

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
March 20, 2012**

A meeting of the Fayetteville City Council will be held on March 20, 2012 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. Nominating Committee Report - APPROVED

Agenda Additions:

A. Consent:

1. Approval of the March 6, 2012 City Council meeting minutes. **APPROVED**
2. **Animal Shelter Donation:** A resolution to accept \$3,660.00 donated in the memory of Mrs. Mary Osborne to the Fayetteville Animal Shelter and to approve the budget adjustment recognizing this donation revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 53-12

3. **2011 Arkansas Department of Environmental Quality Recycling Grant:** A resolution authorizing acceptance of a 2011 Arkansas Department of Environmental Quality Recycling Grant, through the Boston Mountain Solid Waste District, in the amount of \$18,500.00 for recycling containers for the apartment/festival recycling programs, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 54-12

4. **Bid #12-18 LJB Construction, Inc.:** A resolution awarding Bid #12-18 and approving a contract with LJB Construction, Inc. in the amount of \$49,300.00 for the installation of a concrete barrier wall along Knapp Street above the Meadow Valley Trail, and approving a ten percent (10%) project contingency.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 55-12

5. **University of Arkansas – Oak Ridge Trail:** A resolution approving a budget adjustment in the amount of \$123,042.00 recognizing revenue from the University of Arkansas for its cost-share portion of construction of Oak Ridge Trail.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 56-12

6. **Frisco Trail Southern Extension:** A resolution authorizing a contract with Garver, LLC in an amount not to exceed \$189,500.00 for professional engineering design services related to the Frisco Trail southern extension, accepting a fifty percent (50%) matching grant from the Walton Family Foundation, Inc., and approving a budget adjustment in the amount of \$216,000.00 recognizing revenue from the Walton Family Foundation, Inc. and the Home Depot Foundation.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 57-12

7. **Bid #12-19 Peterbilt of Fort Smith:** A resolution awarding Bid #12-19 and authorizing the purchase of three (3) automated side load solid waste trucks from Peterbilt of Fort Smith in the amount of \$775,629.00 for use in the Solid Waste Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 58-12

8. **Bale Chevrolet of Little Rock:** A resolution approving the purchase of six (6) Chevrolet Tahoes from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of \$210,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 59-12

9. **Garver, LLC Amendment No. 5:** A resolution approving amendment No. 5 to the engineering contract with Garver, LLC in the amount of \$21,679.00 to increase the fee for construction phase services related to the Mount Comfort Road Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 60-12

B. Unfinished Business: None

C. Public Hearing:

- 1. Highway 16 Armstrong to Stonebridge Condemnation and Possession:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Jey Investments, LTD., First State Bank, Benefit Bank, Alejandro Alban, Algis Martinez & Gina Alban, and Tim D. & Deeann B. Studebaker, needed for water and sewer relocations along State Highway 16.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 61-12

D. New Business:

- 1. Waive Competitive Bidding §34.23:** An ordinance waiving the requirements for bids by applying §34.23(F), (Purchases and Contracts not in excess of \$20,000.00), of the Fayetteville Code of Ordinances and approving a contract with the Illinois River Watershed Partnership in the amount of \$10,000.00 for watershed education and planning services.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5488

- 2. RZN 12-4045 (Martin Luther King Blvd./Career Academy):** An ordinance rezoning that property described in rezoning petition RZN 12-4045, for approximately 1.14 acres, located on the north side of Martin Luther King Boulevard at the border between Fayetteville and Farmington from R-A, Residential Agricultural to CS, Community Services.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5489

- 3. RZN 12-4028 (1400 and 1500 Blocks of N. Desoto Pl./Abshier Heights):** An ordinance rezoning that property described in rezoning petition RZN 12-4028, for approximately 2.18 acres, located at 1400 and 1500 Block of North Desoto Place (Track "A" of Abshier Heights) from R-PZD, Residential Planned Zoning District R-PZD 06-1883 to RSF-8, Residential Single-Family, 8 units per acre.

THIS ITEM WAS LEFT ON THE FIRST READING.

- 4. ADM 12-4029 (Abshier Heights R-PZD Modification No. 4):** An ordinance amending a residential planned zoning district entitled R-PZD 06-1883, Abshier Heights, located at the northwest corner of Abshier Drive and Hillcrest Avenue, containing approximately 4.11 acres, to reflect revised architectural standards as described and depicted herein.

THIS ITEM WAS LEFT ON THE FIRST READING.

E. Other Discussion:

- 1. Amend Chapter 151 Definition of "Family":** An ordinance to amend the definition of "Family" found in Chapter 151 Definitions of the Unified Development Code to allow the City Council to authorize up to five (5) unrelated persons in some units of a Planned Zoning District. *This ordinance was left on the First Reading at the February 7, 2012*

City Council meeting. This ordinance was left on the Second Reading at the February 21, 2012 City Council meeting. This ordinance was left on the Third Reading and tabled at the March 6, 2012 City Council meeting. This item was removed from the table at the March 20, 2012 City Council meeting and placed on the April 3, 2012 City Council agenda.

**ADD DEFINITION OF FAMILY BACK ON AGENDA FOR THE APRIL 3, 2012
CITY COUNCIL MEETING**

City Council Tour:

Announcements:

Adjournment: 6:30 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

All cell phones must be silenced and may not be used within the City Council Chambers.

Below is a portion of the **Rules of Order and Procedure of the Fayetteville City Council** pertaining to City Council meetings:

Agenda additions. A new item which is requested to be added to the agenda at a City Council meeting should only be considered if it requires immediate City Council consideration and if the normal agenda setting process is not practical. The City Council may only place such new item on the City Council meeting's agenda by suspending the rules by two-thirds vote. Such agenda addition shall be heard prior to the Consent Agenda.

Consent Agenda. Consent Agenda items shall be read by the Mayor and voted upon as a group without discussion by the City Council. If an Alderman wishes to comment upon or discuss a Consent Agenda item, that item shall be removed and considered immediately after the Consent Agenda has been voted upon.

Old business and new business.

Presentations by staff and applicants. Agenda items shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, etc.) may present its proposal only during this presentation period, but may be recalled by an alderman later to answer questions. Staff and applicants may use electronic visual aides in a City Council meeting as part of their presentation.

Public comments. Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.

Courtesy and respect. All members of the public, all city staff and elected officials shall accord the utmost courtesy and respect to each other at all times. All shall refrain from rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. Any member of the public who violates these standards shall be ruled out of order by the Mayor, must immediately cease speaking and shall leave the podium.

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.

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

Subject:	Roll				
Gray & Petty were absent	Adams	✓			
	Lewis	✓			
	Gray	Absent			
	Boudreaux	✓			
	Kinion	✓			
	Petty	Absent			
	Tennant	✓			
	Ferrell	✓			
	Mayor Jordan	✓			

7-0

Subject:	Nominating Committee Report				
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Lewis			
Approved	Adams	✓			
	Lewis	✓			
	Gray	Absent			
	Boudreaux	✓			
	Kinion	✓			
	Petty	Absent			
	Tennant	✓			
	Ferrell	✓			
	Mayor Jordan				

6-0

Subject:	Consent				
Motion To:		Approve			
Motion By:		Boudreaux			
Seconded:		Kinion			
Minutes <u>Approved</u> Approved 53-12 thru 60-12	Adams	✓			
	Lewis	✓			
	Gray	Absent			
	Boudreaux	✓			
	Kinion	✓			
	Petty	Absent			
	Tennant	✓			
	Ferrell	✓			
	Mayor Jordan				

6-0

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

Subject:	Highway 16 Armstrong to Stonebridge Condemnation and Possession				
Motion To:		<i>Approve</i>			
Motion By:		<i>Boudreaux</i>			
Seconded:		<i>Ferrell</i>			
C. 1 Public Hearing <i>passed</i> <i>61-12</i>	Adams	<i>✓</i>			
	Lewis	<i>✓</i>			
	Gray	<i>absent</i>			
	Boudreaux	<i>✓</i>			
	Kinion	<i>✓</i>			
	Petty	<i>absent</i>			
	Tennant	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Mayor Jordan				

6-0

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

Subject:	Waive Competitive Bidding §34.23				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Boudreaux	Boudreaux		
Seconded:		Kinion	Kinion		
D. 1 New Business <u>passed</u> 5488	Adams	✓	✓	✓	
	Lewis	Recuse	Recuse	Recuse	
	Gray	absent	absent	absent	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	absent	absent	absent	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Jordan	✓	✓		

6-0 6-0 5-0
Mayor Voted Mayor Voted
to Suspend to Suspend

Subject:	RZN 12-4045 (Martin Luther King Blvd./Career Academy)				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Boudreaux		
Seconded:		Lewis	Tennant		
D. 2 New Business <u>passed</u> 5489	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	absent	absent	absent	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	absent	absent	absent	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Jordan				

6-0 6-0 6-0

Subject:	RZN 12-4028 (1400 and 1500 Blocks of N. Desoto Pl./Abshier Heights)				
Motion To:					
Motion By:					
Seconded:					
D. 3 New Business <i>Left on the first Reading</i>	Adams				
	Lewis				
	Gray				
	Boudreaux				
	Kinion				
	Petty				
	Tennant				
	Ferrell				
	Mayor Jordan				

Subject:	ADM 12-4029 (Abshier Heights R-PZD Modification No. 4)				
Motion To:					
Motion By:					
Seconded:					
D. 4 New Business <i>Left on the first Reading</i>	Adams				
	Lewis				
	Gray				
	Boudreaux				
	Kinion				
	Petty				
	Tennant				
	Ferrell				
	Mayor Jordan				

Subject:	Add Definition of Family back on agenda for the				
Motion To:		Adams		first meeting in April.	
Motion By:		Ferrell		April 3, 2012	
Seconded:					
<u>passed</u>	Adams	✓			
	Lewis	✓			
	Gray	Absent			
	Boudreaux	✓			
	Kinion	N			
	Petty	Absent			
	Tennant	✓			
	Ferrell	✓			
	Mayor Jordan				

5-1

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



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan

THRU: Sondra Smith, City Clerk

FROM: Kit Williams, City Attorney

DATE: March 21, 2012

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of March 20, 2012

1. **Animal Shelter Donation:** A resolution to accept \$3,660.00 in the memory of Mrs. Mary Osborne to the Fayetteville Animal Shelter and to approve the budget adjustment recognizing this donation revenue.
2. **2011 ADEQ Recycling Grant:** A resolution authorizing acceptance of a 2011 Arkansas Department of Environmental Quality Recycling Grant, through the Boston Mountain Solid Waste District, in the amount of \$18,500.00 for recycling containers for the Apartment/Festival Recycling Programs, and approving a budget adjustment.
3. **Bid #12-18 LJB Construction, Inc.:** A resolution awarding Bid #12-18 and approving a contract with LJB Construction, Inc. in the amount of \$49,300.00 for the installation of a concrete barrier wall along Knapp Street above the Meadow Valley Trail, and approving a 10% project contingency.
4. **U of A Oak Ridge Trail:** A resolution approving a budget adjustment in the amount of \$123,042.00 recognizing revenue from the University of Arkansas for its cost-share portion of construction of Oak Ridge Trail.
5. **Frisco Trail Southern Extension:** A resolution authorizing a contract with Garver, LLC in an amount not to exceed \$189,500.00 for professional engineering design services related to the Frisco Trail Southern Extension, accepting a 50% matching grant from the Walton Family Foundation, Inc. and approving a budget adjustment in the amount of \$216,000.00 recognizing revenue from the Walton Family Foundation, Inc. and the Home Depot Foundation.

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8. **Garver, LLC Amendment No. 5:** A resolution approving Amendment #5 to the engineering contract with Garver, LLC in the amount of \$21,679.00 to increase the fee for construction phase services related to the Mount Comfort Road Project.
9. **Hwy. 16 Armstrong to Stonebridge Condemnation & Possession:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by JEY Investments, LTD., First State Bank, Benefit Bank, Alejandro Alban, Algis Martinez & Gina Alban, and Tim D. and Deeann B. Studebaker, needed for water and sewer relocations along State Highway 16.
10. **Waiver of Competitive Bidding:** An ordinance waiving the requirement for bids by applying §34.23(F) **Purchases and Contracts Not In Excess Of \$20,000.00** of the Fayetteville Code of Ordinances and approving a contract with the Illinois River Watershed Partnership in the amount of \$10,000.00 for Watershed Education and Planning Services.

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**City of Fayetteville Arkansas
City Council Meeting Minutes
March 6, 2012**

A meeting of the Fayetteville City Council was held on March 6, 2012 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, Deputy City Clerk Lisa Branson, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

4th Quarter Financial Report 2011, Paul Becker, Finance Director

Paul Becker gave the 4th Quarter Financial Report for 2011.

Agenda Additions:

Consent:

Approval of the February 21, 2012 City Council meeting minutes.

Approved

Office of National Drug Control Policy Gulf Coast High Intensity Drug Trafficking Area:

A resolution approving a budget adjustment in the amount of \$98,808.00 recognizing revenue from the Office of National Drug Control Policy Gulf Coast High Intensity Drug Trafficking Area.

Resolution 43-12 as recorded in the office of the City Clerk.

Water and Sewer Relocation AHTD-Utility Agreement: A resolution approving a contract with the Arkansas State Highway and Transportation Commission regarding utility construction and relocation of water and sewer utilities related to the Highway 112 Spur (Garland Avenue) Widening and Improvement Project.

Resolution 44-12 as recorded in the office of the City Clerk.

Garver, LLC: A resolution approving a contract with Garver, LLC in an amount not to exceed \$40,000.00 for professional engineering services related to the renovation of the Wilson Park swimming pool deck and interior.

Resolution 45-12 as recorded in the office of the City Clerk.

4248 S. School Ave. Hangar Improvements: A resolution awarding Bid #12-22 and authorizing a contract with Pick-It Construction, Inc. in the amount of \$235,100.00 for construction of alterations and improvements to the hangar at 4248 S. School Avenue, approving a project contingency of \$16,750.00, recognizing and accepting grant revenue from the Arkansas Department of Aeronautics to partially fund the project, and approving a budget adjustment.

City Attorney Kit Williams: I think we need to pull this item. There was a slight change and we will have a new resolution to submit to City Council.

Removed from Consent for discussion.

City of Elkins Cost-Share Agreement: A resolution approving a cost-sharing agreement with the City of Elkins in an amount not to exceed \$150,000.00 for replacement and improvements of the Elkins Outfall Sewer Line.

Resolution 47-12 as recorded in the office of the City Clerk.

Rosetta Construction, LLC: A resolution to approve a construction contract with Rosetta Construction, LLC for \$692,223.00 with a contingency of \$50,000.00 to construct the Elkins Outfall Gravity Sewer Improvements and to approve the attached budget adjustment of \$416,818.00.

Resolution 48-12 as recorded in the office of the City Clerk.

Off Street Parking Development District No. 1 Appointment: A resolution to approve the appointment of James A. Williams, Jr. to the Board of Improvement of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville.

Resolution 49-12 as recorded in the office of the City Clerk.

Alderman Tennant moved to accept the Consent Agenda with #5. 4248 S. School Ave. Hangar Improvements being removed. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

4248 S. School Ave. Hangar Improvements: A resolution awarding Bid #12-22 and authorizing a contract with Pick-It Construction, Inc. in the amount of \$235,100.00 for construction of alterations and improvements to the hangar at 4248 S. School Avenue, approving a project contingency of \$16,750.00, recognizing and accepting grant revenue from the Arkansas Department of Aeronautics to partially fund the project, and approving a budget adjustment.

Ray Boudreaux, Airport Director explained that the State would not consider contingency on a project of this type so therefore the resolution has been changed.

City Attorney Kit Williams explained that there would need to be a motion to amend the resolution and then another motion to approve it.

Alderman Ferrell moved to amend the resolution. Alderman Kinion seconded the motion. Upon roll call the motion passed unanimously.

Mayor Jordan read the amended resolution.

Alderman Lewis asked if the contingency amount was the same.

Ray Boudreaux confirmed that there was not a contingency.

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

Resolution 46-12 as recorded in the office of the City Clerk.

Unfinished Business:

Amend Chapter 151 Definition of “Family”: An ordinance to amend the definition of “Family” found in Chapter 151 Definitions of the Unified Development Code to allow the City Council to authorize up to five (5) unrelated persons in some units of a Planned Zoning District. *This ordinance was left on the First Reading at the February 7, 2012 City Council meeting. This ordinance was left on the Second Reading at the February 21, 2012 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 7-1. Alderman Ferrell, Adams, Lewis, Gray, Boudreaux, Petty and Tennant voting yes. Alderman Kinion voting no.

City Attorney Kit Williams read the ordinance.

Alderman Lewis stated I would like to propose an amendment.

City Attorney Kit Williams pointed out that the new language was bolded within Section 1.

Alderman Lewis stated after hearing from neighbors and citizens, if this is going to pass I would like to have further assurance of the parking and traffic. She went on to read the proposed amendment.

City Attorney Kit Williams further explained the amendment.

Mayor Jordan: So if the Council determines that the traffic is unreasonable they can turn it down.

City Attorney Kit Williams: That is correct.

Alderman Ferrell: Who determines the rational for unreasonable traffic?

City Attorney Kit Williams: Staff will make a recommendation and the Planning Commission will make a recommendation. The final determination is done by the City Council.

Alderman Ferrell: Where would you go to consider problems to the adjoining neighborhoods?

City Attorney Kit Williams: We are really leaving this much more to the City Councils discretion and judgment. It is very hard to decide on the front end how far you should go or where you should measure something.

Alderman Ferrell: My expectation is that if and when some of these come forward they are going to be like a village.

Alderman Petty: I am looking at 172.11 and Sarah this is the ordinance you brought forward to help control parking in the front yards?

Alderman Lewis: Correct, Shirley Lucas and I proposed it and this Council passed an ordinance that would designate the parking area and limit the number of cars to four in the designated parking area.

Alderman Petty: This code references single family homes and I only read it to apply to single family districts. So if a PZD were to come forward with a request to build multi-family units where five people could live together in a unit would this code apply?

City Attorney Kit Williams: It can and that is why I put in there that it must be in a multi-family planned zoning district because it cannot be in a single family planned zoning district. You can through this say that it will apply in very rare circumstances where you might allow up to five unrelated persons in a single housing unit.

Alderman Petty: I was just curious how it would apply. I have never seen a multi-family unit where you could define what the front yard was. It sounds good.

City Attorney Kit Williams: With these structures you might though because they might look very much like a house.

Alderman Petty: The part that says we are to consider the traffic impact on other neighborhoods, aren't we already required to do that with every rezoning?

City Attorney Kit Williams explained the current considerations and regulations.

Mayor Jordan: We got into this debate over the sale barn and I remember in that particular rezoning that we did look at that.

Alderman Boudreaux: It's been a while since we have done a planned zoning district but as I recall we did review a lot of things we don't normally review in a normal rezoning.

Jeremy Pate, Development Services Director: That is correct because you are looking at the development as well as the zoning and there is a lot of criteria we have in the PZD ordinance to review.

Alderman Boudreaux: I thought the streets and all that were a part of that. Does staff feel like this is being redundant or does it actually add to this?

Jeremy Pate: The one thing it could add is that section related to adding the parking requirements. That may be a help in terms of the parking issue.

Paula Marinoni, owner of property that would be affected by this amendment expressed her concerns and went on to speak against the amendment.

Suzanne Owens, a Fayetteville citizen expressed her concerns with increased traffic.

George Rozell, resident of 2015 Cleveland St. stated the amendment is a step in the right direction and he went on to speak in favor of the amendment.

Alderman Petty: Jeremy, can you clarify how Chapter 172.11 is applied in cluster developments where multiple units share the same parking area?

Jeremy Pate: I don't know that we have had that application in the City yet.

Alderman Petty: How would you imagine it would be applied if a new development according to the new clustered conditional use permit or cottage housing?

Jeremy Pate: They are required to design where their parking areas are up front with that ordinance. So we anticipated that when we drafted that ordinance. They are dedicated parking areas that are designed up front with that particular ordinance.

Alderman Petty: Is that also typical of most PZD's we have seen historically?

Jeremy Pate: It is, with this particular ordinance it's not affecting the single family definition but more affecting a PZD with a multi-family component.

Alderman Petty: I think this amendment is a good thing and I will vote for it.

Alderman Ferrell: Since there is already consideration for parking and traffic this would be additional consideration.

City Attorney Kit Williams: With any PZD as Jeremy explains you are looking at the parking.

Alderman Lewis: The reason this was requested was there is a possibility that people will request single family homes allowing five and that is where the specific parking regulation would apply.

City Attorney Kit Williams: No single family zoned district could have five.

Alderman Lewis: In a planned zoning district they could have a single dwelling and allow five people to live in it as long as it was linked to a PZD.

City Attorney Kit Williams: As long as you all would approve a PZD within that area.

