occupied nonconforming residence may be enlarged, extended, constructed, reconstructed, or structurally altered to permit expansion up to 25% of the square footage of the structure as it existed on the date it became nonconforming, and customary accessory structures may be located on property where an owner-occupied nonconforming residence is located subject to the following conditions: A owner-occupied nonconforming residence so expanded or any accessory structure so located may be enlarged, extended, constructed, reconstructed, structurally altered, or located in conformity with the bulk and area regulations, setback requirements, and building area requirements in the RSF-4.

(I) *Designated Preservation Structures.* Significant structures as designated by City Council resolution as worthy of preservation shall be exempted from the provisions of this section.

(Code 1965, App. A., Art. 4(1), (2), (4)--(7); 5(8); Ord. No. 1747, 6-29-70; Ord. No. 1806, 7-16-71; Ord. No. 1891, 12-5-72; Ord. No. 2126, 7-14-75; Ord. No. 2505, 2-20-79; Ord. No. 1918, 5-15-83; Ord. No. 3114, 9-3-85; Ord. No. 3124, 9-17-85; Ord. No. 3130, 10-1-84; Code 1991, §§160.135--160.142; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4930, 10-03-06; Ord. 5312, 4-20-10)

164.13 Non Residential Uses In R Districts

The following requirements apply to charitable, cultural, educational, recreational, health, institutional, religious, social, and similar nonresidential facilities where permitted in or abutting an R District. The Planning Commission may reduce these requirements after receiving and reviewing a development plan under the provisions of §166.

Separation of structures of areas for uses listed above shall be as follows:

Type of Structures or Element of the Facility	Minimum Separation (ft.)
Outdoor Facility or Use:	
Eating or picnic area	100 ft.
Entrance driveway	20 ft.
Outdoor activity area	75 ft.
Outdoor lighted area	200 ft.
Outdoor spectator facilities	50 ft.
Outdoor sports area without spectator facilities	100 ft.
Tool or equipment storage	200 ft.
Indoor Facilities:	
Air conditioning tower or dispenser unit	50 ft.
Auditorium, ballroom, dining room, or meeting room having a floor area of more than 1, 200 square feet, game court, game room, gymnasium, locker or shower room, place where alcoholic beverages are served, spectator facilities, swimming pool, theater, or similar indoor facility: If fully air-conditioned If not fully air-conditioned	 100 ft. 200 ft.
Building of a general hospital or convalescent home	50 ft.
Building of a hospital, sanitarium or convalescent home for alcoholic, mental, nervous, narcotic or contagious patients	200 ft.
All Other Facilities:	
If fully air-conditioned	50 ft.
If not fully air-conditioned	100 ft.

(Code 1965, App. A., Art. 7 (14); Ord. No. 1747, 6-29-70; Code 1991, §160.088; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5296, 12-15-09)

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

10/18/2011
City Council Meeting Date
Agenda Items Only

Matt Casey/David Jurgens	Engineering/Utilities	Development Services/Utilities
Submitted By	**Division**	**Department**

Action Required:

Approval of a cost-share and bid waiver in the amount of $75,255.00 with NWA Entertainment, LLC for the construction of approximately 1600' of 8" water main.

$ 75,255.00	$ 154,472.00	Water and Sewer Cost Sharing
Cost of this request	Category / Project Budget	Program Category / Project Name
5400.5600.5808.00	$ -	Water and Sewer Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02067	$ 154,472.00	Water and Sewer Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item XX **Budget Adjustment Attached**

Department Director — 30 Sept 11 — Date

City Attorney — 10-3-11 — Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Finance and Internal Services Director — 10-3-2011 — Date

Chief of Staff — 10-3-11 — Date

Mayor — 10/4/11 — Date

Received in City Clerk's Office 09-30-11 P03:57 RCVD

Received in Mayor's Office ENTERED 10/3/11

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Fayetteville Water, Sewer, and Solid Waste Committee

Date: September 30, 2011

Subject: Approval of a cost-share and bid waiver in the approximate amount of $75,255.00, with NWA Entertainment, LLC for Arkansas Music Pavilion Water Line Design and Construction.

RECOMMENDATION

City Administration recommends approval of an ordinance for a cost-share and bid waiver in the approximate amount of $75,255.00 with NWA Entertainment, LLC for Arkansas Music Pavilion (AMP) water line design and construction.

BACKGROUND

Water lines near the Northwest Arkansas Mall, the end of Steele Boulevard, and at the north end of Mall Avenue are all dead end lines. These lines have long been identified to be looped at the next cost effective opportunity. Looped lines are essential to meet the new EPA disinfectant by products rule, to provide optimum flow, and to ensure the best possible water quality in the area.

DISCUSSION

The Arkansas Music Pavilion development will extend a water line from the end of Steele Boulevard, where it meets the NWA Mall parking lot, along the south side of the parking lot to and through the development. It is required for both domestic use and fire protection. This line will see regular use in the summer, but will not be used in winter months when the AMP does not have events. The water in this line will become stagnant, and will have to be regularly flushed, and will have to be flushed and tested prior to the first use each summer. A better alternative is to extend the water line to the east, where it can loop with a dead end line on Mall Avenue.