Alderman Lewis: I am saying the same parking standards should still apply even if we increase the number of people allowed to live in a single structure.

Alderman Petty: The basic premises of this amendment is if you are going to build something that looks like a house, it's got to follow the parking standards of what we apply to houses no matter how many people are going to live in it.

Alderman Lewis moved to amend the ordinance to change the language of the ordinance to address the parking and traffic concerns. Alderman Petty seconded the motion. Upon roll call the ordinance passed 5-4. Alderman Adams, Lewis, Kinion, Petty and Mayor Jordan voting yes. Aldermen Ferrell, Gray, Boudreaux and Tennant voting no.

Paula Marinoni spoke on her current property and how she wants to develop it. She went on to speak in favor of the ordinance.

An unknown citizen expressed her concerns with the parking issues and went on to speak against the ordinance.

George Rozell asked the Council why the change is necessary. He expressed his concerns and spoke against the ordinance.

An unknown citizen stated I am afraid this is a gateway to activity that we do not want in this city. She went on to speak against the ordinance.

Mayor Jordan asked Aldermen Petty and Adams this is not being brought forward because of any single development is this correct?

Alderman Adams: That is correct.

Alderman Petty: That is correct.

Mayor Jordan: I want to make that clear that the ordinance being brought forward will not affect the traditional neighborhoods. This is only for new development under a PZD.

Alderman Petty: That is correct.

Don Conner, resident of 1686 Shadowridge stated there is a real possibility that even if this is set up for PZD's that it is going to create a situation that people really won't understand. He went on to speak against the ordinance.

Dlorah Hughes, resident of 927 Hall Avenue expressed her concerns with the increase of the number of unrelated people, the change in the definition of family and with the increased traffic. She went on to speak against the ordinance.

Alderman Kinion: I would like to table this for two weeks which will give us an opportunity to discuss it with the Mayor at Open House. There are a lot of misunderstandings of the impact and implication this will have on the community and this will give us time to talk about it.

Alderman Kinion moved to table the ordinance. Alderman Lewis seconded the motion.

Alderman Boudreaux: I think the enforcement of the existing ordinance has made this a big issue. The City Attorney suggested that the Ordinance Review Committee look at another way of handling this ordinance.

City Attorney Kit Williams further explained his suggestions.

Alderman Ferrell: Would they get to confront their accuser? A lot of times I get complaints from people but they do not want to be involved but instead want the City to handle it. Also, why couldn't you just empower the Code Compliance Department with something that says we will cut their water off? Why couldn't we do that?

City Attorney Kit Williams: Citizens have due process rights and they have the right to listen to any evidence that is against them and to rebut that and present any arguments they might have to show that it is not correct.

Alderman Ferrell: So when a citizen's water is cut off now, they are not called and told that we are going to cut your water off if we do not get paid.

City Attorney Kit Williams: No, they are notified if they do not pay their bill that they are going to have their water cut off. This is for something that is independent of paying a bill and therefore we need to have a due process hearing.

Alderman Ferrell: I think we need to loosen that and we are trying to build an erector set on this deal.

Alderman Lewis: Thank you for drafting this and I am very supportive of this being reviewed at Ordinance Review Committee as a draft. This is something that is a constant issue in our community and we need to address it directly. I would ask that this project be tabled and be in coordination with this and come back to the Council together.

Alderman Kinion: I would accept a friendly amendment to bring this back with the ordinance.

City Attorney Kit Williams: The motioner and seconder can change their motion if they wish. It went from tabling it for two weeks to tabling it until the other ordinance is ready to come back before Council.

Alderman Kinion: That way we can consider them together.

Alderman Petty: I cannot support the new tabling amendment. I think we are capable of considering both of these things as they are and making a decision about either one of them. He went on to respond to several comments that had been previously made. He asked when was the original definition of family passed.

City Attorney Kit Williams: The one that I worked on was passed in 2002.

Alderman Petty: So ten years ago there was an ordinance with a limit of three in single family units and four in multi-family units. When people tell me that allowing someone to ask for five people in a custom zone is going to spread to single family neighborhoods, my response is why hasn't the definition of four in multi-family spread to single family neighborhoods.

A discussion followed.

Alderman Petty asked for a show of hands of everyone that liked living in Fayetteville the way it is today.

He went on to speak on Fayetteville's growth and the changes that need to take place to adapt to the growth.

Alderman Gray: It seems to me that the biggest problem is enforcement. I am certainly supportive of the Ordinance Review Committee looking at a new way to enforce. I would like to see us vote tonight and take care of this and be assured that our attorney and committee will come up with a good way of enforcing and making improvements. I would also like to have a review in six months and see if we have been able to take care of issues that our community brought to us.

Alderman Kinion: I don't think anyone from the University has spoken and I would like an open dialogue with the Vice Chancellor of Student Affairs. I would like to have input directly in front of the City Council before I would support this specific change because that way we will have a dialogue on record.

Alderman Adams thanked the citizens for their input. She stated I did this because I think it is a good planning tool for our city. I think it allows developers to ask for something that we cannot hear from developers now and I continue to believe that a PZD is a rigorous and complex review process where we would invite lots of input and considerations. She went on to explain the feedback that she has received.

Alderman Ferrell pointed out that Fayetteville has continued to grow over the years. He stated that people want good neighborhoods and a good place to raise a family. No matter where an applicant chooses to bring one of these to the Council you are going to see a tremendous amount of scrutiny.

A discussion followed on when this would be tabled to.

Alderman Kinion stated it is indefinite and it would come back after a solution has been made on the enforcement resolution and they would come forward together.

A discussion followed on when the Ordinance Review Committee could meet.

Alderman Kinion: It is my concern that there is a feeling that there has been a lot of confusion and misunderstanding of the implications on this. That is why I want to table it for a short while.

Alderman Boudreaux: I see this as an innovative tool for providing more student housing. The review offered by the City Council will be good. I am supporting this ordinance and I do not see the need to table it.

Alderman Lewis explained why it was important to table the ordinance.

Upon roll call the motion passed 5-4. Alderman Ferrell, Adams, Lewis, Kinion and Mayor Jordan voting yes. Alderman Gray, Boudreaux, Petty and Tennant voting no.

Public Hearing:

Garland Avenue Water and Sewer Relocation Project: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Glen David Wilson Trust & Linda Kay Hinkle, Caren E. & Richard L. Hanna, Bob L. & Wilma B. Bonds, Margot Khavinson, Remington C. Hendrix, Spirits Shop, Inc., and Donald W. & Brenda Sue Johnston needed for water and sewer relocations along N. Garland Avenue, and approving a budget adjustment.

Chris Brown, City Engineer gave a brief description of the resolution.

City Attorney Kit Williams explained the public hearing process.

David Druding, previous owner of the property read and handed out a written statement from an organization called Reform Fayetteville's Imminent Domain.

Bob Bonds, one of the property owners stated we think highly of our property and we would like to see just compensation. He went on to ask for the opportunity to negotiate and he expressed his concerns with the resolution.

Alderman Petty: When did you hire your appraiser?

Bob Bonds: October or November of last year.

Alderman Petty: Did you tell the City when you hired the appraiser?

Bob Bonds: I don't think.

Alderman Petty: And you just talked to your appraiser last week?

Bob Bonds: No, I have been in communication with them many times over the last few weeks and months.

Alderman Petty: So when do you expect to get a figure from them?

Bob Bonds: I would think within the end of this week.

Aubrey Shepherd, a citizen asked how long do you think it will take Garland Avenue to look descent again after this. He went on to express his concerns with the resolution.

City Attorney Kit Williams responded to Bob Bonds by saying I am happy that you have gotten an appraisal and I want to assure you that negotiation does not end simply because we are forced to file a condemnation. He went on to explain the condemnation process.

Mayor Jordan: Chris, you passed out a document that told what cities to the north are doing?

Chris Brown: I have not passed that out but I can go over that.

He went on to explain what other cities are currently doing.

Alderman Ferrell: You indicated that you will continue even after this. He indicated that he should have the appraisal maybe next week. Shouldn't that allow plenty of time?

City Attorney Kit Williams: As you remember, the City Council has authorized my office to file numerous condemnations and we have continued to negotiate and have been able to resolve them.

Chris Brown: Practically and logistically we have to get checks written to file at the court and there is a lot of paperwork that the City Attorney's office has to do. So we need a few weeks to be able to get the paperwork together and we could use that time to do that.

Alderman Ferrell: I know we have done this several times and thankfully we were able to satisfy everybody before we actually have to go to court.

Don Marr, Chief of Staff stated the timing of our work to relocate the utilities is critical to meet the deadline for the matching funds for the States contribution to this project. That is why we are at that time sensitive aspect.

Alderman Petty gave his past recollections of the project. He stated that four lanes with the boulevard was the best we could get approved through the Highway Department.

Mayor Jordan stated we started talking about this in 2004. He went on to give his past recollections of the project.

A discussion followed on what had previously been discussed.

City Attorney Kit Williams responded to David Druding's comments by expressing the fairness that has been demonstrated thus far by the City Engineer and his office.

David Druding questioned some of Chris Brown's comments regarding what other cities are currently doing. He encouraged the Council to listen to a radio report done by KUAF which was a contradiction to Chris Brown's comments.

Alderman Lewis stated this is a very important thing to make sure we are negotiating and I have noticed that we continue to negotiate after condemnation. It's very important to let people negotiate.

Alderman Boudreaux moved to approve the resolution. Alderman Ferrell seconded the motion. Upon roll call the resolution passed 8-0.

Resolution 50-12 as recorded in the office of the City Clerk.

New Business:

RZN 12-4024 (1934 E. Huntsville Rd./Stiles): An ordinance rezoning that property described in rezoning petition RZN 12-4024, for approximately 0.4 acres, located at 1934 East Huntsville Road from RSF-4, Residential Single-Family, 4 units per acre to NS, Neighborhood Services.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Boudreaux: Have you heard any objections about this from the neighbors?

Jeremy Pate: I have not seen any public comments at all with this particular request.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Gray stated I am delighted that we are doing this.

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

Ordinance 5486 as Recorded in the office of the City

Amend §114.03 First Thursday Fayetteville: An ordinance to amend §114.03 First Thursday Fayetteville to close all streets around the square from 4:00 p.m. to 10:00 p.m. during First Thursday and to give control of all parking around the square (both inside and outside) to the Fayetteville Convention and Visitors Bureau during First Thursday.

City Attorney Kit Williams read the ordinance.

Lindsley Smith, Communications and Marketing Director gave a brief description of the ordinance.

Alderman Lewis: Could you briefly describe your process for finding out a perspective of the businesses around?

Tanner Montgomery with the Convention Visitors Bureau gave a description of their process.

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

City Attorney Kit Williams read the ordinance.

Alderman Lewis moved to suspend the rules and go to the third and final reading. Alderman Tennant 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 5487 as Recorded in the office of the City

Bid #12-15 B&A Property Maintenance: A resolution awarding Bid #12-15 and authorizing a contract with B&A Property Maintenance in a total amount of \$225,713.00 for the maintenance of trees, and approving a five percent (5%) project contingency.

Allison Jumper, Park Planning Superintendent gave a brief description of the resolution.

Alderman Petty expressed his concerns with the contract and he asked Allison Jumper to give a recant of some of her answers to his previous questions.

Allison Jumper briefly explained Alderman Petty's questions and gave the answers and solutions to those concerns.

Alderman Ferrell: Is the tree escrow fund growing at a satisfactory rate to be able to fund these things as we go forward?

Allison Jumper: It has decreased over the last few years because it is development driven so we are seeing a drop off in those funds and those funds are required to be expended within seven years from when they are received. So we are planning on a year ahead. After 2013 we see a pretty significant decrease in the funding.

Alderman Ferrell: So can we assume that there won't be as many contracts when there is not as much money available?

Allison Jumper: Yes.

Don Marr clarified that the contracts relate to the three year period of care so without development and planting of trees we would not have a need for the maintenance. It is development need driven.

City Attorney Kit Williams: I did request that we do a contract like this so we would have an accurate way to determine when we require a developer to pay into the tree escrow account what

would be the fair amount or maintenance cost. I thought it would be better not to guess and we should levy a contract out and see what the actual costs were to the City.

Alderman Petty moved to approve the resolution. Alderman Lewis seconded the motion. Upon roll call the resolution passed 8-0.

Resolution 51-12 as recorded in the office of the City Clerk.

Employee Compensation Adjustment: A resolution to approve a budget adjustment of \$1,154,000.00 to fund a city-wide 2012 employee compensation adjustment.

Paul Becker gave a brief description of the resolution.

Alderman Boudreaux: These reserves are about the same numbers that we had when we came into office. That is pretty commendable considering what we have gone through. The Mayor has done a fantastic job of getting us back up to that position. I feel that the employees deserve compensation for the work they have done. I am very supportive of it.

Alderman Gray commended the employee's great attitudes. She stated I am very supportive of this and I am glad that the day is finally here that we can give some compensation to our workers.

Alderman Lewis also commended the staff and administration for continuing to work hard.

Alderman Tennant stated the success of a company depends on their employees and it is the same in a city. One of the great and many things that make this city great is the attitude of the employees. I am very proud to be able to do this today.

Alderman Ferrell: On part of the money that is being allocated for the merit employees, is that money going to be divided up for whatever they do?

Paul Becker: It will be spread across and allocated based on merit.

Alderman Ferrell: It's all going to go to them?

Paul Becker: Yes.

Alderman Ferrell: Mayor, how would you feel about assuring me that we would not go into reserves in the 2013 budget if we meet the expectation?

Mayor Jordan: If we hit what Paul has projected then I won't have to go into reserves.

Alderman Ferrell: So we won't go into reserves if we do that and we don't have any kind of high court mandate or catastrophe?

Mayor Jordan: I can agree with that yes.

Alderman Ferrell: This didn't happen by accident and I am sure it wasn't easy. The people pulled together and worked and I am officially in.

Don Marr thanked the Council, Mayor and the Elected Officials and stated we were able to do the cuts that we did without a service reduction to our citizens and protecting every job we had in the City. He went on to explain all the efforts and sacrifices made and complimented the City directors and City staff.

Mayor Jordan explained some of the distress the City has been through over the last few years and he spoke on the efforts made by the City staff. He stated together we have advanced the city.

Alderman Boudreaux moved to approve the resolution. Alderman Adams seconded the motion. Upon roll call the resolution passed 8-0.

Resolution 52-12 as recorded in the office of the City Clerk.

City Council Tour:

Announcements:

Adjournment: 9:30 PM

Lionel Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

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
March 20, 2012**

A meeting of the Fayetteville City Council will be held on March 20, 2012 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. Nominating Committee Report

Agenda Additions:

A. Consent:

1. Approval of the March 6, 2012 City Council meeting minutes.
2. **Animal Shelter Donation:** A resolution to accept \$3,660.00 donated in the memory of Mrs. Mary Osborne to the Fayetteville Animal Shelter and to approve the budget adjustment recognizing this donation revenue.

3. **2011 Arkansas Department of Environmental Quality Recycling Grant:** A resolution authorizing acceptance of a 2011 Arkansas Department of Environmental Quality Recycling Grant, through the Boston Mountain Solid Waste District, in the amount of \$18,500.00 for recycling containers for the apartment/festival recycling programs, and approving a budget adjustment.
4. **Bid #12-18 LJB Construction, Inc.:** A resolution awarding Bid #12-18 and approving a contract with LJB Construction, Inc. in the amount of \$49,300.00 for the installation of a concrete barrier wall along Knapp Street above the Meadow Valley Trail, and approving a ten percent (10%) project contingency.
5. **University of Arkansas – Oak Ridge Trail:** A resolution approving a budget adjustment in the amount of \$123,042.00 recognizing revenue from the University of Arkansas for its cost-share portion of construction of Oak Ridge Trail.
6. **Frisco Trail Southern Extension:** A resolution authorizing a contract with Garver, LLC in an amount not to exceed \$189,500.00 for professional engineering design services related to the Frisco Trail southern extension, accepting a fifty percent (50%) matching grant from the Walton Family Foundation, Inc., and approving a budget adjustment in the amount of \$216,000.00 recognizing revenue from the Walton Family Foundation, Inc. and the Home Depot Foundation.
7. **Bid #12-19 Peterbilt of Fort Smith:** A resolution awarding Bid #12-19 and authorizing the purchase of three (3) automated side load solid waste trucks from Peterbilt of Fort Smith in the amount of \$775,629.00 for use in the Solid Waste Division.
8. **Bale Chevrolet of Little Rock:** A resolution approving the purchase of six (6) Chevrolet Tahoes from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of \$210,000.00.
9. **Garver, LLC Amendment No. 5:** A resolution approving amendment No. 5 to the engineering contract with Garver, LLC in the amount of \$21,679.00 to increase the fee for construction phase services related to the Mount Comfort Road Project.

B. Unfinished Business: None

C. Public Hearing:

1. **Highway 16 Armstrong to Stonebridge Condemnation and Possession:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Jey Investments, LTD., First State Bank, Benefit Bank, Alejandro Alban, Algis Martinez & Gina Alban, and Tim D. & Deeann B. Studebaker, needed for water and sewer relocations along State Highway 16.

D. New Business:

- 1. Amend §34.23 (Purchases and Contracts not in Excess of \$20,000.00):** An ordinance waiving the requirements for bids by applying §34.23(F), (Purchases and Contracts not in excess of \$20,000.00), of the Fayetteville Code of Ordinances and approving a contract with the Illinois River Watershed Partnership in the amount of \$10,000.00 for watershed education and planning services.
- 2. RZN 12-4045 (Martin Luther King Blvd./Career Academy):** An ordinance rezoning that property described in rezoning petition RZN 12-4045, for approximately 1.14 acres, located on the north side of Martin Luther King Boulevard at the border between Fayetteville and Farmington from R-A, Residential Agricultural to CS, Community Services.
- 3. RZN 12-4028 (1400 and 1500 Blocks of N. Desoto Pl./Abshier Heights):** An ordinance rezoning that property described in rezoning petition RZN 12-4028, for approximately 2.18 acres, located at 1400 and 1500 Block of North Desoto Place (Track “A” of Abshier Heights) from R-PZD, Residential Planned Zoning District R-PZD 06-1883 to RSF-8, Residential Single-Family, 8 units per acre.
- 4. ADM 12-4029 (Abshier Heights R-PZD Modification No. 4):** An ordinance amending a residential planned zoning district entitled R-PZD 06-1883, Abshier Heights, located at the northwest corner of Abshier Drive and Hillcrest Avenue, containing approximately 4.11 acres, to reflect revised architectural standards as described and depicted herein.

E. City Council Agenda Session Presentations:

- 1. Illinois River Watershed Partnership Presentation - Delia Haak, Executive Director**

City Council Tour:

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

All cell phones must be silenced and may not be used within the City Council Chambers.

Below is a portion of the **Rules of Order and Procedure of the Fayetteville City Council** pertaining to City Council meetings:

Agenda additions. A new item which is requested to be added to the agenda at a City Council meeting should only be considered if it requires immediate City Council consideration and if the normal agenda setting process is not practical. The City Council may only place such new item on the City Council meeting's agenda by suspending the rules by two-thirds vote. Such agenda addition shall be heard prior to the Consent Agenda.

Consent Agenda. Consent Agenda items shall be read by the Mayor and voted upon as a group without discussion by the City Council. If an Alderman wishes to comment upon or discuss a Consent Agenda item, that item shall be removed and considered immediately after the Consent Agenda has been voted upon.

Old business and new business.

Presentations by staff and applicants. Agenda items shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, etc.) may present its proposal only during this presentation period, but may be recalled by an alderman later to answer questions. Staff and applicants may use electronic visual aides in a City Council meeting as part of their presentation.

Public comments. Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.

Courtesy and respect. All members of the public, all city staff and elected officials shall accord the utmost courtesy and respect to each other at all times. All shall refrain from rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. Any member of the public who violates these standards shall be ruled out of order by the Mayor, must immediately cease speaking and shall leave the podium.

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.

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

AGENDA REQUEST

FOR: COUNCIL MEETING OF MARCH 20, 2012

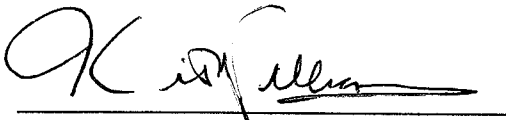
FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Accept \$3,660.00 Donated In The Memory Of Mrs. Mary Osborne To The Fayetteville Animal Shelter And To Approve The Budget Adjustment Recognizing This Donation Revenue

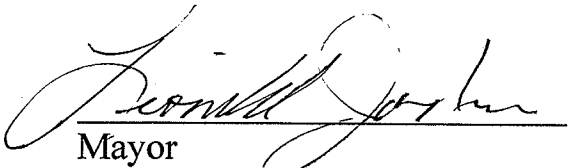
APPROVED FOR AGENDA:


City Attorney

Feb 29, 2012
Date

02-29-12 A10:47 RCVD

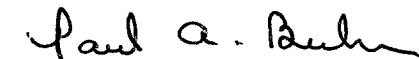
WJB


Mayor

2/29/12
Date



Mayor's
office


FOR DON MARR

FEB. 29, 2012

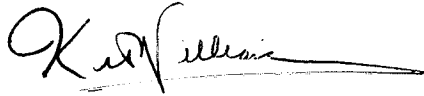
Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
Justine Middleton, Animal Services Superintendent

FROM: Kit Williams, City Attorney



DATE: February 29, 2012

RE: \$1,125.00 donation in memory of Mrs. Mary Osborne from NBA
\$2,535.00 donation from other friends in memory of Mary Osborne

When Mrs. Mary Osborne recently died, her family suggested that, in lieu of flowers, friends could donate to the Fayetteville Animal Shelter in her memory. Friends of her husband, Rick Osborne, who occasionally play basketball together during the lunch hour (and self-named as the "NBA" Noontime Basketball Association) joined together to donate \$1,125.00 to the Fayetteville Animal Shelter in honor and memory of Mrs. Mary Osborne. I told them that I would deliver the donation and write a City Council Resolution accepting this donation.

Other friends of the Mary Osborne family also generously donated an additional \$2,535.00 in her memory to the Fayetteville Animal Shelter. I have prepared a Resolution recognizing this total donation of \$3,660.00 to the Fayetteville Animal Shelter in memory of Mary Osborne and request the City Council accept these donations.

RESOLUTION NO. _____

A RESOLUTION TO ACCEPT \$3,660.00 DONATED IN THE MEMORY OF MRS. MARY OSBORNE TO THE FAYETTEVILLE ANIMAL SHELTER AND TO APPROVE THE BUDGET ADJUSTMENT RECOGNIZING THIS DONATION REVENUE

WHEREAS, Mrs. Mary Osborne had been a long time supporter of the Fayetteville Animal Shelter and Humane Society and her family recommended donations be given to the Fayetteville Animal Shelter in her memory; and

WHEREAS, the members of the Noontime Basketball Association which includes Mary's husband, Rick, donated \$1,125.00 in Mary Osborne's memory to the Fayetteville Animal Shelter; and

WHEREAS, other friends of Mary Osborne's family donated an additional \$2,535.00 to the Fayetteville Animal Shelter in her memory; and

WHEREAS, the Fayetteville City Council wishes to express its appreciation to those generous citizens for their \$3,660.00 donation to the Fayetteville Animal Shelter in Mary Osborne's memory.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby accepts the \$3,660.00 donated in the memory of Mrs. Mary Osborne to the Fayetteville Animal Shelter, thanks our generous citizens for these donations and approves the budget adjustment recognizing this donation revenue.

PASSED and APPROVED this 20th day of March, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 2V11.0425
Animal Shelter Donation
Page 4 of 4

Budget Year	Division: Animal Services	Request Date	Adjustment Number
2012	Department: Development Services	2/28/2012	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Recognizing memorial donation revenue in honor of Mary Osborne to the Fayetteville Animal Shelter.

	2/29/12 3-29-12 02-29-2012 2-29-2012 2/29/12 2/29/12	Prepared By: Justine Middleton Reference: _____ Budget & Research Use Only Type: A B C D E P General Ledger Date Posted to General Ledger Initial Date Checked / Verified Initial Date
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[illegible]

City of Fayetteville Staff Review Form

A. 3
2011 Arkansas Department of
Environmental Quality Recycling Grant
Page 1 of 4

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

3/20/2012

City Council Meeting Date
Agenda Items Only

Brian Pugh
Submitted By

Solid Waste
Division

Utilities
Department

Action Required:

Resolution authorizing the Mayor to accept a 2011 Arkansas Department of Environmental Quality (ADEQ) recycling grant through the Boston Mountain Solid Waste District for \$18,500 for recycling containers for the Apartment / Festival recycling programs and approving a budget adjustment to accept the funds and allocate them into the Recycling Containers ADEQ Grant project.

\$ -	\$ 18,500.00	Recycling Containers ADEQ Grant Purchase
Cost of this request	Category / Project Budget	Program Category / Project Name
5500.5080.5870.00	\$ -	Solid Waste Improvements
Account Number	Funds Used to Date	Program / Project Category Name
09019 / 2012	\$ 18,500.00	Solid Waste
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

[Signature]
Department Director

29 Feb 12
Date

Previous Ordinance or Resolution # 90-11

[Signature]
City Attorney

3-1-12
Date

Original Contract Date: N/A

Original Contract Number: N/A

Paul A. Buh
Finance and Internal Services Director

3-1-2012
Date

Received in City
Clerk's Office

03-01-12 A09:37 RCVD

Alan Man
Chief of Staff

3-6-12
Date

Received in
Mayor's Office



[Signature]
Mayor

3/6/12
Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff
David Jurgens, Utilities Director
Carrol Hill, Solid Waste and Recycling

From: Brian Pugh, Solid Waste and Recycling

Date: February 29th, 2012

Subject: Resolution authorizing the Mayor to accept 2011 ADEQ Recycling Grant Revenue of \$18,500 for recycling containers for Apartment and Festival recycling and approving a budget adjustment

RECOMMENDATION

Fayetteville City Administration recommends approval of a resolution for the Mayor to accept a 2011 Arkansas Department of Environmental Quality (ADEQ) recycling grant through the Boston Mountain Solid Waste District for \$18,500 for recycling containers for apartment and festival recycling and approving a budget adjustment to accept the funds and allocate them into a capital project. Due to limitations in grant funds available through the District, the original grant request amount had to be reduced from \$23,500 to the amount shown with this acceptance request. The resolution number for applying for this grant is 90-11.

BACKGROUND

Each year the Arkansas Department of Environmental Quality issues recycling grants through local Solid Waste Districts to help fund recycling programs. The City has benefited from these grants in the past. The Boston Mountain Solid Waste District compiles the grant applications and submits them to the Solid Waste Board for approval at their August Board meeting. The City applied for this grant in 2011.

DISCUSSION

Boston Mountain Solid Waste District approved the City for this grant in 2011. It will be used to purchase recycling containers utilized in the newly developed apartment recycling program and festivals as needed. The recycling containers are specialized and can be used in conjunction with our source separated collection requirements of the recycling program. To date there are 4 apartment complexes over 100 units in size participating in the program. Staff is diligently searching for additional complexes to participate. Recycling service is provided by setting containers for one day and then moving the containers to another complex to better utilize recycling resources and reduce contamination.

BUDGET IMPACT

The recycling grant award is not a matching grant. Funds are needed to cover freight and taxes as grant funds cannot be used for those expenses. There is sufficient funding in 5500.5060.5225.00, Recycling Containers, to cover this expense. The budget adjustment is attached to recognize the grant revenue and add it to the Recycling Container ADEQ Grant project budget.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ACCEPTANCE OF A 2011 ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY RECYCLING GRANT, THROUGH THE BOSTON MOUNTAIN SOLID WASTE DISTRICT, IN THE AMOUNT OF \$18,500.00 FOR RECYCLING CONTAINERS FOR THE APARTMENT/FESTIVAL RECYCLING PROGRAMS, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of a 2011 Arkansas Department of Environmental Quality recycling grant, through the Boston Mountain Solid Waste District, in the amount of \$18,500.00 for recycling containers for the apartment/festival recycling programs.

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

PASSED and APPROVED this 20th day of March, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

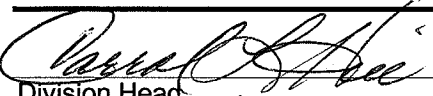
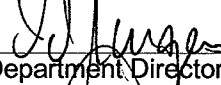
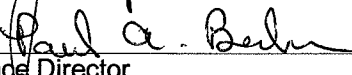
**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 3 V11.0425
2011 Arkansas Department of
Environmental Quality Recycling Grant
Adjustment Number

Budget Year 2012	Division: Solid Waste & Recycling Department: Utilities Director	Request Date 3/20/2012	Adjustment Number
----------------------------	---	----------------------------------	--------------------------

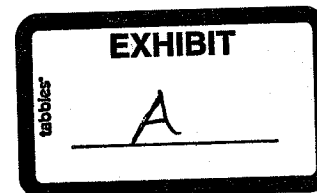
BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

This budget adjustment recognizes revenue received from the 2011 Arkansas Department of Environmental Quality (ADEQ) recycling grant award through the Boston Mountain Solid Waste District. This funding will be used to purchase recycling containers for the apartment and festival recycling project.

 Division Head	<u>2/29/12</u> Date	Prepared By: <u>Brian Pugh / Ginny Gundlach</u> ggundlach
 Budget Director	<u>3-1-2012</u> Date	Reference: _____
 Department Director	<u>6 MAR 12</u> Date	Budget & Research Use Only
 Finance Director	<u>3-1-2012</u> Date	Type: A B C <u>D</u> E P
 Chief of Staff	<u>3-6-12</u> Date	General Ledger Date _____
 Mayor	<u>3/6/12</u> Date	Posted to General Ledger _____ Initial _____ Date _____
		Checked / Verified _____ Initial _____ Date _____

TOTAL BUDGET ADJUSTMENT

TOTAL BUDGET ADJUSTMENT		18,500	18,500		
		Increase / (Decrease)		Project.Sub	
Account Name	Account Number	Expense	Revenue	Number	
Container costs	5500.5080.5870.00	18,500		09019	2012
State Grants-Capital	5500.0950.4302.00		18,500	09019	2012
				.	
				.	
				.	



City of Fayetteville Staff Review Form

A. 4
 Bid #12-18 LJB Construction, Inc.
 Page 1 of 8

City Council Agenda Items
 and
 Contracts, Leases or Agreements

3/20/2012

City Council Meeting Date
 Agenda Items Only

Matt Mihalevich

Engineering

Development Services

Submitted By

Division

Department

Action Required:

Staff recommends a resolution awarding Bid #12-18 and approving a contract with LJB Construction, Inc. for the installation of a concrete barrier wall along Knapp Street above the west approach ramps to the tunnel along the Meadow Valley Trail in the amount of \$49,300.00. Approval of a 10% contingency in the amount of \$4,930 is also requested.

\$ 49,300.00

Cost of this request

\$ 433,527.00

Category / Project Budget

Transportation Bond Trail Impr

Program Category / Project Name

4520.9550.5814.05

Account Number

\$ 316,853.00

Funds Used to Date

Trail Improvements

Program / Project Category Name

06036.1002

Project Number

\$ 116,674.00

Remaining Balance

Sales Tax Construct Bonds

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Services Director

Date

Received in City
 Clerk's Office

03-02-12 P03:49 RCVD

Chief of Staff

Date

Received in
 Mayor's Office

Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

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

From: Matt Mihalevich, Trails Coordinator *MM*

Date: March 2nd, 2012

Subject: Meadow Valley Trail – Concrete Barrier Wall

RECOMMENDATION:

Staff recommends a resolution awarding Bid #12-18 and approving a contract with LJB Construction, Inc. for the installation of a concrete barrier wall along Knapp Street above the west approach ramps to the tunnel along the Meadow Valley Trail in the amount of **\$49,300.00**. Approval of a 10% contingency in the amount of \$4,930 is also requested.

PROPOSAL:

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

The new trail includes a tunnel for safe crossing under Garland Avenue (Highway 112) just south of Knapp Street near the Pauline Whitaker Animal Science Arena. Due to the significant grade change at the tunnel approach, retaining walls have been constructed along each side of the trail, just south of Knapp Street. A concrete barrier wall is necessary to be placed on top of the north retaining wall to provide a safe barrier to protect vehicles from veering off the road to the trail below. The City's in-house trails construction crew has been working diligently on the trail project performing the majority of the construction. The barrier wall will require specific concrete forming techniques that will be time consuming; therefore it has been determined that it is more cost effective to construct this portion of the project with a private contractor.

BUDGET IMPACT:

Funds for the installation of the concrete barrier have been budgeted as part of the Transportation Bond Trail Development Program. 7 bidders responded to the request for formal bids and LJB Construction, Inc. was the lowest responsive bidder - See attached bid tab.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-18 AND APPROVING A CONTRACT WITH LJB CONSTRUCTION, INC. IN THE AMOUNT OF \$49,300.00 FOR THE INSTALLATION OF A CONCRETE BARRIER WALL ALONG KNAPP STREET ABOVE THE MEADOW VALLEY TRAIL, AND APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-18 and approves a contract with LJB Construction, Inc. in the amount of \$49,300.00 for the installation of a concrete barrier wall along Knapp Street above the Meadow Valley Trail.

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

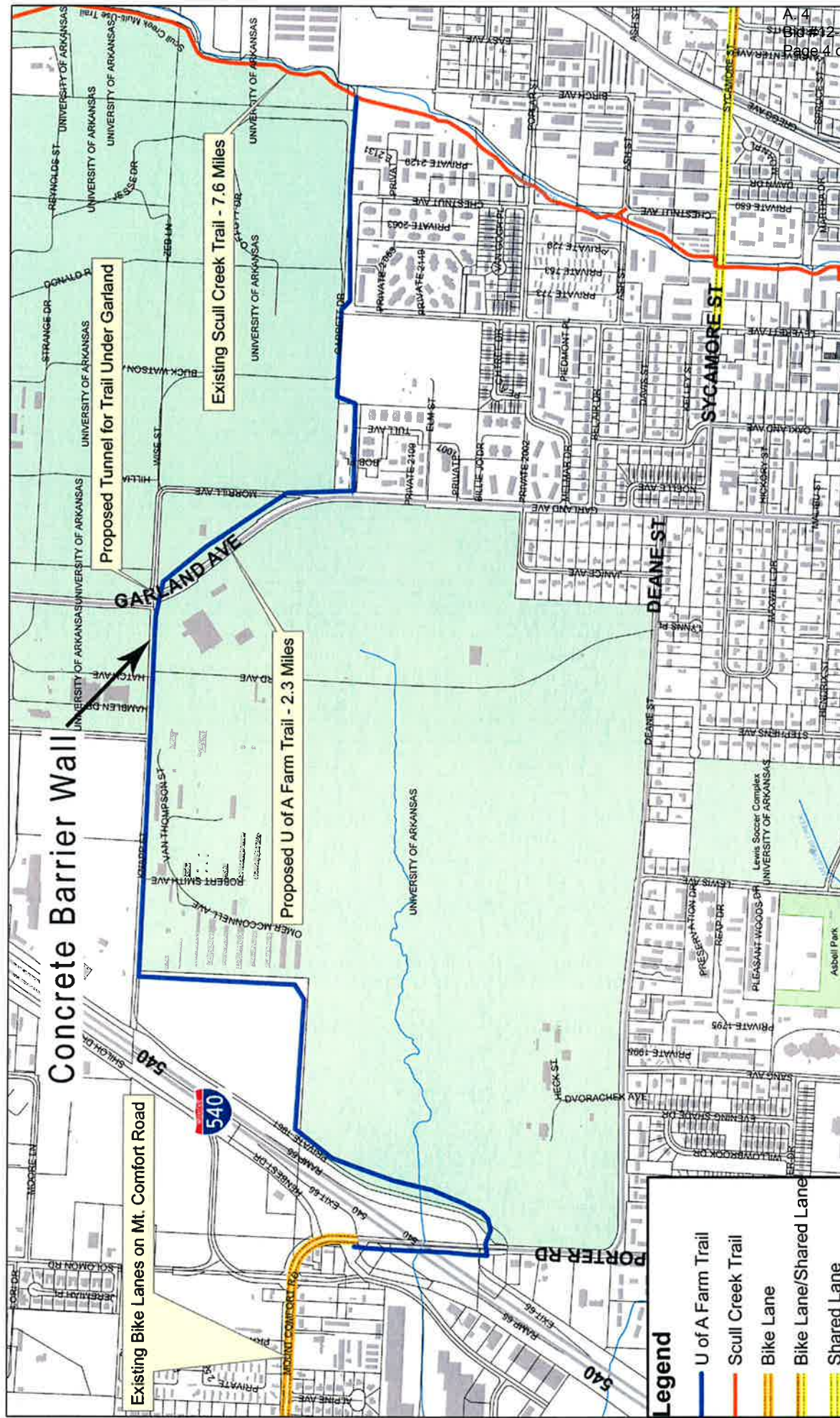
PASSED and **APPROVED** this 20th day of March, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



Meadow Valley Trail

2.3 Miles



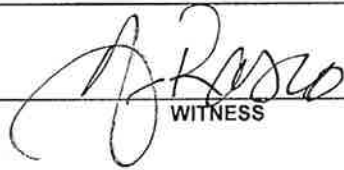
BID: 12-18
DATE: 03/02/12
TIME: 2:00 PM
CITY OF FAYETTEVILLE

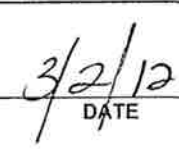
Bid 12-18, Construction - Meadow Valley Trail Concrete Barrier Wall

BIDDER	Total Bid Less Deducts	Deductive Alternate	TOTAL BASE BID
1 Benchmark Construction of NWA	\$ 76,338.00	\$ 1,450.00	\$ 77,788.00
2 Construmarr, Inc.	\$ 55,000.00	\$ 992.62	\$ 55,992.62
3 LJB Construction, Inc.	\$ 47,300.00	\$ 2,000.00	\$ 49,300.00
4 Milestone Construction Company LLC.	\$ 98,138.00	\$ 1,100.00	\$ 99,238.00
5 N.E.C., Inc.	\$ 68,182.00	\$ 13,000.00	\$ 81,182.00
6 Steve Beam Construction	\$ 72,559.00	\$ 5,600.00	\$ 78,159.00
7 Sweetser Construction	\$ 62,128.00	\$ 6,650.00	\$ 68,778.00

CERTIFIED:


P. VICE, PURCH MGR


WITNESS


DATE

City Of Fayetteville - Purchase Order (PO) Request (Not a Purchase Order) <i>All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)</i> <i>All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us</i>										Requisition No.:	Date: 3/2/2012
Vendor #:										P.O Number:	Expected Delivery Date:
Address:										Mail Yes: ☐	No: _____
City:										Taxable Yes: ☐	No: _____
State:										Division Head Approval: 	Quotes Attached Yes: ☐
Requester: John Nelson										Extension: 492	No: _____
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Ship to code:	Requester's Employee #:	Inventory #	Fixed Asset #	
1	Concrete Barrier Wall for Meadow Valley Trail	1	JOB	49,300.00	\$49,300.00	4520.9550.5814.05	104	1003	06036.1002		
2	Bid #12-18				\$0.00						
3	Resolution #				\$0.00						
4					\$0.00						
5					\$0.00						
6					\$0.00						
7					\$0.00						
8					\$0.00						
9					\$0.00						
10					\$0.00						
*	Shipping/Handling		Lot		\$0.00						
Special Instructions:										Subtotal: \$49,300.00	
										Tax: \$0.00	
										Total: \$49,300.00	

Approvals:	Purchasing Manager: _____
Mayor: _____	Department Director: _____
Finance & Internal Services Director: _____	Budget Manager: _____
Dispatch Manager: _____	Utilities Manager: _____
	IT Manager: _____
	Other: _____

Revised 12/2008



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

CONTRACT

Reference Bid: Bid 12-18, Construction – Meadow Valley Trail Concrete Barrier Wall

Contractor: LJB Construction, Inc.

Term: Single Project with no revolving terms

This contract executed this _____ day of _____, 2012, between the City of Fayetteville, Arkansas, and **LJB Construction, Inc.** In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **LJB Construction, Inc.** at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per Bid 12-18 as stated in **LJB Construction, Inc.** bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid 12-18, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay **LJB Construction, Inc.** based on their bid proposal in an amount not to exceed **\$49,300.00.** Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and **LJB Construction, Inc.** consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 12-18 with the specifications and conditions typed thereon.
 - B. **LJB Construction, Inc.** bid proposal.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and **LJB Construction, Inc.** and may be modified only by a duly executed written instrument signed by the City of Fayetteville and **LJB Construction, Inc.**
5. **LJB Construction, Inc.** shall not assign its duties under the terms of this agreement.
6. **LJB Construction, Inc.** agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from **LJB Construction, Inc.** performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.
7. **LJB Construction, Inc.** shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, **LJB Construction, Inc.** shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workmen's Compensation

Statutory Amount

Comprehensive General &
Automobile Insurance

Bodily Injury Liability

\$500,000 for each person injured.
\$1,000,000 for each accident.