The extension required by the City is actually a longer stretch of pipe than the lines required simply to serve the needs of the AMP. Because the extension covers additional ground and involves a greater length of pipe, it is appropriate for the City to bear a portion of the cost of both design and construction. This cost share agreement reflects a 50% of the design and construction cost.

BUDGET IMPACT

Funds for the City portion of work are available in the Water and Sewer Cost Sharing Project. The final actual cost to the City will be based upon actual bid price for the work.

ORDINANCE NO. _____

AN ORDINANCE WAIVING COMPETITIVE BIDDING AND APPROVING A COST-SHARE AGREEMENT WITH NWA ENTERTAINMENT, LLC IN THE AMOUNT OF $75,255.00 FOR WATER LINE DESIGN AND CONSTRUCTION FOR THE ARKANSAS MUSIC PAVILION

WHEREAS, water lines near the Northwest Arkansas Mall, the end of Steele Boulevard, and the north end of Mall Avenue are all "dead end" lines which have been identified by the City to be looped at the next cost effective opportunity; and

WHEREAS, looped lines are essential to meet new EPA disinfectant by-products rules, to provide optimum flow, and to ensure the best possible water quality in the area; and

WHEREAS, the Arkansas Music Pavilion (AMP) development will extend a water line from the end of Steele Boulevard for domestic use and fire protection for seasonal use during warm weather months; and

WHEREAS, unless the water line is looped, the water in the line will become stagnant and require regular flushing and testing prior to use each season; and

WHEREAS, an extension of the water line to the east will permit the line to be looped with a "dead end" line on Mall Avenue and alleviate this issue,

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 a cost-share agreement with NWA Entertainment, LLC in the amount of $75,255.00 for design and construction of a water line for the AMP.

PASSED and **APPROVED** this 18th day of October, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____, by and between the City of Fayetteville, Arkansas and NWA Entertainment, LLC, Witnesseth:

WHEREAS, NWA Entertainment, LLC, will be hiring an engineer for the design and a contractor for the construction of the Arkansas Music Pavilion at the southwest corner of the Northwest Arkansas Mall property; and

WHEREAS, there is an existing 8" water line on the west side of this site that connects to the 8" main along Steele Blvd. The developer will be extending this 8" main through the project site to provide service and fire protection to the Arkansas Music Pavilion development; and

WHEREAS, there is an existing system of water mains that serves the businesses on Mall Avenue, Steele Boulevard, and other businesses in the area. One such main ends approximately 850 feet east of the Arkansas Music Pavilion development; another main ends approximately 115 feet west of the proposed Arkansas Music Pavilion water main extension. This entire network of mains create numerous dead ends; and

WHEREAS, it will benefit the City of Fayetteville to extend this 8" water main to connect to the existing mains west and east of the development at the same time, designed by the same engineer and installed by the same contractor. These extensions will create a loop in this area and prevent numerous businesses, including the Mall, from having the water shut off in case of a water main break, and will improve the long term water quality of service in the area.

NOW, THEREFORE, the City of Fayetteville and NWA Entertainment, LLC agree as follows:

1. Upon the City Council and/or the Mayor approving the Water Main Cost-Share, the City of Fayetteville agrees to:

   A. Pay for 50% of the actual documented construction costs & engineering costs for the 8" water main loop proposed with this development.

   B. Pay a maximum-not-to-exceed cost of $75,255.00 for the afore mentioned water main construction as was provided by NWA Entertainment, LLC engineer and made a part of this agreement.

   C. Reconsider the costs if the future and actual construction & engineering prices exceed the maximum-not-to-exceed amount that was furnished by NWA Entertainment, LLC. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.

D. Make all efforts to provide payment to NWA Entertainment, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.

2. NWA Entertainment, LLC agrees to:

A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable water main installation.

B. Provide a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor upon acceptance of the water main installation.

C. Not proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and/or the Mayor.

3. It is further understood that the contract for construction is between NWA Entertainment, LLC and his Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of $75,255.00 for the water main installation.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

CITY OF FAYETTEVILLE

By:_____
LIONELD JORDAN, Mayor

NWA Entertainment, LLC

By:_____

AMP OF FAYETTEVILLE
FAYETTEVILLE, AR

Project No:	111016-00
Issue Date:	09/19/2011
Contact:	D. ELLIS
Checked by:	

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STATE OF ARKANSAS
★ ★ ★
REGISTERED PROFESSIONAL ENGINEER
★ ★ ★
No. 11825
DANIEL P. ELLIS

901 N. 47th St., Suite 200
Rogers, Arkansas 72756
Crafton Tull
architecture | engineering | surveying
479.636.4838 t 479.631.6224 f
www.craftontull.com

CERTIFICATE OF AUTHORIZATION
CRAFTON, TULL & ASSOCIATES, INC.
No. 879

This document, and the ideas and designs incorporated herein, as an instrument of professional service, is the property of Crafton, Tull & Associates, Inc., and is not to be used, in whole or in part, for any other project, without the written authorization of Crafton, Tull & Associates, Inc.