Property Damage Liability

\$1,000,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by **LJB Construction, Inc.**

8. **LJB Construction, Inc.** to furnish proof of licensure as required by all local and state agencies.
9. This contract may be terminated by the City of Fayetteville or **LJB Construction, Inc.** with 10 days written notice.
10. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.
11. Changes in Scope or Price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2012.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

LIONELD JORDAN, Mayor

Attest:

Sondra Smith, City Clerk

CONTRACTOR

BY _____
NAME AND TITLE

ATTEST: COMPANY SECRETARY

BUSINESS ADDRESS

City of Fayetteville Staff Review Form

A. 5
University of Arkansas –
Oak Ridge Trail
Page 1 of 6

City Council Agenda Items
and
Contracts, Leases or Agreements

3/20/2012

City Council Meeting Date
Agenda Items Only

Matt Mihalevich

Submitted By

Engineering

Division

Development Services

Department

Action Required:

A resolution approving a budget adjustment in the amount of \$123,042 recognizing revenue from the University of Arkansas for Oak Ridge Trail.

\$ -

Cost of this request

\$ -

Category / Project Budget

Trail Development

Program Category / Project Name

4470.9470.5814.05

Account Number

\$ -

Funds Used to Date

Trail Improvements

Program / Project Category Name

02016.1

Project Number

\$ -

Remaining Balance

Sales Tax

Fund Name

Budgeted Item ☒Budget Adjustment Attached ☒

Jerry C. Pate
Department Director

03-02-2012
Date

Previous Ordinance or Resolution #

Dr. B. Kelly
City Attorney

3-2-12
Date

Original Contract Date:

Original Contract Number:

Paul A. Bach
Finance and Internal Services Director

3-5-2012
Date

Received in City
Clerk's Office

03-02-12 A10:47 RCVD

Ann M. H.
Chief of Staff

3-6-12
Date

Received in
Mayor's Office

ENTERED
3/2/12
PH

David D. Jordan
Mayor

3/6/12
Date

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

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

From: Matt Mihalevich, Trails Coordinator *mm*

Date: March 1, 2012

Subject: Resolution to approve a budget adjustment and recognize revenue from the University of Arkansas

RECOMMENDATION

Staff recommends approval of a budget adjustment in the amount of \$123,042 to recognize revenue from the University of Arkansas for a cost share on the Oak Ridge Trail.

BACKGROUND:

The City of Fayetteville applied for the 2009 Arkansas Recreational Trails Grant for the Oak Ridge Trail in collaboration with the University of Arkansas and was awarded \$116,534 in federal-aid funds. A willingness to apply for this grant was approved on May 19th of 2009 by resolution 111-09 and an Agreement of Understanding between the City of Fayetteville and the Arkansas State Highway and Transportation Department was approved on January 5th, 2010 by resolution 07-10.

Construction of the Oak Ridge Trail is now complete and the trail is experiencing significant use by University of Arkansas students as well as residents of the surrounding area. Oak Ridge Trail begins at the intersection of Center Street and Frisco Trail and continues 0.5 miles west along the north side of Center Street and along a wooded hillside to terminate at Garland Ave, just south of Yocum Hall. (see attached map)

On December 27th, 2010, an Agreement of Understanding was approved to outline the partnership responsibilities of the City of Fayetteville and the University of Arkansas. This agreement stipulated that the University would provide half of the required 20% matching funds, which equals \$14,566.75 and half of the overall project costs that exceed the grant funding amount once the project is complete and the numbers are calculated. Project costs to be shared totaled \$391,752.86 and after the grant reimbursement of \$116,534, the remaining \$275,218.86 was divided in half for a total reimbursement from the University of \$137,609.43, including their \$14,566.75 match. The matching funds have been recognized through resolution 07-10 so only the remaining \$123,042.00 remains to be recognized at this time.

BUDGET IMPACT:

A check in the amount of \$137,609.43 was received on December 13th, 2011 from the University of Arkansas. Once recognized, these funds should be placed in the Trail Development Capital Improvement Construction Fund as shown on the attached budget adjustment.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$123,042.00 RECOGNIZING REVENUE FROM THE UNIVERSITY OF ARKANSAS FOR ITS COST-SHARE PORTION OF CONSTRUCTION OF OAK RIDGE TRAIL

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$123,042.00 recognizing revenue from the University of Arkansas for its cost-share portion of construction of Oak Ridge Trail. A copy of the budget adjustment is attached to this Resolution as Exhibit "A".

PASSED and **APPROVED** this 20th day of March, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

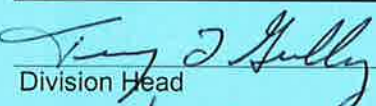
**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 5 V11.0425
University of Arkansas –
Oak Ridge Trail
Page 4 of 6

Budget Year BY 2012	Division: Citywide Department: Citywide	Request Date 3/20/2012	Adjustment Number
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BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

This budget adjustment recognizes revenue collected in 2011 for Oak Ridge Trail which is the University of Arkansas' portion of construction costs.

 Division Head	3-1-12 Date	Prepared By: John Nelson jnelson
 Budget Director	3-5-12 Date	Reference: _____
 Department Director	3-1-12 Date	Budget & Research Use Only
 Finance Director	3-5-2012 Date	Type: A B C <u>D</u> E P
 Chief of Staff	3-6-12 Date	General Ledger Date _____
 Mayor	3/6/12 Date	Posted to General Ledger Initial _____ Date _____
		Checked / Verified Initial _____ Date _____

TOTAL BUDGET ADJUSTMENT		123,042	123,042	
		Increase / (Decrease)		
Account Name	Account Number	Expense	Revenue	Project.Sub Number
Trails	4470.9470.5814.05	123,042		02016 . 1
Use of Prior Fund Balance	4470.0947.4999.97		123,042	.
				.
				.



THE FACE OF THIS CHECK HAS A SECURITY VOID BACKGROUND PATTERN - DO NOT CASH IF THE WORD VOID IS VISIBLE



UNIVERSITY OF
ARKANSAS

Accounts Payable
Vendor ID: 102801-01-001, Payment
Visit <http://www.uark.edu/vendor> or (479) 575-2551

11109402
Fayetteville, Arkansas

PAY One hundred thirty-seven thousand six hundred nine and 43/100 Dollars

CHECK DATE 12/12/2011

\$137,609.43
DOLLAR ONE THREE SEVEN COMMA SIX ZERO NINE PERIOD FOUR THREE

TO THE ORDER OF CITY OF FAYETTEVILLE
113 W MOUNTAIN ST
FAYETTEVILLE, AR 72701

Void 6 months from Issue Date
Jean E. Schock

ORIGINAL CHECK HAS AN ARTIFICIAL WATERMARK ON REVERSE SIDE - HOLD AT AN ANGLE TO VIEW

⑈ 11109402 ⑈ ⑆ 103101055 ⑆ 209090336 ⑈

University of Arkansas, Fayetteville
Accounts Payable
*** Handling Instructions ***
PO Attachment Required

Check Date: 12/12/2011
Check Number: 11109402
Check Amount: \$137,609.43

Payee: City of Fayetteville
Address: 113 W Mountain St
Fayetteville, AR 72701

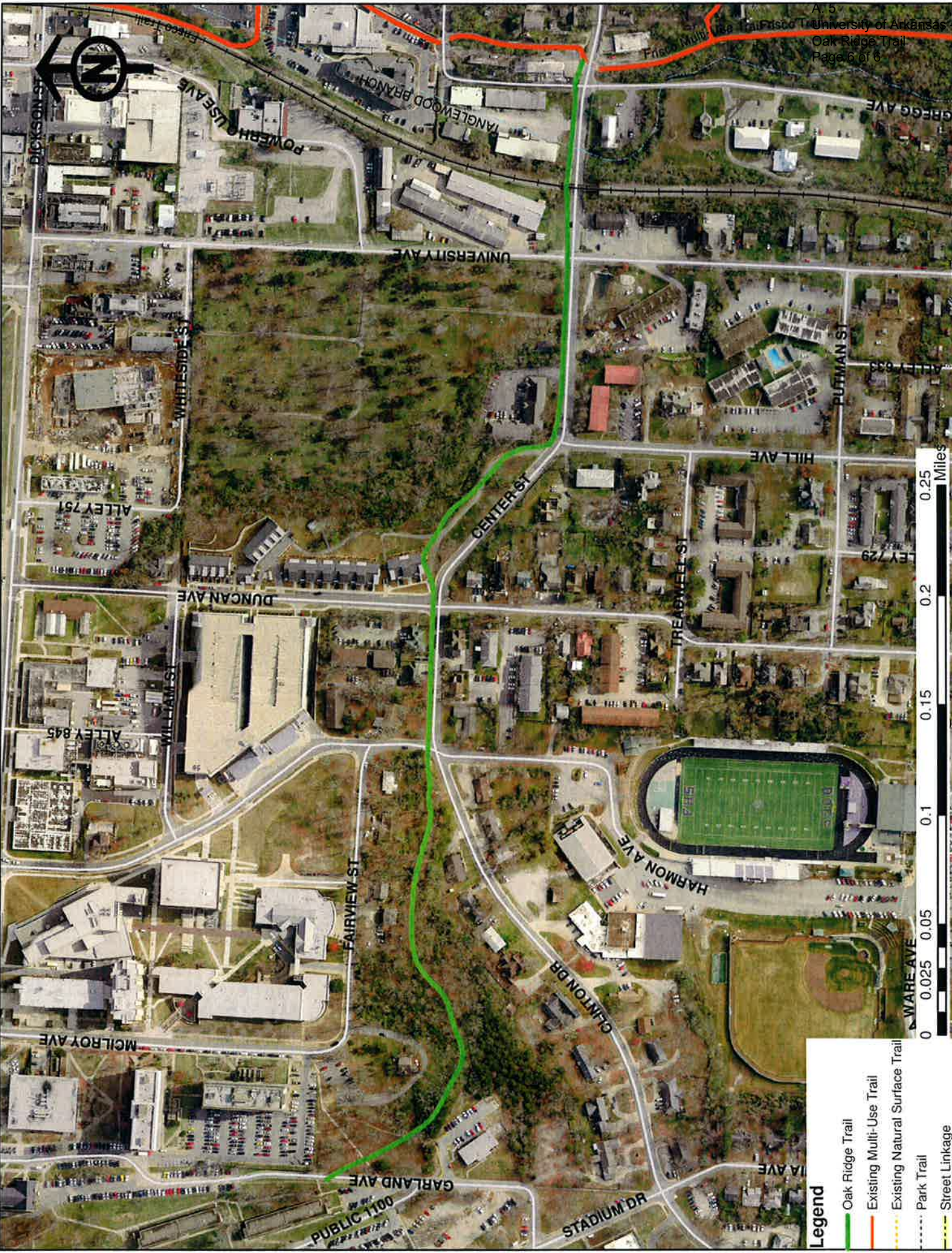


Vendor ID: 102801-01-001
Payment ID: 001070911

Invoice Number: 6687208
Invoice Paid Amount: 137,609.43
Customer ID:
Remittance Advice: Attn: Peggy Bell. Cost share of Oak Ridge Trail.

Invoice Date: 10/21/2011
Invoice Discount Amount:
PO Num: 6687208

4470.0947.4420.00 Payments by Prop Owners Proj. 02016.1001
U of A Cost Share
Oak Ridge Trail



Legend

- Oak Ridge Trail
- Existing Multi-Use Trail
- Existing Natural Surface Trail
- Park Trail
- Street Linkage

City of Fayetteville Staff Review Form

A. 6
Frisco Trail Southern Extension
Page 1 of 36

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

3/20/2012

City Council Meeting Date
Agenda Items Only

<u>Matt Mihalevich</u>	<u>Engineering</u>	<u>Development Services</u>
Submitted By	Division	Department

Action Required:

A resolution accepting a grant agreement with the Walton Family Foundation, approval of an agreement for professional engineering services with Garver, LLC in an amount not to exceed \$189,500 for engineering design related to Frisco Trail (South), and approving a budget adjustment.

\$ <u>189,500.00</u>	\$ <u>216,000.00</u>	<u>Trail Development</u>
Cost of this request	Category / Project Budget	Program Category / Project Name
<u>4470.9470.5814.05</u>	\$ <u>-</u>	<u>Trail Improvements</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>02016.1201</u>	\$ <u>216,000.00</u>	<u>Sales Tax Cap Imp</u>
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒Budget Adjustment Attached ☒

James C. Bick 03-02-2012 Previous Ordinance or Resolution # _____
Department Director Date

Original Contract Date: _____

John B. Kelley 3-2-12 Original Contract Number: _____
City Attorney Date

Paul A. Bueh 3-5-2012
Finance and Internal Services Director Date

Received in City Clerk's Office 02-12 A10:47 RCVD

Don Man 3-6-12
Chief of Staff Date

Received in Mayor's Office

Lionel Jordan 3/6/12
Mayor Date

ENTERED
3/2/12
PH

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

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

From: Matt Mihalevich, Trails Coordinator *MM*

Date: March 1, 2012

Subject: Frisco Trail grant agreement, engineering contract with Garver, LLC., and budget agreement

RECOMMENDATION

Staff recommends a resolution accepting a grant agreement with the Walton Family Foundation, approval of a contract for professional engineering services between the City of Fayetteville and Garver, LLC. in an amount not to exceed \$189,500.00 for engineering design associated with the extension of Frisco Trail south from Martin Luther King Jr. Blvd. to Walker Park and approval of a budget adjustment in the amount of \$216,000.00 to recognize revenue from the Walton Family Foundation and the Home Depot Foundation.

PROPOSAL:

Currently, the 7.6-mile backbone of the Fayetteville Trail system and southern end of the proposed 36-mile Razorback Regional Greenway terminates at the 5-lane Martin Luther King Jr. Blvd. (Hwy 45/180). The proposed ½ mile Frisco Trail southern extension will provide a safe tunnel crossing under MLK Jr. Blvd and connect to the existing trail in Walker Park. From the Walker Park trail, a future trail will extend south under 15th street to connect to the east-west Town Branch Trail. Additionally, this trail project will provide a connection for the Tsa La Gi (Cherokee) trail located just south of MLK Jr. Blvd. Therefore, this proposed ½ mile trail connection is necessary to establish linkages between public amenities and residential and commercial areas.

In 2010, The City of Fayetteville was honored to be selected as a pilot city to develop affordable housing and sustainable transportation with \$500,000 in funding from the Sustainable Cities Institute through the Home Depot Foundation. The Frisco Trail southern extension is an important part of the Sustainable Cities Institute grant because it will provide a safe alternative transportation route for the residents of the proposed affordable housing development to be located just east of Walker Park and \$108,000 of the grant funding has been designated for the trail project.

As part of the Razorback Regional Greenway, this section of Frisco Trail is also eligible for funding through the Walton Family Foundation. In February of 2012, the City submitted a successful application to the Walton Family Foundation for funding in the amount of \$108,000 to be matched dollar to dollar with \$108,000 in funding from the Sustainable Cities Institute through the Home Depot Foundation for a total budget of 216,000 with \$26,500 in contingency funds above the \$189,500 proposal from Garver. The majority of this funding will be used for the design and engineering of the trail, with a commitment from the Walton Family Foundation to provide additional funding for the trail construction planned for

2013. The attached grant #2012-170 agreement has been prepared by the Walton Family Foundation to outline the grant requirements. In the last paragraph of the agreement, the Foundation has requested the agreement be signed by March 5, 2012. Staff has discussed the time frame for City Council approval and the Foundation has agreed that this date is flexible and the grant will not be declined after this date is not met.

Garver, LLC. has been selected through RFQ 11-01 to perform the complete trail design including the tunnel, retaining walls, bridges, and crosswalks. Garver has provided the attached scope of services (Appendix A) and contract for the requested professional engineering services.

BUDGET IMPACT:

No City funds are necessary for this request. Funds in the amount of \$108,000 from the Home Depot Foundation will be combined with \$108,000 from the Walton Family Foundation for a total budget of \$216,000. \$189,500 of these funds will be utilized to hire Garver, LLC to perform design work with the remaining \$26,500 to be used as contingency if necessary. A check for the Home Depot Foundation funds has been received and the Walton Family Foundation funds will be received as reimbursement on a quarterly basis.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING A CONTRACT WITH GARVER, LLC IN AN AMOUNT NOT TO EXCEED \$189,500.00 FOR PROFESSIONAL ENGINEERING DESIGN SERVICES RELATED TO THE FRISCO TRAIL SOUTHERN EXTENSION, ACCEPTING A FIFTY PERCENT (50%) MATCHING GRANT FROM THE WALTON FAMILY FOUNDATION, INC., AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$216,000.00 RECOGNIZING REVENUE FROM THE WALTON FAMILY FOUNDATION, INC. AND THE HOME DEPOT FOUNDATION

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 a contract with Garver, LLC in an amount not to exceed \$189,500.00 for professional engineering design services related to the Frisco Trail southern extension.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of a fifty percent (50%) matching grant from The Walton Family Foundation, Inc. to provide funding for the project.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$216,000.00, a copy of which is attached as Exhibit "A", recognizing revenue from The Walton Family Foundation, Inc. and the Home Depot Foundation.

PASSED and APPROVED this 20th day of March, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

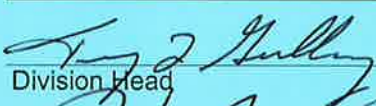
V11.0425
A. 6
Frisco Trail Southern Extension
Page 5 of 36

Budget Year BY 2012	Division: Citywide Department: Citywide	Request Date 3/20/2012	Adjustment Number
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BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

This budget adjustment recognizes commercial grant revenue from the Home Depot Foundation (\$108,000) and the Walton Family Foundation (\$108,000) for Frisco Trail (South to Walker Park).

This project will tie the Walker Park Neighborhood to the City's main trail system by constructing a spur from Frisco Trail at the Mill District.

 Division Head	3-1-12 Date	Prepared By: John Nelson jnelson
 Budget Director	3-5-12 Date	Reference:
 Department Director	3-1-12 Date	Budget & Research Use Only
 Finance Director	3-5-2012 Date	Type: A B C D E P
 Chief of Staff	3-6-12 Date	General Ledger Date
 Mayor	5/6/12 Date	Posted to General Ledger Initial Date
		Checked / Verified Initial Date

TOTAL BUDGET ADJUSTMENT		216,000	216,000	
		Increase / (Decrease)		
Account Name	Account Number	Expense	Revenue	Project.Sub Number
Trails	4470.9470.5814.05	216,000		02016 . 1201
ADDCommercial grants	4470.0947.4305.00		216,000	02016 . 1201
				.
				.





City Of Fayetteville - Purchase Order (PO) Request (Not a Purchase Order)									
All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions) All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us									
Vendor #:		Vendor Name:		Garver Engineers		Fob Point:		Requester:	
52650								John Nelson	
Address:		City:		State:		Zip Code:		Ship to code:	
								104	
								Requester's Employee #:	
								1003	
								Account Numbers	
								4470.9470.5814.05	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost				
1	Engineering Services related to Frisco Trail (South)	1	JOB	189,500.00	\$189,500.00				
2	Contract #				\$0.00				
3	Resolution #				\$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 RFQ 11-01									
Subtotal: \$189,500.00 Tax: \$0.00 Total: \$189,500.00 Purchasing Manager: _____ IT Manager: _____ Other: _____									



National Center for Appropriate Technology

NCAT 3040 Continental Drive • P.O. Box 3838 • Butte, MT 59702 • (406)494-4572 • FAX (406)494-2905 • www.ncat.org

National Center for Appropriate Technology
Frisco Trail Southern Extension
Page 8 of 36

Chris Brown, P.E.
City Engineer
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Dear Chris,

Congratulations on obtaining the 1:1 matching funds from the Walton Family Foundation for the south Fayetteville/Tanglewood Branch trail design! Please find enclosed a check for \$108,000 from our Home Depot Foundation/SCI:Fayetteville project fund that provides the match for the Walton Family Foundation's contribution.

This payment should be filed as a separate sub-line in your accounting system so that there is a clear path to track this payment's expenditure for Garver Engineers to design the trail extension from 6th Street/MLK to Walker Park.

We are proud of our partnership with the City and are excited that the trail extension project is getting underway...this is going to be a huge asset to our community!

Kind Regards,


Melissa Terry



National Center for Appropriate Technology
 PO Box 3838, Butte, MT 59702-3838

VENDOR 48319

PO NO.	INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	OUR REFERENCE
035084	0080875	02/03/2012	108000.00	108000.00	TRAIL EXTENTION 35084
			CHECK TOTAL	108,000.00	



**National Center
 for Appropriate
 Technology**

SAFEGUARD LITHO USA SFSL4 CK7508114L

ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER

CHECK NO.	CHECK DATE	VENDOR
066735	02/28/2012	248319

**National Center for
 Appropriate Technology**
 PO Box 3838, Butte, MT 59702-3838
 (406) 494-4572

CHECK NO. **66735**

 **GLACIER BANK**
 P.O. BOX 3048
 BUTTE, MT 59702
 93-7082/2929

ONE HUNDRED EIGHT THOUSAND AND 00/100 DOLLARS

AMOUNT
 \$****108,000.00

PAY
 TO THE
 ORDER OF

CITY OF FAYETTEVILLE
 113 W MOUNTAIN STREET
 FAYETTEVILLE AK 72701

Kathleen Hadley
Marcia Brown

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE - RED IMAGE DISAPPEARS WITH HEAT.

⑈066735⑈ ⑆292970825⑆ 190044189⑈

Details on back



Security Features Included



RECEIVED

FEB 23 2012

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

February 20, 2012

Lioneld Jordan, Mayor
City of Fayetteville, AR
113 W. Mountain
Fayetteville, AR 72701

Re: Grant #2012-170

Dear Mayor Jordan,

It is my pleasure to inform you that The Walton Family Foundation, Inc. (the "Foundation") has approved a one year grant of up to \$108,000.00 to the City of Fayetteville, AR (the "Grantee"). This grant is subject to the following terms and conditions:

1. **Purpose:** The purpose of the grant is to be used as a 1:1 match for a 2010 Sustainable Cities Institute Grant through the Home Depot Foundation to fund no more than 50% of the cost of the design and engineering for the Frisco Trail Southern Extension not to exceed \$108,000. Grantee agrees to use all grant funds exclusively for the grant's purposes. Any changes in these purposes must be authorized in advance by the Foundation in writing.
2. **Amount: Up to One Hundred Eight Thousand Dollars (\$108,000.00).
Year One (By December 31, 2012) up to \$108,000.00.**
3. **Matching Grant:** The Foundation's funds will be used to match funds collected by Grantee from a 2010 Sustainable Cities Institute Grant through the Home Depot Foundation.

Year One (ending December 31, 2012): one dollar for each one dollar up to \$108,000.00 collected from the 2010 Sustainable Cities Institute Grant through the Home Depot Foundation.

Expiration: Proof of receiving the \$108,000.00 grant award from the 2010 Sustainable Cities Institute Grant through the Home Depot Foundation must be obtained by March 8, 2012. In the event the matching grant is not received by March 8, 2012, all outstanding obligations of the Foundation will terminate.

4. **Payable:** Payments shall be made on a drawdown basis no more frequently than quarterly. City of Fayetteville will submit a report outlining work completed as well as funds expended to date and the Foundation will review and, once approved, will reimburse no more than 50% of that total not to exceed 50% of the cost up to \$108,000.

5. **Accounting:** (a) The Foundation encourages, whenever feasible, the deposit of grant funds in an interest-bearing account. For purposes of this letter, the term “grant funds” includes the grant and any income earned thereon.

(b) Grantee will maintain records of receipts and expenditures made in connection with the grant funds and will keep these records during the period covered by the Grantee’s reporting obligations specified in paragraph 6 and for at least four years thereafter (“Maintenance Period”). Grantee will make its books and records in connection with the grant funds available for inspection by the Foundation during normal business hours as the Foundation may request at any time during the Maintenance Period.

6. **Reporting and Evaluation:** Grantee will provide the Foundation with a financial and narrative report by the due date listed in the report schedule below. Each report shall include an account of expenditures of grant funds, and a brief narrative of what was accomplished (including a description of progress made in fulfilling the purposes of the grant and a confirmation of Grantee’s compliance with the terms of the grant).

Report Date	Report Type
August 31, 2012	Interim Financial and Narrative
February 28, 2013	Final Financial and Narrative

Success will be measured against the outputs and outcomes described in Appendix 1.

All reports will be sent electronically to HomeRegion@wffmail.com. If you have questions relative to reporting, please contact Janet Post, Home Region Focus Coordinator, 479-464-1576 or, email jpost@wffmail.com. Please reference Grant #2012-170 on all reports submitted.

7. **Representations:** Grantee represents and warrants to the Foundation that:

(a) Grantee is an organization in good standing, is either an organization described in section 501(c)(3) of the Internal Revenue Code (“Code”) or a governmental unit, and is not a “private foundation” described in section 509(a) of the Code. Grantee will promptly notify the Foundation of any change in Grantee’s tax status under the Code.

(b) In no event will Grantee use any grant funds:

(i) to carry on propaganda, or otherwise to attempt, to influence legislation;

(ii) to influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drive; or

(iii) to undertake any activity other than for a charitable, educational or other exempt purpose specified in section 170(c)(2)(B) of the Code.

(c) Grantee will comply with all applicable laws and regulations.

8. **Repayment:** The Foundation may discontinue any further payments to Grantee, and may direct Grantee to repay any unexpended grant funds to the Foundation, if any of the following events occurs:

(i) Grantee ceases to maintain its tax-exempt status as described in paragraph 7(a) above;

(ii) Grantee fails to comply with the terms of this letter; or

(iii) There is a material change in Grantee's key personnel that in the sole opinion of the Foundation adversely affects Grantee's management of the grant.

9. **Grant Publicity:** Grant publicity related to this grant consistent with Grantee's normal practice is permitted, subject to the following provisions. The Foundation expects any announcements and other publicity to focus on Grantee's work and the project or issue funded by the grant. Recognition of the Foundation's role in funding the project is permitted, provided that the timing, content and strategic focus of such publicity should be approved by the Foundation contact listed in paragraph 10. Publicizing the grant and the Foundation in Grantee's publications and communications in a manner consistent with similar grants obtained by Grantee is permitted.

The Foundation may ask Grantee to provide illustrations, photographs, videos, recordings, information or other materials related to the grant (collectively "Grant Work Product") for use in Foundation communications including the Foundation's website, annual report, newsletters, board materials, presentations, communications and other publications. Grantee agrees to provide the Foundation with such items upon the Foundation's reasonable request and hereby grants to the Foundation and anyone acting under the authority of the Foundation a fully paid-up, world-wide, right and license to use, reproduce, display and distribute the Grant Work Product in connection with the Foundation's charitable operations and activities. In connection therewith, Grantee shall be responsible for obtaining all necessary rights and permissions from third parties for the Foundation to use the Grant Work Product for these purposes. By signing this Agreement, Grantee also acknowledges and agrees to use by the Foundation of historical, programmatic and other information relating to Grantee and the grant hereunder.

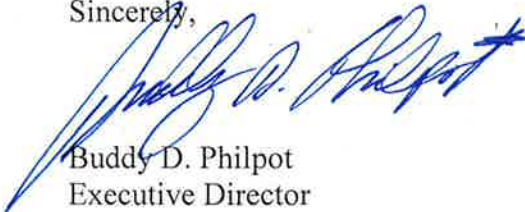
10. **Gratuities:** The Foundation desires that all of Grantee's resources be dedicated to accomplishing its philanthropic purposes. Therefore, Grantee agrees that it will not furnish the Foundation or its Board of Directors, officers, staff or affiliates with any membership, commemorative items, recognition plaques or gratuities or benefits of any kind.

11. **Contact:** For all communications regarding the grant, your point of contact at the Foundation will be Program Officer, Ryan Hale. He can be contacted via phone or email as follows: Telephone number (479) 464-1579, Fax number (479) 464-1580 and Email rhale@wffmail.com.

We have enclosed two original grant letters. Please sign one copy as Grantee's acknowledgment of the terms and conditions herein stated and return it to me in the enclosed self addressed envelope. If the signed acknowledgment of this letter is not received in the Foundation's office by March 5, 2012, the Foundation will consider the Grantee to have declined the grant.

On behalf of the Foundation, I extend every good wish for the success of your organization's endeavors.

Sincerely,



Buddy D. Philpot
Executive Director

ACKNOWLEDGED AND AGREED

By: _____
Lioneld Jordan (Date)
Mayor
City of Fayetteville, AR

Appendix 1: City of Fayetteville, AR Frisco Trail Southern Extension Design and Engineering

Output Performance Measures:

- By 4 months after the grant funding approval date, Alta Planning+Design will assist in the preliminary review of plans prepared by Garver Engineers to insure design concurrence with the Razorback Regional Greenway as evidenced by program and city records. *Estimated date is June 3, 2012.*
- Garver Engineers will deliver a construction-ready trail plan that includes a tunnel, retaining walls, bridges, crosswalk, right of way exhibits and state highway department permitting by 10 months from the grant approval date as evidenced by program and city records. *The estimated date is December 31, 2012; however, this date could be delayed by state highway department permit review.*
- The City of Fayetteville will set a date to begin construction of the Frisco Trail southern extension by December 31, 2012 as evidenced by program and city records. *This will be contingent on construction funding availability.*

Outcome Performance Measures:

- Alta Planning+Design as well as the COF will formally approve the construction ready trail plan delivered by Garver Engineers by 10 months from the grant approval date as evidenced by program and city records. The estimated date is December 31, 2012.

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
GARVER, LLC.

THIS AGREEMENT is made as of _____, 2012, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and GARVER, LLC (hereinafter called GARVER).

CITY OF FAYETTEVILLE requires professional engineering services in connection with the surveying, design, preparation of property acquisition documents, and partial bidding services for the Frisco Trail extension from Martin Luther King, Jr. Boulevard to Walker Park. Therefore, CITY OF FAYETTEVILLE and GARVER in consideration of their mutual covenants agree as follows:

GARVER shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of GARVER's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of GARVER.
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of GARVER.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF GARVER

2.1 General

2.1.1 Perform professional services in connection with the Project as hereinafter stated.

2.1.1.1 The Scope of Services to be furnished by GARVER during the design is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.2 GARVER shall coordinate their activities and services with the CITY OF FAYETTEVILLE. GARVER and CITY OF FAYETTEVILLE agree that GARVER has full responsibility for the engineering services.

2.2 Engineering Services – Frisco Trail Extension.

2.2.1 Perform engineering services for the design as described in the Scope of Services in Appendix A.

SECTION 3 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of GARVER

3.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

3.2 Assist GARVER by placing at GARVER's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

3.3 Assist GARVER in obtaining access to property reasonably necessary for GARVER to perform its services under this Agreement.

3.4 Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by GARVER and render in writing decisions pertaining thereto.

3.5 The Trails Coordinator is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The Trails Coordinator shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment,

elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

- 3.6 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to GARVER in a timely manner.

SECTION 4 - PERIOD OF SERVICE

- 4.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 4.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. GARVER will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. The anticipated schedule for this project is included as Appendix A.

SECTION 5 - PAYMENTS TO GARVER

- 5.1 Compensation

- 5.1.1 Frisco Trail

The maximum not-to-exceed amount authorized for this Agreement is **\$189,500**. The CITY OF FAYETTEVILLE shall compensate GARVER for time spent on the project at the rates described in Appendix B for each classification of GARVER's personnel. In addition, reimbursable expenses, including but not limited to printing, courier service, reproduction, travel, and subconsultants shall be paid to GARVER. For informational purposes, a breakdown of GARVER's estimated costs is included in Appendix B. The rates shown will be increased annually with the first increase effective on or about June 1, 2012.

- 5.1.1.1 Subject to the City Council approval, adjustment of the not-to-exceed amount may be made should GARVER establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity, character, or schedule of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments

in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

5.1.1.2 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for professional services consistent with GARVER's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by GARVER and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the study and report for the Project.

5.2 Statements

Statements and progress report for each calendar month will be submitted to CITY OF FAYETTEVILLE. Statements will be based on GARVER's actual time and reimbursable expenses accrued to the project.

5.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of GARVER's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise GARVER in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved. However, payment within 30 days is not guaranteed.

5.4 Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, GARVER shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by GARVER to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this

Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against GARVER or his sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Insurance

6.1.1 During the course of performance of these services, GARVER will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

GARVER will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

6.1.2 CITY OF FAYETTEVILLE and GARVER waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of GARVER's services.

6.2 Professional Responsibility

6.2.1 GARVER will exercise reasonable skill, care, and diligence in the performance of GARVER's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to GARVER any defects or suspected defects in GARVER's services of which CITY OF FAYETTEVILLE becomes aware, so that GARVER can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of GARVER.

6.3 Cost Opinions and Projections

Cost opinions and projections prepared by GARVER relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on GARVER's experience, qualifications, and judgment as a design professional. Since GARVER has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, GARVER does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by GARVER.

6.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of GARVER's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the duly authorized officer of GARVER.

6.5 Termination

6.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

6.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.1.2 An opportunity for consultation with the terminating party prior to termination.

6.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that GARVER is given:

6.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

- 6.5.2.2 An opportunity for consultation with the terminating party prior to termination.
- 6.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - 6.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,
 - 6.5.3.2 Any payment due to GARVER at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of GARVER's default.
- 6.5.4 If termination for default is effected by GARVER, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to GARVER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by GARVER relating to commitments which had become firm prior to the termination.
- 6.5.5 Upon receipt of a termination action under Paragraphs 6.5.1 or 6.5.2 above, GARVER shall:
 - 6.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),
 - 6.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by GARVER in performing this Agreement, whether completed or in process.
- 6.5.6 Upon termination under Paragraphs 6.5.1 or 6.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- 6.5.7 If, after termination for failure of GARVER to fulfill contractual obligations, it is determined that GARVER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 6.5.4 of this clause.

6.6 Delays

In the event the services of GARVER are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond GARVER's reasonable control, GARVER shall be entitled to additional compensation and time for reasonable costs incurred by GARVER in temporarily closing down or delaying the Project.

6.7 Rights and Benefits

GARVER's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

6.8 Dispute Resolution

6.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and GARVER which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or GARVER in the performance of this Agreement, and disputes concerning payment.

6.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 6.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 6.8.3 and 6.8.4 have been complied with.

6.8.3 Notice of Dispute

6.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

6.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give GARVER written Notice at the address listed in Paragraph 6.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature

and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

6.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and GARVER shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President or Chief Engineer of GARVER and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

6.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to GARVER for services rendered by GARVER.

6.10 Publications

Recognizing the importance of professional development on the part of GARVER's employees and the importance of GARVER's public relations, GARVER may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to GARVER's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to GARVER. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of GARVER's activities pertaining to any such publication shall be for GARVER's account.

6.11 Indemnification

6.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and GARVER from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

6.12 Computer Models. GARVER may use or modify GARVER'S proprietary computer models in service of CITY OF FAYETTEVILLE under this agreement, or GARVER may develop computer models during GARVER's service to CITY OF OFAYETTEVILLE under this agreement. Such use, modification, or development by GARVER does not constitute a

license to CITY OF FAYETTEVILLE to use or modify GARVER's computer models. Said proprietary computer models shall remain the sole property of GARVER. CITY OF FAYETTEVILLE and GARVER will enter into a separate license agreement if CITY OF FAYETTEVILLE wishes to use GARVER's computer models.

6.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. GARVER may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications and other hard copy or electronic media prepared by GARVER as part of the Services shall become the property of CITY OF FAYETTEVILLE when GARVER has been compensated for all Services rendered, provided, however, that GARVER shall have the unrestricted right to their use. GARVER shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of GARVER.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. GARVER makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

6.14 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:
113 West Mountain Street
Fayetteville, Arkansas 72701

GARVER, LLC's address:
2049 E. Joyce Blvd, Suite 400
Fayetteville, Arkansas 72703

6.15 Successor and Assigns

CITY OF FAYETTEVILLE and GARVER each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor GARVER shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

6.16 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

6.17 Entire Agreement

This Agreement represents the entire Agreement between GARVER and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to GARVER a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by GARVER, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 7 - SPECIAL CONDITIONS

7.1 Additional Responsibilities of GARVER

7.1.1 CITY OF FAYETTEVILLE's review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve GARVER of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

7.1.2 GARVER shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by GARVER's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

7.1.3 GARVER's obligations under this clause are in addition to GARVER's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against GARVER for faulty materials, equipment, or work.

7.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and GARVER arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

7.3 Audit: Access to Records

7.3.1 GARVER shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. GARVER shall also maintain the financial information and data used by GARVER in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. GARVER will provide proper facilities for such access and inspection.

7.3.2 Records under Paragraph 7.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

7.3.3 This right of access clause (with respect to financial records) applies to:

7.3.3.1 Negotiated prime agreements:

7.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement.

7.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

7.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of GARVER;

7.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

7.3.3.3.3 If the subagreement is terminated for default or for convenience.

7.4 Covenant Against Contingent Fees

GARVER warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by GARVER for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

7.5 Gratuities

7.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that GARVER or any of GARVER's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to GARVER terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this

Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

7.5.2 In the event this Agreement is terminated as provided in Paragraph 7.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against GARVER as it could pursue in the event of a breach of the Agreement by GARVER. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs GARVER incurs in providing any such gratuities to any such officer or employee.

7.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, GARVER will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and GARVER, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

GARVER

By : _____
Mayor, Lioneld Jordan

By:  _____
Brock Hoskins, PE

ATTEST:

By: _____
City Clerk

Title: Sr. Vice President/Chief Engineer

Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

APPENDIX A – SCOPE OF SERVICES

2.1 General

Generally, the scope of services includes surveying, design, and preparation of property acquisition documents and partial bidding services to the City of Fayetteville Frisco Trail. Improvements will consist primarily of the extension of Frisco Trail from Martin Luther King, Jr. Boulevard to the existing trail located in Walker Park including 0.5 miles of a 12-ft wide trail with partial lighting, a tunnel, a new bridge, and the restoration or replacement of an existing railroad truss bridge.

2.2 Surveys

2.2.1 Design Surveys

Garver will provide field survey data for designing the project, and this survey will be tied to the Owner's control network.

Garver will conduct field surveys, utilizing radial topography methods, at intervals and for distances along the project site as appropriate for modeling the existing ground, including locations of pertinent features or improvements. Garver will locate buildings and other structures, streets, drainage features, trees over eight inches in diameter, visible utilities as well as those underground utilities marked by their owners and/or representatives, and any other pertinent topographic features that may be present at and/or along the project site. Garver will establish control points for use during construction.

2.2.2 Property Surveys

Garver will locate existing monumentation representing right of way and/or easements based on record data which will be provided by an abstractor under a subconsultant agreement with Garver.

2.3 Geotechnical Services

Garver will subcontract with Grubbs, Hoskyn, Barton & Wyatt to provide geotechnical investigations and recommendations for the design of the bridge and tunnel as specified in the attached proposal and made a part of this agreement. The City of Fayetteville will provide the typical section to be utilized for the design of the trail.

2.4 Coordination

Garver will furnish plans to all known utility owners potentially affected by the project at the conceptual and final stages of development. Garver will conduct a coordination meeting among all known affected utility owners to enable them to coordinate efforts for any necessary utility relocations. Garver will include the surveyed locations of the observable and marked utilities in the construction plans. Garver will also include proposed and/or relocated utility information in the construction plans as provided by the utility companies.

Garver will furnish final plans to the following agencies: NWARPC, AHTD, ADEQ, COE, USFWS, for their review and comment.

Garver will also attend coordination meetings with the City of Fayetteville and other agencies as required. Garver will prepare exhibits for these meetings when appropriate.

2.5 Environmental Services

Garver will perform wetland delineation for the Spout Spring Branch creek crossing located in Walker Park. Garver will work to obtain a Nationwide Permit for the project from the US Army Corps of Engineers and to obtain clearance from the US Fish and Wildlife Service (USFWS) and the State Historic Preservation Office (SHPO).

In addition, Garver will provide design of BMP devices and stream bank stabilization as necessary to meet or exceed the requirements of the City of Fayetteville Streamside Protection Ordinance.

2.6 Drainage Study

Garver will utilize the existing HEC-HMS and HEC-RAS hydrologic models for the design of a new bridge across the Spout Springs Branch Creek at Walker Park. Modeling parameters, such as areas, slopes, drainage paths, and distances will be obtained from Owner-provided planimetric contour maps and aerial photos and verified by field investigations. Runoff characteristics for non-developed areas will be based on current land-use plans.

Garver will utilize the modified HEC-RAS hydraulic model for design of the creek crossing and trail construction within the designated FEMA floodplain/floodway to achieve a "No-Rise" in the water surface elevation during the 100-year rainfall event. The remainder of the drainage system for the project will be designed in accordance with the City of Fayetteville Drainage Criteria Manual.

Garver will develop a drainage report including the following:

- Existing HEC-HMS model data.
- HEC-RAS modified model results and supporting data.
- Drainage Computations for minor crossings and the MLK Jr. Tunnel.
- Summary of Results.

Garver will coordinate with COE to acquire a Nationwide permit for Spout Springs Branch Creek crossing.

2.7 Schematic Study

The Schematic Study phase will include an alignment study of the tunnel under MLK, Jr. Boulevard and the portion of the trail located between the tunnel and the existing railroad truss bridge over the Tanglewood Branch Creek. The study will include coordination with the City of Fayetteville, property owners and their representatives, and the AHTD. Two alignment options will be studied with an opinion of probable costs for each option.

In addition, the existing railroad truss bridge will be analyzed to determine the feasibility of

refurbishment including a structural analysis of the existing substructure, recommendations of improvements, and opinion of probable construction costs. A cost comparison will be provided for a total bridge replacement.