EXHIBIT 1

DRAWING: G:\111016-00_AMP\CIV\DWG\WATERLINE EXHIBIT.DWG
LAYOUT: LAYOUT1 LAST SAVED: MLS14 9/19/2011 9:35:57 AM

Agenda Session 10-11-11

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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 18, 2011

A meeting of the Fayetteville City Council will be held on October 18, 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 October 4, 2011 City Council meeting minutes.

2. **Animal Services Division Donation Revenue:** A resolution approving a budget adjustment in the amount of $31,943.12 representing citizen donation revenue to the Animal Services Division for the first, second and third quarters of 2011.

3. **Botanical Garden of the Ozarks:** A resolution approving a participation and unsecured loan agreement with the Botanical Garden of the Ozarks to install ten (10) LED lights and poles in the amount of $34,911.38 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

4. **Bid #10-36 Premier Lighting Group:** A resolution authorizing purchase of ten (10) additional LED fixtures and poles in the amount of $19,042.28 pursuant to Bid #10-36, from Premier Lighting Group for installation at the Botanical Garden of the Ozarks as part of the Community Revolving Loan Fund for Energy Efficiency Program.

B. Unfinished 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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   Left on the Second Reading

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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   Left on the Second Reading

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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   Left on the Second Reading

C. New Business:

1. **VAC 11-3931 (510 W. 11th St. & 989 S. School Ave./Campus Crest):** An ordinance approving VAC 11-3931 submitted by Morrison Shipley Engineers, Inc. for property located at 510 West 11th Street and 989 South School Avenue to vacate unconstructed street right-of-way.

2. **VAC 11-3940 (Summit Place Subdivision):** An ordinance approving VAC 11-3940 submitted by Coover Consultants for property located in the Summit Place Subdivision to vacate a portion of a utility easement throughout the subdivision.

3. **ADM 11-3934 (Amend UDC Chapters 164.12 and 164.13):** An ordinance amending the Unified Development Code of the City of Fayetteville related to Nonconforming Uses and Structures and Non Residential Uses in R Districts.

4. **NWA Entertainment, LLC:** An ordinance waiving competitive bidding and approving a cost-share agreement with NWA Entertainment, LLC in the amount of $75,255.00 for water line design and construction for the Arkansas Music Pavilion.

D. City Council Agenda Session Presentations:

1. **Annual Parking Update – First Year Report – Terry Gulley, Sharon Waters and Don Marr**

City Council Tour:
Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

Pre-Agenda Meeting 10-5-11

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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Need new resolution and agreement

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Kit has

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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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   Left on the Second Reading

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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   Left on the Second Reading

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. ***This ordinance was left on the Second Reading at the October 4, 2011 City Council meeting.***

   Left on the Second Reading

C. New Business:

1. **VAC 11-3931 (510 W. 11th St. & 989 S. School Ave./Campus Crest):** An ordinance approving VAC 11-3931 submitted by Morrison Shipley Engineers, Inc. for property located at 510 West 11th Street and 989 South School Avenue to vacate unconstructed street right-of-way.

2. **VAC 11-3940 (Summit Place Subdivision):** An ordinance approving VAC 11-3940 submitted by Coover Consultants for property located in the Summit Place Subdivision to vacate a portion of a utility easement throughout the subdivision.

3. **ADM 11-3934 (Amend UDC Chapters 164.12 and 164.13):** An ordinance amending the Unified Development Code of the City of Fayetteville related to Nonconforming Uses and Structures and Non Residential Uses in R Districts.

4. **NWA Entertainment, LLC:** An ordinance waiving competitive bidding and approving a cost-share agreement with NWA Entertainment, LLC in the amount of $75,255.00 for water line design and construction for the Arkansas Music Pavilion.

D. City Council Agenda Session Presentations:

1. **Annual Parking Update – First Year Report – Terry Gulley, Sharon Waters and Don Marr**

City Council Tour:

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.

Sondra Smith - Re: Parking Update for Agenda

From: Don Marr
To: Smith, Sondra
Date: 9/13/2011 8:57 PM
Subject: Re: Parking Update for Agenda

Nope that is Perfect, just add my name to that too - Terry Gulley, Sharon Waters and Don Marr.
Thanks Sondra!
Don

Don Marr

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113 W Mountain Street
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>>> Sondra Smith 9/13/2011 8:40 PM >>>
Don,

I have this on the October 18, 2011 City Council Agenda. Do you want to change the wording?

City Council Agenda Session Presentations:

Annual Parking Update - First Year Report - Terry Gulley and Sharon Waters

Sondra E. Smith *CAMC, CMC*
City Clerk Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

Sondra Smith - America in Bloom Awards

From: Lioneld Jordan
To: Smith, Sondra
Date: 10/12/2011 2:35 PM
Subject: America in Bloom Awards

Cindi Cope has asked for time on an upcoming agenda to present the Council with the America in Bloom awards the city has received this year. This has my approval and I hope we can work out a date for the presentation that will work for all.
Thanks
L

Mayor Lioneld Jordan
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