2.8 Conceptual Design (30% Submittal)

The conceptual design phase submittal will include typical sections, plan & profile sheets showing horizontal alignment, bridge improvements to the existing railroad truss bridge, new bridge and tunnel structures, major drainage structures, existing utilities, recommended water and sewer relocations, recommended mitigation for work within the City stream bank protection zones, right-of-way requirements, Drainage Study preliminary results, COE Nationwide permit draft, pedestrian study for the Highway 71B trail crossing, and an opinion of probable construction cost. This conceptual submittal will represent 30 percent of final construction contract plans and will be for the purpose of coordinating the proposed improvements with the Owner and the utility companies and developing an order of magnitude cost estimate for the project.

Garver will prepare exhibits and attend one public meeting. Garver's exhibits for this public meeting will address the City's conceptual design comments. The exhibits will include a current set of full-sized plans and foam display boards at a 1"=20' scale, utilizing aerial photographs and property information.

Garver will furnish plans to all known utility owners potentially affected by the project and coordinate a joint meeting.

The Engineer will not begin preliminary design until the conceptual design is approved by the Owner in writing.

2.9 Preliminary Design (60% Submittal)

The preliminary design phase submittal will include typical sections, plan & profile sheets showing horizontal and vertical alignment, bridge improvements to the existing railroad truss bridge or design of new bridge at this location, new bridge and tunnel structures, 9th Street adjustments, drainage improvements, Highway 71B crossing and signalization, lighting for tunnel and approaches, maintenance of traffic plans, signing and striping, water and sewer relocations, Drainage Study, COE Nationwide permit, AHTD permit draft and an opinion of probable construction cost. The preliminary design phase will represent approximately 60 percent of final construction contract plans. This submittal will not include technical specifications or "front end" contract documents. Garver will not begin final design until the preliminary design is approved by the City of Fayetteville in writing.

Garver will furnish plans to AHTD and COE for their review and comment.

2.10 Final Design (90% & 100% Submittals)

During the final design phase of the project, Garver will conduct final designs to prepare construction plans and specifications, for one construction contract, including final construction details and quantities, technical specifications, special provisions, and opinion of probable construction cost. Garver will also make final field inspection with the City of Fayetteville, make

any needed plan changes as a result of the final field inspection and/or special easement acquisition considerations, and prepare the construction documents as required to advertise for bids.

Garver will furnish final plans to all known affected utility owners, NWARPC, AHTD, and Arkansas Department of Health for their review and comment.

Garver will also prepare, submit, and coordinate approval of a Stormwater Pollution Prevention Plan (SWPPP) and Short-Term Activity Authorization (STAA) with ADEQ.

2.11 Property Acquisition Documents

Garver will provide mapping as required for preparing Right-of-Way/Easement acquisition documents for the City of Fayetteville's use in acquiring the property. Documentation will include an individual tract map with description of temporary and permanent acquisition for each property. The City of Fayetteville will provide a standard easement acquisition document or "go-by" example for use by Garver. The fee for providing property acquisition documentation is based on permanent right of way and temporary construction easements for no more than ten (10) properties. Property acquisition document preparation will begin after receiving the City of Fayetteville's comments from the Preliminary Design review.

2.12 Bidding Services

During the bidding phase of the project, Garver will:

1. Prepare and submit Advertisement for Bids to the City of Fayetteville. City of Fayetteville will pay advertising costs outside of this contract.
2. Dispense construction contract documents to prospective bidders (at the approximate cost of reproduction and handling).
3. Support the contract documents by preparing addenda as appropriate.
4. Participate in a pre-bid meeting if necessary.
5. Attend the bid opening.
6. Prepare bid tabulation.
7. Evaluate bids and recommend award.
8. Prepare construction contracts.

2.13 Construction Phase Services

The scope and fee for Construction Phase Services will be inserted by amendment to this agreement at a later date.

2.14 Project Deliverables

The following will be submitted to the City of Fayetteville, or others as indicated, by Garver:

1. Two (2) copies of the preliminary Drainage Report and two (2) copies of the final Drainage Report.
2. Two (2) copies of the Geotechnical Report.
3. Three (3) copies of the Schematic Study.

4. Three (3) copies of the Conceptual Design with opinion of probable construction cost.
5. One (1) copy of the revised Conceptual Design and revised Final Plans to each franchise utility company.
6. Three (3) copies of the Preliminary Design with opinion of probable construction cost.
7. Three (3) copies of the Final Design with opinion of probable construction cost.
8. Three (3) copies of the revised Final Design with opinion of probable construction cost.
9. Three copies (3) of the right-of-way and/or easement acquisition documents.
10. Electronic files as requested.

2.15 Extra Work

The following items are not included under this agreement but will be considered as extra work:

1. Payment of review fees or advertisement costs.
2. Design of plans and survey in AHTD format.
3. Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
4. Submittals or deliverables in addition to those listed herein.
5. Trail pavement Design beyond that furnished in the Geotechnical Report.
6. Design of any utilities relocation other than water and sewer.
7. Construction materials testing.
8. Wetlands mitigation design.
9. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
10. Providing services necessary for obtaining an Individual 404 permit from the Corps of Engineers.
11. Construction Phase Services.
12. As-Built Drawings.
13. Services after construction, such as warranty follow-up, operations support, etc.

Extra Work will be as directed by the Owner in writing for an additional fee as agreed upon by the Owner and the Engineer.

2.16 Schedule

The Engineer shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall complete the work in accordance with the schedule below:

<u>Phase Description</u>	<u>Calendar Days</u>
Geotechnical Engineering	30 days from start date
Surveys - Design and Property	45 days from start date
Schematic Study	45 days from start date
Conceptual Design(30%)	45 days from approval of Schematic Study
Preliminary Design(60%)	45 days from approval of Conceptual Design
Final Design(90%)	60 days from approval of Preliminary Design
Property Acquisition Documents	15 days from approval of Final Design
Final Construction Documents(100%)	15 days from approval of Final Design

APPENDIX B
Frisco Trail / 11047140
Garver Hourly Rate Schedule

Classification	Rates
Engineers / Architects	
E-1	\$ 88.00
E-2	\$ 104.00
E-3	\$ 123.00
E-4	\$ 145.00
E-5	\$ 176.00
E-6	\$ 215.00
Planners	
P-1	\$ 106.00
P-2	\$ 124.00
Designers	
D-1	\$ 83.00
D-2	\$ 111.00
Technicians	
T-1	\$ 71.00
T-2	\$ 94.00
Surveyors	
S-1	\$ 42.00
S-2	\$ 52.00
S-3	\$ 70.00
S-4	\$ 99.00
S-5	\$ 127.00
2-Man Crew (Survey)	\$ 160.00
3-Man Crew (Survey)	\$ 200.00
2-Man Crew (GPS Survey)	\$ 180.00
3-Man Crew (GPS Survey)	\$ 220.00
Construction Observation	
C-1	\$ 80.00
C-2	\$ 108.00
C-3	\$ 144.00
Administration	
X-1	\$ 49.00
X-2	\$ 66.00
X-3	\$ 109.00

APPENDIX B

CITY OF FAYETTEVILLE FRISCO TRAIL

FEE SUMMARY

Title I Services	Estimated Fees
<i>Geotechnical Services (G,H,B&W)</i>	\$8,100.00
<i>Record Research (10 Parcels)</i>	\$1,500.00
<i>Utility Marking</i>	\$700.00
Signalization Design	\$10,000.00
Surveys	\$24,350.00
Drainage Study	\$4,650.00
Electrical Design	\$10,400.00
Schematic Study	\$14,500.00
Conceptual Design	\$14,800.00
Preliminary Design	\$34,200.00
Final Design	\$56,400.00
Property Acquisition Documents	\$5,150.00
Bidding Services	\$4,750.00
Subtotal for Title I Services	\$189,500.00
Title II Services	
<i>Construction Materials Testing</i>	\$0.00
Construction Phase Services	\$0.00
Subtotal for Title II Services	\$0.00

City of Fayetteville Staff Review Form

A. 7
 Bid #12-19 Peterbilt of Fort Smith
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

3/20/2012

City Council Meeting Date
 Agenda Items Only

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding Bid #12-19 to Peterbilt of Ft. Smith in the amount of \$775,629 for the purchase of three automated side load solid waste trucks.

\$ 775,629.00

Cost of this request

\$ 1,556,000.00

Category / Project Budget

Solid Waste Vehicles/Equipment

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ -

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02082.2012

Project Number

\$ 1,556,000.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Tony Gully
 Department Director

3-2-12

Date

Previous Ordinance or Resolution #

John Kelly
 City Attorney

3-2-12

Date

Original Contract Date:

Original Contract Number:

Paul A. Bush
 Finance and Internal Services Director

3-5-2012

Date

Received in City
 Clerk's Office

03-02-12P01:31 RCVD

WJB

Kim Man
 Chief of Staff

3-6-12

Date

Received in
 Mayor's Office

ENTERED
 3/5/12
 PH

Loralee Jordan
 Mayor

3/6/12

Date

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *428*

From: Dennis Pratt, Fleet Operations Supt.

Date: March 2, 2012

Subject: Purchase of three Side Load Trucks for Solid Waste

PROPOSAL: That City Council approve the purchase of three Peterbilt trucks with Labrie Automizer Right Hand bodies in the amount of \$775,629 for use by Solid Waste division.

RECOMMENDATION: Bid 12-19 was opened on February 10, 2012. Nine bids were received. A bid tab sheet is attached; on the right hand side of the sheet, the bids are numbered in order – lowest bid is #1, next lowest #2, etc. Two bids tied for #3.

Low bids #1 and #2 both have a New Way arm. The bid states that whatever unit is bid must have 50 units already in service for at least a year. There are only 30 New Way arms in service, and they have only just gone into service, so there is no performance history on them.

The two bids that tied for #3 low bid both have the arm from GSP Marketing which is too wide for us to use in our City. When we demo'd the unit, the driver had to get out of the truck, move the trash can out where the truck could reach it, get in the truck and dump the can, get out of the truck and put the trash can back. The arm is too wide to fit between cars.

The fourth lowest bid from Peterbilt, Option #1 has a Labrie arm. These have been in use for several years.

I recommend acceptance of the lowest bid that meets specs from Peterbuilt of Fort Smith in the amount of \$775,629 for three units.

These trucks are for use by Solid Waste Division and will replace units 468, 469, and 470.

This purchase was unanimously approved by the Equipment Committee on Feb 28th, 2012.

BUDGET IMPACT: These replacements were budgeted for on both the capital and the operating sides.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-19 AND AUTHORIZING THE PURCHASE OF THREE (3) AUTOMATED SIDE LOAD SOLID WASTE TRUCKS FROM PETERBILT OF FORT SMITH IN THE AMOUNT OF \$775,629.00 FOR USE IN THE SOLID WASTE DIVISION

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 #12-19 and authorizes the purchase of three (3) automated side load solid waste trucks from Peterbilt of Fort Smith in the amount of \$775,629.00 for use in the Solid Waste Division.

PASSED and APPROVED this 20th day of March, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 12-19
 DATE: 02/10/12
 TIME: 2:00 PM
 CITY OF FAYETTEVILLE

Bid 12-19, Automated Refuse Trucks

BIDDER	MANUFACTURER	QUANTITY	MODEL	PRICE EACH	TOTAL COST
1 Downing Sales & Service, Inc.	Peterbilt	3	320	\$ 136,780.00	\$ 407,340.00
	Bridgeport Manufacturing	3	28 Cubic Yard Ranger Automated Side Loader	\$ 139,340.00	\$ 418,020.00
					\$ 825,360.00
2 Frontier International Trucks Inc. (Option 1)	Crane Carrier	3	LET2	\$ 161,931.00	\$ 485,793.00
	Nu Way	3	Sidewinder XTR	\$ 104,469.00	\$ 313,407.00
					\$ 799,200.00
3 Frontier International Trucks Inc. (Option 2)	Crane Carrier	3	LET2	\$ 165,975.00	\$ 497,925.00
	Labrie	3	Automizer	\$ 120,895.00	\$ 362,685.00
					\$ 860,610.00
4 GSP Marketing Inc./ GS Products	Mack	3	LEU613	\$ 148,209.67	\$ 444,629.00
	GSP Marketing Inc.	3	CS8127A	\$ 95,904.78	\$ 287,714.34
					\$ 732,343.34
5 Peterbilt of Ft. Smith, LLC (Option 1)	Peterbilt	3	320	\$ 137,648.00	\$ 412,944.00
	Labrie	3	Automizer RH	\$ 120,895.00	\$ 362,685.00
					\$ 775,629.00
6 Peterbilt of Ft. Smith, LLC (Option 2)	Peterbilt	3	320	\$ 137,648.00	\$ 412,944.00
	Scranton Mfg. Co. - <i>NEW WAY ARN</i>		<i>New Way</i> Sidewinder	\$ 104,469.00	\$ 313,407.00
					\$ 726,351.00
7 Scruggs Equipment Company	Truck 1 - 2011 Mack & Truck 2&3 - 2013 Mack	3	LEU G13	\$ 95,904.78	\$ 287,714.34
	G&S Products	3	CS-8127A	\$ 148,209.67	\$ 444,629.00
					\$ 732,343.34
8 Shipley Motor Equipment Company	Mack	3	LEU613	\$ 137,519.76	\$ 412,559.28
	<i>New Way</i>	3	Sidewinder	\$ 104,469.00	\$ 313,407.00
					\$ 725,966.28
9 Truck Centers of Arkansas	Autocar	3	ACX64	\$ 156,725.00	\$ 470,175.00
	Scranton Mfg. Co. - <i>NEW WAY ARN</i>	3	<i>New Way</i> Sidewinder	\$ 104,469.00	\$ 313,407.00
					\$ 783,582.00

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

CERTIFIED:

P. VICE, PURCH MGR

WITNESS

DATE

P. Vice

J. Jara

2/10/12

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)

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

Requisition No.:	Date: A. 7 3/2/2012
P.O Number:	Bid #12-19 Peterbilt of Fort Smith Expected Delivery Date:

Vendor #: 19771	Vendor Name: PETERBILT OF FT. SMITH	Mail Yes: No: X
Address:	Fob Point:	Taxable Yes: No: X
City:	State:	Quotes Attached Yes: No: X
Zip Code:	Ship to code: 50	Division Head Approval: 
Requester: BARBARA OLSEN	Requester's Employee #: 1940	Extension: 485

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2012 PETERBILT 320 CHASSIS WITH LABRIE	3	EA	258,543.00	\$775,629.00	9700.1920.5802.00	02082.2012		
2	AUTOMIZER RIGHT HAND TRASH BODY, TO BE				\$0.00				
3	UNITS: 4013, FIXED ASSET 704013				\$0.00				704013
4	UNIT 4014, FIXED ASSET 704014				\$0.00				704014
5	UNIT 4015, FIXED ASSET 704015				\$0.00				704015
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: \$775,629.00

Total: \$775,629.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

City of Fayetteville Staff Review Form

A. 8
Bale Chevrolet of Little Rock
Page 1 of 6

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

3/20/2012

**City Council Meeting Date
Agenda Items Only**

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution approving the purchase of six Chevrolet Tahoes from Bale Chevrolet of Little Rock off the State Vehicle Purchase contract in the amount of \$25,093 each plus \$9,907 each for upfit costs, for a total of \$210,000 for six units.

\$ 210,000.00

Cost of this request

\$ 293,824.00

Category / Project Budget

Police/Passenger Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ -

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02081.2011

Project Number

\$ 293,824.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Tony J. Kelly
Department Director

3-2-12
Date

Previous Ordinance or Resolution # _____

John Kelly
City Attorney

3-2-12
Date

Original Contract Date: _____

Original Contract Number: _____

Paula A. Bell
Finance and Internal Services Director

3-5-2012
Date

Received in City 03-02-12 P01:31 R
Clerk's Office

Alm Man
Chief of Staff

3-6-12
Date

Received in
Mayor's Office

Donald Jordan
Mayor

3/6/12
Date

ENTERED
3/5/12
PH

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TG*

From: Dennis Pratt, Fleet Operations Supt.

Date: March 2, 2012

Subject: Purchase of Six Chevy Tahoes for Police Department

PROPOSAL: That City Council approve the purchase of six Chevy Tahoes from Bale Chevrolet of Little Rock, AR off the State Vehicle Purchase Contract in the amount of \$25,093 each plus \$9,907 each for upfit costs, for a total of \$210,000 for six units.

RECOMMENDATION: The Chevy Tahoes are available this year off the Arkansas State Vehicle Purchase Contract for \$25,093 each. Fleet will order the Tahoes from Bale Chevrolet with upfit items needed (cage unit, consoles, computer mounts, video camera mount, light bar, window screens, trunk box etc.) By ordering these items at the same time as the vehicle they are tax exempt as they are part of the vehicle.

I recommend the purchase of these units off the State Vehicle contract.

These units are replacements for six Crown Vic sedans for use by Police Department for 24 hour patrol

This purchase was approved by the Equipment Committee on February 28, 2012.

BUDGET IMPACT: These replacements were budgeted for on both the capital and operating sides.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF SIX (6) CHEVROLET TAHOES FROM BALE CHEVROLET OF LITTLE ROCK, PURSUANT TO A STATE PROCUREMENT CONTRACT, IN THE TOTAL AMOUNT OF \$210,000.00

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 the purchase of six (6) Chevrolet Tahoes from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total mount of \$210,000.00.

PASSED and APPROVED this 20th day of March, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

STATE OF ARKANSAS
VEHICLE CONTRACT
SP-12-0001; 2012 VEHICLES

A. 8
Bale Chevrolet of Little Rock
Page 4 of 6

Item #	Vehicle Type	Description	Model	Price	Vendor	Vendor #	OA #	MPG Estimates
47	PMA	8-Passenger Carry-All; 8cyl	Ford Expedition	\$29,303.00	North Point Ford	100052169	4600022795	14 city 20 hwy 17 combined
HYBRID/ALTERNATIVE VEHICLES								
48	HCS	Hybrid-Electric Compact Sedan	No Award	N/A	N/A			N/A
49	HMH	Hybrid-Electric Mid-Size Hatchback	No Award	N/A	N/A			N/A
50	HMS	Hybrid-Electric Mid-Size Sedan	Ford Fusion Hybrid	\$25,695.00	Crain Ford	100052072	4600022803	41 city 36 hwy 39 combined
51	HTU	Hybrid-Electric 5 Passenger 2WD SUV, 4cyl	No Award	N/A	N/A			N/A
52	HFU	Hybrid-Electric 5 Passenger 4WD or AWD SUV	No Award	N/A	N/A			N/A
53	HST	Hybrid-Electric 7 Passenger 2wd SUV	Chevrolet Tahoe Hybrid	\$45,295.00	Bale Chevrolet	100095671	4600022797	20 city 23 hwy 21 combined
54	HSF	Hybrid-Electric 7 Passenger 4wd or AWD SUV	Chevrolet Tahoe Hybrid	\$47,861.00	Bale Chevrolet	100095671	4600022797	20 city 23 hwy 21 combined
55	HTT	Hybrid-Electric 1/2T Pickup 2WD Crew Cab	Chevrolet Silverado Hybrid	\$33,348.00	Bale Chevrolet	100095671	4600022797	20 city 23 hwy 21 combined
56	HFT	Hybrid-Electric 1/2T Pickup 4WD Crew Cab	Chevrolet Silverado Hybrid	\$36,230.00	Bale Chevrolet	100095671	4600022797	20 city 23 hwy 21 combined
57	HEA	Chevrolet Volt	No Award	N/A	N/A			N/A
58	HEB	Nissan Leaf	No Award	N/A	N/A			N/A
59	HNA	CNG Powered Sedan	No Award	N/A	N/A			N/A
POLICE VEHICLES								
60	JAA	Campus Security Sedan	Ford Fusion	\$15,379.00	Landers Ford	100069180	4600022801	22 city 30 hwy 26 combined
61	KAA	Chevy Impala Police Package	Chevy Impala Police Package	\$19,850.00	Bale Chevrolet	100095671	4600022797	18 city 30 hwy 24 combined
62	LAA	Charger Pursuit Sedan V6	Dodge Charger Pursuit V6	\$21,619.00	Steve Landers Dodge	100149950	4600022802	18 city 27 hwy 22 combined
63	LAB	Charger Pursuit Sedan V8 Hemi	Dodge Charger Pursuit V8 Hemi	\$22,337.00	Steve Landers Dodge	100149950	4600022802	16 city 25 hwy 20 combined
64	PPV	Chevy Tahoe Police Package	Chevy Tahoe Police Package	\$25,093.00	Bale Chevrolet	100095671	4600022797	15 city 21 hwy 18 combined
65	KAB	Ford Police Interceptor Sedan AWD	Ford Police Interceptor Sedan AWD	\$23,307.00	Crain Ford	100052072	4600022803	17 city 25 hwy 21 combined
66	PPW	Ford Police Interceptor Utility Vehicle AWD	Ford Police Interceptor Utility Vehicle AWD	\$25,854.00	North Point Ford	100052169	4600022795	17 city 25 hwy 21 combined
67	LAC	Chevy Caprice Police Package V8 RWD	Chevy Caprice Police Pkg V8 RWD	\$25,270.00	Bale Chevrolet	100095671	4600022797	11 city 17 hwy 14 combined

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

Requisition No.:	Date: A. 8
P.O Number:	3/2/2012 Bale Chevrolet of Little Rock
	Expected Delivery Date:

Vendor #:	13292	Vendor Name:	BALE CHEVROLET		Mail Yes: No: ☒
Address:				Fob Point:	Taxable Yes: No: ☒
City:	State:	Zip Code:	Ship to code:	Division Head Approval:	Quotes Attached Yes: No: ☒
Requester:	BARBARA OLSEN			Requester's Employee #:	Extension:
				1940	485

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2012 CHEVROLET TAHOE, POLICE PACKAGE	6	EA	25,093.00	\$150,558.00	9700.1920.5802.00	02081.2011		
2	PER STATE VEHICLE CONTRACT				\$0.00				
3	UPFIT ITEMS: CAGE UNIT, CONSOLE, LIGHT BAR	6	SETS	9,907.00	\$59,442.00	9700.1920.5802.00	02081.2011		
4	WINDOW SCREENS, ETC. AS SPECIFIED.				\$0.00				
5	TO BE UNITS 1238, FIXED ASSET 701238				\$0.00				701238
6	1239, FA 701239,				\$0.00				701239
7	1240, FA 701240				\$0.00				701240
8	1241, FA 701241				\$0.00				701241
9	1242, FA 701242				\$0.00				701242
10	1243, FA 701243				\$0.00				701243
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: \$210,000.00

Total: \$210,000.00

Approvals:

Mayor: _____	Department Director: _____	Purchasing Manager: _____
Finance & Internal Services Director: _____	Budget Manager: _____	IT Manager: _____
Dispatch Manager: _____	Utilities Manager: _____	Other: _____

City of Fayetteville Staff Review Form

A. 9
Garver, LLC Amendment No. 5
Page 1 of 8

City Council Agenda Items
and
Contracts, Leases or Agreements

3/20/2012

City Council Meeting Date
Agenda Items Only

Chris Brown *CB*
Submitted By

Engineering
Division

Development Services
Department

Action Required:

A resolution authorizing execution of Amendment No. 5 to the Engineering Contract with Garver, LLC to increase the fee for construction phase services on the Mount Comfort Road Project by \$21,679

\$ 21,679.00
Cost of this request

\$ 2,664,933.00
Category / Project Budget

Transportation Bond Improvements
Program Category / Project Name

4520.9520.5314.00
Account Number

\$ 2,441,474.00
Funds Used to Date

Professional Services
Program / Project Category Name

06035.1600
Project Number

\$ 223,459.00
Remaining Balance

2006A Sales Tax Construction
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

Wm C. Pike
Department Director 02-22-2012
Date

Previous Ordinance or Resolution # 154-06

Joe Blalock
City Attorney 3-1-12
Date

Original Contract Date: 9/19/2006

Original Contract Number: 1051

Paul A. Becker
Finance and Internal Services Director 3-2-2012
Date

03-01-12 P03:54 RCVD
Received in City Clerk's Office *Kim J.*

Almy Man
Chief of Staff 3-6-12
Date

Received in Mayor's Office
ENTERED 3/2/12

Donald Jordan
Mayor 3/6/12
Date

Comments:

CITY COUNCIL AGENDA MEMO

City Council Meeting of March 20, 2012

To: Mayor Jordan and City Council

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

From: Chris Brown *CB*

Date: March 1, 2012

Subject: **Amendment No. 5 to the Engineering Contract with Garver, LLC to increase the fee for construction phase services on the Mount Comfort Road Project by \$21,679.**

PROPOSAL:

Mount Comfort Road Improvements were a part of the Transportation Improvement Bond Program. The project included major intersection improvements at the I540/Shiloh Drive Intersection, relocation of Shiloh Drive to the west, signalization of 4 intersections along Mount Comfort, and widening of Mount Comfort to 4 lanes from I-540 to Ruppel Road. Garver, LLC provided design and construction management services throughout the project.

Under the original contract, and Contract Amendment No. 1, Garver provided traffic studies, design surveys and preliminary and final design services for Mount Comfort Road, from I-540 to west of Ruppel Road. Contract Amendment No. 2 was executed for construction phase services for the first construction contract, and Contract Amendment No. 3 was for construction phase services for the second construction contract. Amendment No. 4 reduced the construction phase services contract when City staff took over day to day inspection on the 2nd construction contract.

Garver provided day to day inspection and other construction phase services for Contract 1 of Mount Comfort Road Improvements. The contractor hired to construct the improvements did not complete their work within the allotted contract time, which caused the amount of inspection fees to exceed the contract amount by \$21,679.

While the work on Mount Comfort has been completed for some time, negotiations with the contractor for the amount of liquidated damages due to the City have only recently been completed. The amount of damages withheld from the contractor's final payment was \$26,250.

RECOMMENDATION:

Staff recommends approval of Amendment No. 5 to the Engineering Contract with Garver, LLC to increase the fee for construction phase services for Mount Comfort Road by \$21,679. The Street Committee reviewed this proposal at the January 31, 2012 Street Committee and also recommends approval.

BUDGET IMPACT:

This contract amendment will be funded from the Transportation Bond Program, and will be offset by the payment withheld from the construction contract.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NO. 5 TO THE ENGINEERING CONTRACT WITH GARVER, LLC IN THE AMOUNT OF \$21,679.00 TO INCREASE THE FEE FOR CONSTRUCTION PHASE SERVICES RELATED TO THE MOUNT COMFORT ROAD 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 approves Amendment No. 5 to the engineering contract with Garver, LLC in the amount of \$21,679.00 to increase the fee for construction phase services related to the Mount Comfort Road Project. A copy of the Amendment is attached to this Resolution as Exhibit "A".

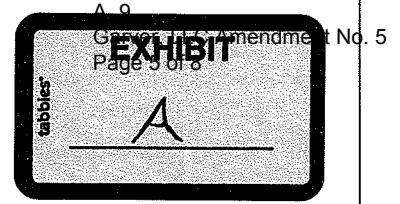
PASSED and APPROVED this 20th day of March, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



**AMENDMENT TO AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES
CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS**

CONTRACT AMENDMENT NO. 5 – CONSTRUCTION PHASE SERVICES

**Mt. Comfort Road Improvements – (Construction Contract No. 1) Ruppel Road to
Alpine Avenue**

This Contract Amendment No. 5, dated _____, 2012 shall amend the original contract between the CITY OF FAYETTEVILLE (Fayetteville, Arkansas) and GARVER ENGINEERS, LLC (GARVER), dated September 19, 2006 for proposed improvements to Mt. Comfort Road from Interstate 540 to Ruppel Road, referred to in the following paragraphs as the original contract. Below is a summary of the previously executed contract amendments:

- Contract Amendment No. 1 added professional engineering and survey services for Design and Bidding Phase Services of Construction Contract No. 1 and for Design Phase Services for Construction Contract No. 2.
- Contract Amendment No. 2 added professional engineering and surveying services for the Construction Phase Services of Construction Contract No. 1.
- Contract Amendment No. 3 added professional engineering and surveying services for the Bidding Services and Construction Phase Services of Construction Contract No. 2.
- Contract Amendment No. 4 decreased the tasks included in the Construction Phase Services Contract.

This Contract Amendment No. 5 reconciles the engineering fees in the amount of \$21,679 that were incurred as a result of the additional project contract time for Construction Contract No. 1. The City of Fayetteville was able to collect Liquidated Damages from the contractor to pay for these additional fees.

The original contract is hereby modified as follows:

SECTION 6 – PAYMENT TO GARVER

6.1 Compensation

Replace "not to exceed \$1,398,112" with "not to exceed \$1,419,791".

APPENDIX A-2 – Fee Summary

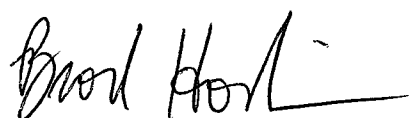
Fee summary is replaced in its entirety with the attached Fee Summary.

IN TESTIMONY OF WHICH, this instrument has been executed on behalf of GARVER, and has been executed on behalf of the CITY OF FAYETTEVILLE, in three (3) counterparts, each of equal force, on the day and year first above written.

CITY OF FAYETTEVILLE

GARVER ENGINEERS, LLC

By: _____
Lioneld Jordan

By: _____
Brock Hoskins

Title: Mayor

Title: Sr. Vice President/Chief Engineer

ATTEST: _____

ATTEST: _____

APPENDIX A-2

CITY OF FAYETTEVILLE MOUNT COMFORT ROAD IMPROVEMENTS

FEE SUMMARY

	Original Contract	Amendment No. 1	Amendment No. 2	Amendment No. 3	Amendment No. 4	Amendment No. 5	Total
Traffic Studies	\$29,080	\$0	\$0	\$0	\$0	\$0	\$29,080
Schematic Study	\$49,500	\$0	\$0	\$0	\$0	\$0	\$49,500
Signalization Design	\$0	\$37,500	\$0	\$0	\$0	\$0	\$37,500
Surveys - Design	\$97,100	\$0	\$0	\$0	\$0	\$0	\$97,100
Surveys - Property	\$0	\$42,300	\$0	\$0	\$0	\$0	\$42,300
Drainage Study	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Environmental Handling and Documentation	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Conceptual Design	\$104,020	\$0	\$0	\$0	\$0	\$0	\$104,020
Preliminary Design	\$0	\$260,300	\$0	\$0	\$0	\$0	\$260,300
Final Design	\$0	\$261,800	\$0	\$0	\$0	\$0	\$261,800
Property Acquisition Documents	\$0	\$100,950	\$0	\$0	\$0	\$0	\$100,950
Contractor Procurement Assistance Services	\$0	\$14,000	\$0	\$0	\$0	\$0	\$14,000
Construction Phase Services - Contract No. 1	\$0	\$0	\$217,587	\$0	\$0	\$21,679	\$239,266
Bidding Services - Contract No. 2	\$0	\$0	\$0	\$13,589	\$0	\$0	\$13,589
Construction Phase Services - Contract No. 2	\$0	\$0	\$0	\$240,000	-\$109,964	\$0	\$130,036
Subtotal NTE Fee	\$279,700	\$716,850	\$217,587	\$253,589	-\$109,964	\$21,679	\$1,379,441
<u>Subcontracted Services</u>							
Geotechnical Services	\$22,750	\$0	\$0	\$0	\$0	\$0	\$22,750
Record Research	\$0	\$0	\$0	\$0	\$0	\$0	\$0
ARKUPS - Utility Locates	\$17,600	\$0	\$0	\$0	\$0	\$0	\$17,600
Estimated Subcontract Fees	\$40,350	\$0	\$0	\$0	\$0	\$0	\$40,350
Total NTE Fee	\$320,050	\$716,850	\$217,587	\$253,589	-\$109,964	\$21,679	\$1,419,791

APPENDIX A-2

CITY OF FAYETTEVILLE
MT. COMFORT ROAD - CONTRACT NO. 1

CONSTRUCTION PHASE SERVICES - CONTRACT NO. 1 - ADDITIONAL EXPENSES

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	D-2	D-1	T-2	T-1	C-2	C-1	MANHOUR SUBTOTALS
	\$205.00	\$172.00	\$134.00	\$115.00	\$102.00	\$82.00	\$105.00	\$83.00	\$90.00	\$68.00	\$103.00	\$80.00	
	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	
1. Civil Engineering													
Review Contractor's Schedules (per pay period)										6		2	
Progress Meetings with Contractor and Owner (monthly)					5.5						4		
On Site Meetings		2.25			24					1.5	4		
Coordination with Contractor/RFI Responses					26					10		3	
Review and Process Monthly Pay Requests		3			16					20	6		
Coordination with Owner		3			12			0.25		4			
Resident Construction Observation										20	50		
Subtotal - Civil Engineering	0	8.25	0	0	83.5	0	0	0.25	0	61.5	64	5	
Hours	0	8.25	0	0	83.5	0	0	0.25	0	61.5	64	5	223
Salary Costs	\$0.00	\$1,419.00	\$0.00	\$0.00	\$8,517.00	\$0.00	\$0.00	\$20.75	\$0.00	\$4,182.00	\$6,592.00	\$400.00	\$21,130.75
SUBTOTAL - SALARIES: \$21,130.75													
DIRECT NON-LABOR EXPENSES													
Document Printing/Reproduction/Assembly	\$99.00												
Postage/Freight/Courier	\$0.00												
Office Supplies/Equipment	\$0.00												
Communications	\$179.05												
Survey Supplies	\$0.00												
Aerial Photography	\$0.00												
GPS Equipment	\$0.00												
Computer Modeling/Software Use	\$0.00												
Travel Costs	\$270.20												
SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$548.25													
TOTAL COST: \$21,679.00													

City of Fayetteville Staff Review Form

C. 1
 Highway 16 Armstrong to Stonebridge
 Condemnation and Possession
 Page 1 of 16

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

3/20/2012

City Council Meeting Date
 Agenda Items Only

Chris Brown ^{CB}
 Submitted By

Engineering
 Division

Development Services
 Department

Action Required:

Approval of a Resolution authorizing the City Attorney to seek condemnation and orders of possession of certain lands necessary for the Highway 16 (Armstrong to Stonebridge) Water and Sewer Relocation Project.

\$ 21,880.00
 Cost of this request

\$ 168,576.00
 Category / Project Budget

Transportation Bond Program
 Program Category / Project Name

5400.5600.5805.00
 Account Number

\$ 120,600.00
 Funds Used to Date

Land Acquisition
 Program / Project Category Name

06035.2350
 Project Number

\$ 47,976.00
 Remaining Balance

Capital Water Mains
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

William C. Pate 03-02-2012
 Department Director Date

Previous Ordinance or Resolution # _____

John Kelly 3-2-12
 City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Belen 3-5-2012
 Finance and Internal Services Director Date

Received in City 03-02-12 P01:51 RCVD
 Clerk's Office

Don Man 3-6-12
 Chief of Staff Date

Received in
 Mayor's Office

ENTERED
 3/5/12
 JH

Donald Jordan 3/6/12
 Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

City Council Meeting of March 20, 2012

To: Mayor Jordan and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Director of Development Services *JP*
David Jurgens, Utilities Director

From: Chris Brown, City Engineer *CB*

Date: March 1, 2012

Subject: Approval of a Resolution authorizing the City Attorney to seek condemnation and orders of possession of certain lands necessary for the Highway 16 (Armstrong to Stonebridge) Water and Sewer Relocation Project.

PROPOSAL:

Highway 16 (Armstrong to Stonebridge) is a Transportation Bond Project that is being designed, and will be constructed, by the Arkansas Highway and Transportation Department. AHTD plans to begin construction in late 2012. The City is participating in the amount of 50% the cost of the project, in accordance with the City's agreement with AHTD. In addition, the City is responsible for relocating City water and sewer utilities out of the proposed highway right of way. Currently, water and sewer relocations are being designed by the Engineering Division, and water and sewer easements are being acquired by the City's land agents.

Prior to the roadway construction, all utilities, including those owned by the City of Fayetteville Water and Sewer Division, must be relocated out of the limits of the planned roadway construction. The Engineering Division is nearing completion of design of the utility relocations for the City, and is also acquiring necessary utility easements to provide space for the water and sewer and other utilities to be installed.

To date, staff has acquired 33 of the 38 easements, leaving 5 still to be acquired. Property owners that have not settled with the City are as follows:

- JEY Investments, Ltd.
- First State Bank (Oakland 2 Properties, LLC)
- Benefit Bank (Kuncl Properties, LLC)
- Alejandro Alban, Algis Martinez and Gina Alban
- Tim D. and Deeann B. Studebaker

A copy of the case history for each of these projects is attached, and provides a timeline of negotiations on each tract. As indicated in the case histories, original offers were made in September and October, 2011, and

numerous contacts were made with the affected owners since that time. In January 2012, a letter notifying property owners of potential condemnation action was sent. In order to meet the schedule set forth by AHTD, and have utility construction completed by October 2012, we must complete the acquisition of easements and move forward to construction within the next two months.

RECOMMENDATION:

Staff recommends approval of a Resolution authorizing the City Attorney to seek condemnation and orders of possession of certain lands necessary from 5 property owners for the Highway 16 (Armstrong to Stonebridge) Water and Sewer Relocation Project.

BUDGET IMPACT:

Adequate funds are available in the Huntsville Avenue (Hwy 16) Water and Sewer Relocations subproject of the Transportation Bond Program to pay the cost of these condemnations. The agenda item staff review form indicates \$28,100 as the cost of this request. It should be noted that this is based on the estimated values of the easements, and that the final cost is subject to negotiation with the property owners or by court order. The appraised value will be deposited into the Registry of the Circuit Court as just compensation when the condemnation complaint is filed for each property.

Attachments: Summary Spreadsheet of Easement Acquisition Status
Case History for each property proposed for condemnation
Property exhibit for property proposed for condemnation

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY JEY INVESTMENTS, LTD., FIRST STATE BANK, BENEFIT BANK, ALEJANDRO ALBAN, ALGIS MARTINEZ & GINA ALBAN, AND TIM D. & DEEANN B. STUDEBAKER, NEEDED FOR WATER AND SEWER RELOCATIONS ALONG STATE HIGHWAY 16

WHEREAS, the City of Fayetteville and certain property owners have been unable to agree on a fair price for the portions of property owned by each of them which is needed for easements to facilitate water and sewer relocations, and

WHEREAS, the City of Fayetteville needs to gain possession of these property promptly to begin work on water and sewer relocations along State Highway 16.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near State Highway 16 owned by JEY Investments, Ltd. that is needed for a utility easement for water and sewer relocations along State Highway 16, and to pay into the registry of the Circuit Court just compensation therefor.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near State Highway 16 owned by First State Bank that is needed for a utility easement for water and sewer relocations along State Highway 16, and to pay into the registry of the Circuit Court just compensation therefor.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near State Highway 16 owned by Benefit Bank that is needed for a utility easement for water and sewer relocations along State Highway 16, and to pay into the registry of the Circuit Court just compensation therefor.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near State Highway 16 owned by Alejandro Alban, Algis Martinez and Gina Alban that is needed for a utility easement for water and sewer relocations along State Highway 16, and to pay into the registry of the Circuit Court just compensation therefor.

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near State Highway 16 owned by Tim D. & Deeann B. Studebaker that is needed for a utility easement for water and sewer relocations along State Highway 16, and to pay into the registry of the Circuit Court just compensation therefor.

PASSED and **APPROVED** this 20th day of March, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

CASE HISTORY
HWY. 16 EAST
JEY INVESTMENTS LTD.

8/30/2011 Offer packet mailed including offer letter (\$9,130.00), proposed easement, and exhibit.

9/13/11 Mike Ingram, Property Direction for EZ Mart, called. He and Mr. Yates (owner) have been out of town. Will call back week of Sept 26 after looking over packet.

10/10/11 HJ called Mike Ingram. He's checking with Mr. Yates on status. He will call back.

11/22/11 HJ talked to Mike Ingram. He will check with Mr. Yates and will let us know. E-mailed aerial image to Mike. There is concern about location of easement in relation to EZ Mart canopy.

1/5/12 HJ e-mailed Mike Ingram because we had never heard back.

1/9/12 Mike e-mailed back. They are to e-mail counter offer.

1/9/12 HJ e-mail stating where offer amount was derived. Also told Ingram that the City needed to know by Jan 27 or would be turned over to City Attorney.

1/9/12 Ingram assured that it would be "wrapped up way before then".

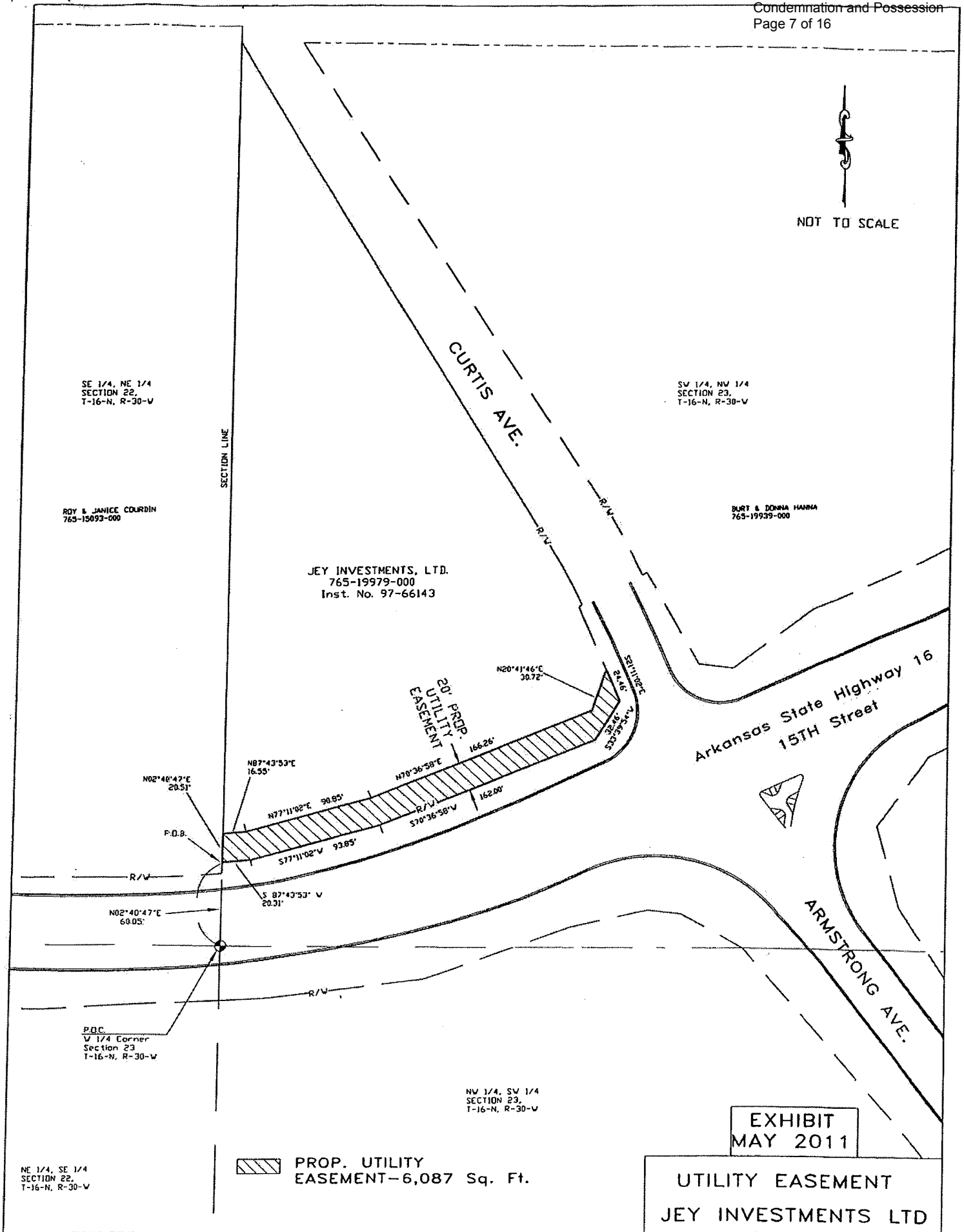
1/23/12 No further contact with JEY Investments.

1/26/12 Appraisal being prepared for potential condemnation.

1/30/12 Notification letter mailed.

2/10/12 Mike Ingram called and said he was meeting with Bob today. Thinks they will sign. He will e-mail signed copies and will snail mail originals once signed.

2/23/12 Mike Ingram had a questions regarding ROW versus easement (apparently AHTD paid full fee simple for a permanent easement for city street ROW).



CASE HISTORY
HWY. 16 EAST
OAKLAND 2 PROPERTIES LLC

- 8/30/2011 Offer packet mailed including offer letter (\$5,040.00), proposed easement, and exhibit.
- Sept. 2011 Sid Norbash talked to Neil Schmitt (father of property owner Robert Schmitt). Neil says they no longer own the property—it has been foreclosed on. Neil advised to sign paperwork before bank takes over.
- 8/29/2011 Notice of Lis Pendens filed by First State Bank on Oakland 2 Properties LLC (plus other entities)—this was filed day before our offer letter mailed.
- Nov. 2011 No available phone number for Bob Schmitt, only mailing address is father's house.
- 11/15/2011 Default Judgment and Decree of Foreclosure filed. Assuming First State Bank in Fayetteville as Todd P. Lewis of Conner & Winters, LLP listed in decree as preparer of instrument.
- 12/31/2011 Unsure as to who to be on easement – Oakland 2, First State Bank, or both. How to proceed?
- 1/26/12 Appraisal being prepared for potential condemnation.
- 1/30/12 Notification letter mailed to both Robert Schmitt and First State Bank.
- 2/15/12 Letter from Stephen A. Lisle, attorney, representing First State Bank.
- 2/17/12 JSG mailed copy of original packet to Mr. Lisle. Note that letter and easement were still in Oakland 2 Properties LLC's name.
- 2/29/12 JSG found deed indicating that full ownership apparently now with First State Bank. Will re-do easement and will make offer as based on new appraisal if appraisal is received by 3/2/12.



NOT TO SCALE

GREAT SOUTHERN BANK
765-15252-000

S81°22'11"E
20.00'

S09°51'29"W
24.15'

OAKLAND 2 PROPERTIES LLC
765-15252-003
Warranty Deed: 2009-28910

OAKLAND 2 PROPERTIES LLC
765-15261-003
Warranty Deed: 2009-28910

SE 1/4, NW 1/4
23-16-30

SW 1/4, NW 1/4
23-16-30

HAPPY HOLLOW RD.
Arkansas State Highway 16

N09°51'29"E
21.26'

N23°53'01"E
25.06'

N03°12'56"E
206.69'

203.04'

S03°12'56"W

S23°53'01"W
23.88'

N86°47'04"W
20.00"

WARFORD DR.

S87°15'42"E
9.15'

40'-LINE

681.84'

N02°44'18"E

P.D.C.
SW Corner
SE 1/4, NW 1/4
Sec. 23, T-16-N,
R-30-W

PROP. UTILITY
EASEMENT-5,041 Sq. Ft.

EXHIBIT
AUG. 2011

UTILITY EASEMENT
OAKLAND 2 PROPERTIES LLC

CASE HISTORY
HWY. 16 EAST
KUNCL PROPERTIES LLC

- 8/30/2011 Offer packet mailed including offer letter (\$6,925.00), proposed easement, and exhibit.
- Sept. 2011 Sid Norbash stopped by site. Building is vacant, mail not being collected. No phone listing for Jason Kuncl.
- 10/10/2011 HJ spoke with Michael Mauldin, CPA for Kuncl. Packet is under review. He reluctantly admitted that probably a foreclosure. Packet e-mailed to Mauldin. He is to be in contact.
- 8/1/2011 Lis Pendens filed (before our offer). Benefit Bank (of Fort Smith) vs Kuncl Properties LLC (plus other entities).
- 12/31/2011 Unsure as to who to be on easement – Kuncl Properties, Benefit Bank, or both. How to proceed?
- 1/26/12 Appraisal being prepared for potential condemnation.
- 1/30/12 Notification letter mailed to both Jason Kuncl and Benefit Bank.
- 2/3/12 Mark Moll, representing Benefit Bank, called. Said they are the new owners and that either he or another bank representative would be in touch soon.
- 2/28/12 Sam Harris with Benefit Bank called. They now have full ownership of property. Will re-do easement and will make offer as based on new appraisal if appraisal is received by 3/2/12. Benefit Bank does not want to go to court for condemnation and will most likely sign.

NOT TO SCALE

HAPPY HOLLOW RD.

NW 1/4, NW 1/4
23-16-30

SW 1/4, NW 1/4
23-16-30

P.D.C.
SW Corner
NE 1/4, NW 1/4
Sec. 23,
T-16-N, R-30-W

765-15227-000 CITY OF
FAYETTEVILLE

KUNCL PROPERTIES LLC
765-15228-000
Warranty Deed: 2009-36511

NE 1/4, NW 1/4
23-16-30

SE 1/4, NW 1/4
23-16-30

KUNCL PROPERTIES LLC
765-15228-001
Warranty Deed: 2009-36511

GREAT SOUTHERN BANK
765-15252-000

PROP. UTILITY
EASEMENT-6,152 Sq. Ft.

EXHIBIT
MAY 2011

UTILITY EASEMENT
KUNCL PROPERTIES LLC

S87°58'21"E
11.53'

S87°58'21"E
19.40"

P.O.B.

S87°58'21"E
8.47'

N02°44'18"E 180.98'

EXT. R/W
N02°06'20"E 64.54'

N01°10'37"E 242.94'

S01°10'37"W 243.15'

S02°06'10"W 64.59'

EXT. R/W

40-Acre Line

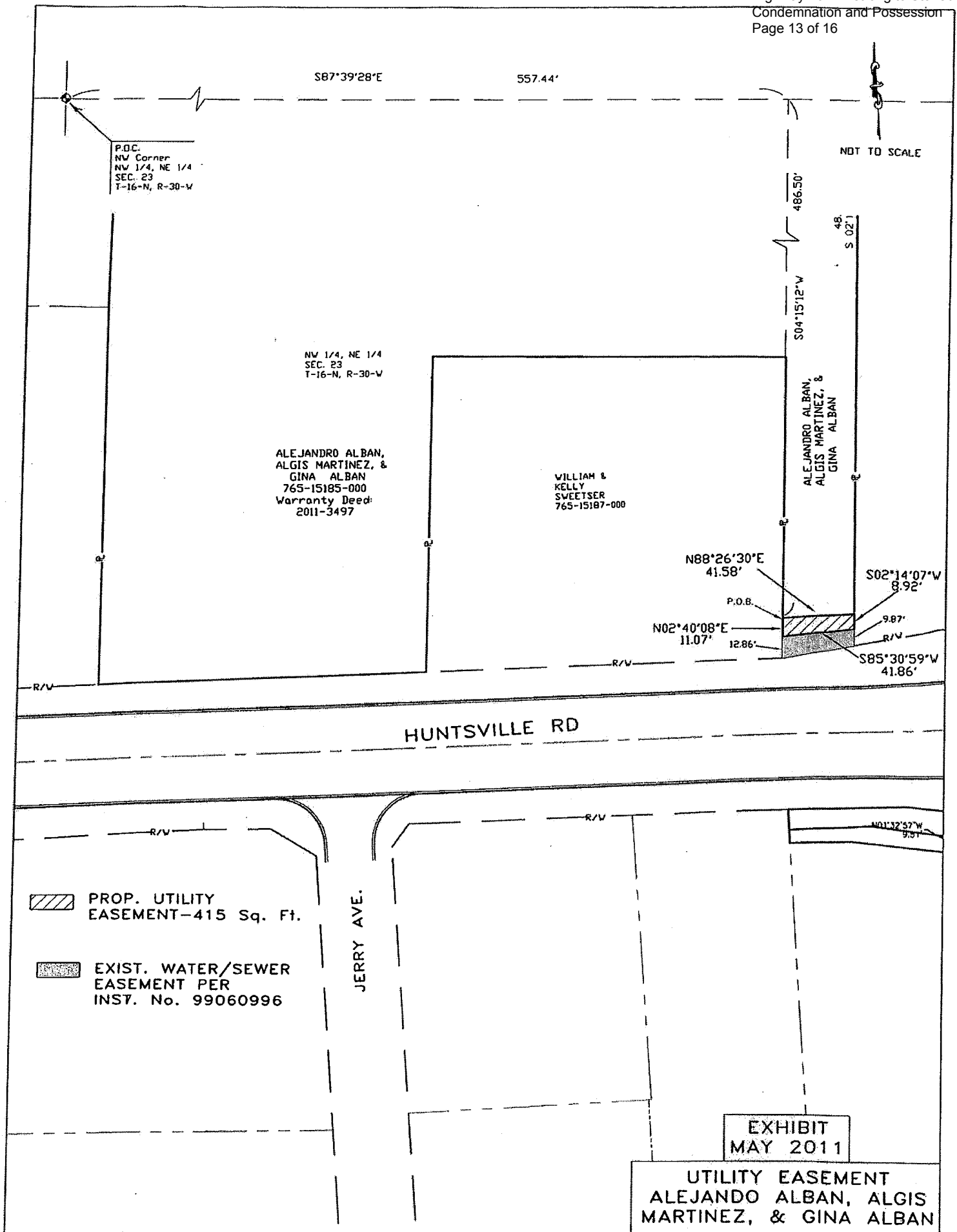
PROP. R/W

N87°13'03"W
20.00'

20' PROP.
UTILITY
EASEMENT

CASE HISTORY
HWY. 16 EAST
ALBAN, MARTINEZ & ALBAN

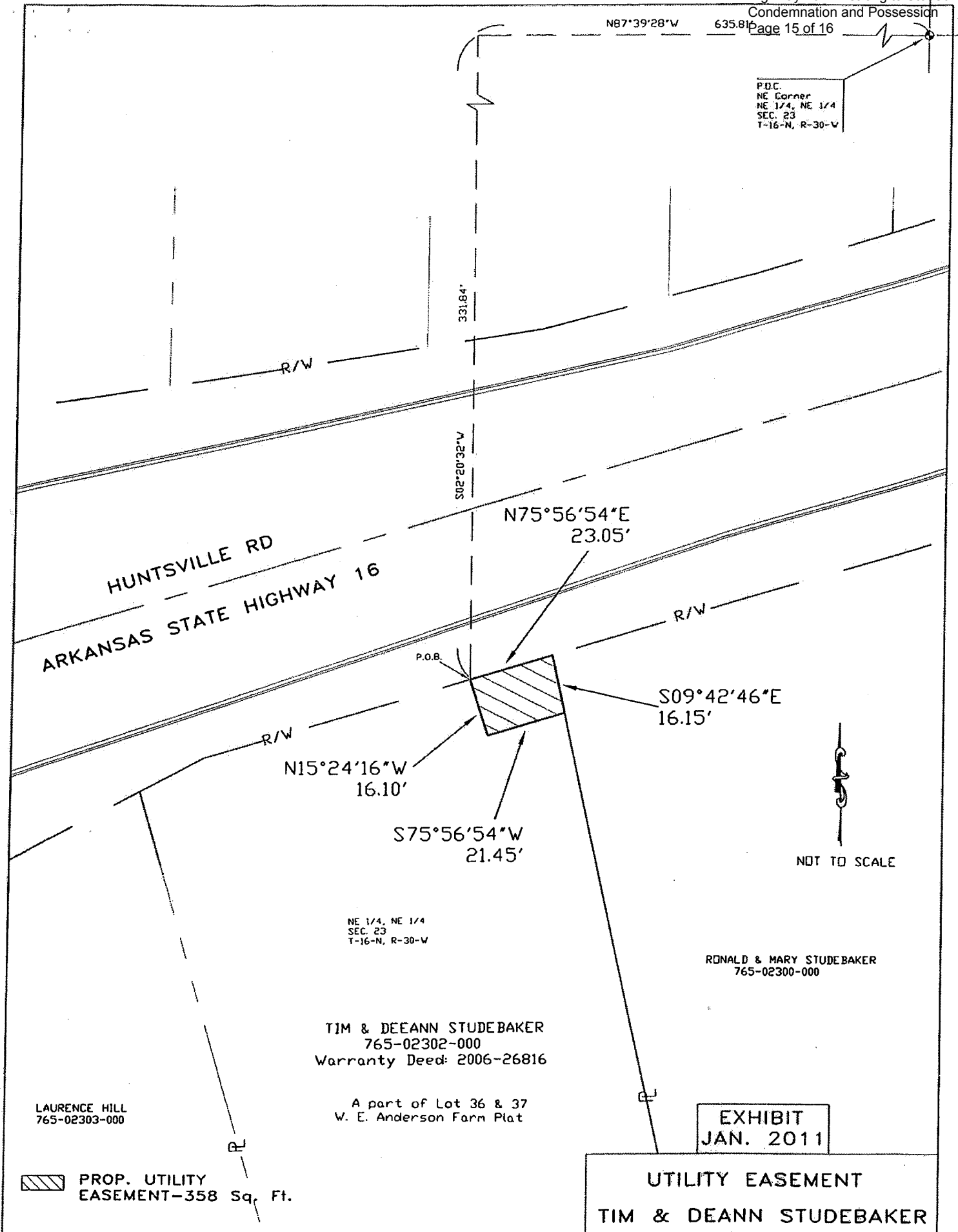
- 9/14/2011 Offer packet mailed including offer letter (\$315.00), proposed easement, and exhibit.
- 9/20/2011 Algis Martinez called to confirm size of the easement and see if he could get more money. He is to e-mail counter offer.
- 12/1/2011 Reminder letter sent.
- 12/31/2011 No response since Sept.
- 1/26/12 Appraisal being prepared for potential condemnation.
- 1/30/12 Notification letter mailed.
- 2/14/12 Yolanda Fields, Community Services Director, was asked to contact Alban and/or Martinez as it was initially thought that they would be more comfortable conversing in Spanish. YF talked to Gina Alban. They are in condemnation with AHTD and asked that the City talk to their attorney & business partner, Jason Wales (443-0292).
- 2/14/12 HJ left message for Jason Wales, Everett Law Firm.
- 2/17/12 HJ left message for Jason Wales, Everett Law Firm.
- 2/22/12 HJ left message for Jason Wales, Everett Law Firm.
- 3/1/12 HJ left message for Jason Wales, Everett Law Firm.
- 3/1/12 Mr. Wales called back. Mark Risk is their appraiser and Mr. Wales indicated that Alban and Martinez will not accept only 25% of fee simple value.



CASE HISTORY
HWY. 16 EAST
TIM D. & DEEANN B. STUDEBAKER

- 10/27/2011 Offer packet mailed including offer letter (\$470.00), proposed easement, and exhibit.
- HJ met with Ronald & Mary Studebaker (Tim's parents and owner of adjacent tract). Tim out of town a lot.
- 12/31/2011 No response or contact with either Tim or DeeAnn Studebaker.
- 1/26/12 Appraisal being prepared for potential condemnation. Appraiser (Brett Billings) called to say that he had contacted Mr. Studebaker. Mr. Studebaker said property was a rental and renter was usually gone during the day. Declined to accompany appraiser for appraisal visit.
- 1/30/12 Notification letter mailed.
- 2/15/12 HJ picked up signed paperwork from Ron and Mary Studebaker (Tim's parents and adjacent property owners). Requested that Tim or Deeann please contact the City as we hadn't heard anything from them.
- 2/21/12 Tim Studebaker called. Questions regarding 24" maple. Side letter written and mailed offering \$1,000.00 for maple, plus other considerations.

P.D.C.
NE Corner
NE 1/4, NE 1/4
SEC. 23
T-16-N, R-30-W



**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

D. 1
Amend \$34.23 (Purchases and Contracts
not in Excess of \$20,000.00)
Page 1 of 6

March 20, 2012

City Council Meeting Date

Chris Brown

Submitted By

Engineering

Division

Development Services

Department

Action Required:

An ordinance to waive requirements for bidding for services costing less than \$20,000 and to approve a contract for \$10,000 with the Illinois River Watershed Partnership to assist in the improvement of water quality in the Illinois River Watershed.

\$ 10,000.00

Cost of this request

\$ 600,287.68

Category / Project Budget

Storm Water Quality Mgmt./Nutrient Reduction

Program Category / Project Name

4470.9470.5314.00

Account Number

\$ 420,318.27

Professional Services

Program / Project Category Name

02097

Project Number

\$ 179,969.41

Remaining Balance

Sales Tax Capital Improvement

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Wm C. Pate
Department Director

03-02-2012
Date

Previous Ordinance or Resolution #

Chris Kelly
City Attorney

3-2-12
Date

Original Contract Date:

Paul A. Becher
Finance and Internal Service Director

3-5-2012
Date

Original Contract Number:

Don Man
Chief of Staff

3-6-12
Date

Leonell J. Jackson
Mayor

3/6/12
Date

Received in City Clerk's Office 01:51 RCVD

Received in Mayor's Office

ENTERED
3/5/12
PH

Comments:

CITY COUNCIL AGENDA MEMO

Council Meeting of March 20, 2012

To: Mayor and City Council

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

From: Chris Brown, City Engineer *CB*

Date: March 1, 2012

Subject: An ordinance to waive requirements for bidding for services costing less than \$20,000 and to approve a contract for \$10,000 with the Illinois River Watershed Partnership to assist in the improvement of water quality in the Illinois River Watershed.

PROPOSAL

The Illinois River Watershed Partnership was formed in 2005 as a non-profit organization, with a board that is representative of the various stakeholders in the watershed including government, business, agriculture, conservation, construction/development, and academia. The mission of the IRWP is to improve the integrity of the Illinois River through public education and community outreach, water quality monitoring, and the implementation of conservation and restoration practices throughout the Illinois River watershed.

A large portion of the City of Fayetteville contributes stormwater flows into the Illinois River Watershed including Clear Creek, Hamestring Creek, and Owl Creek. The new wastewater treatment plant discharges treated effluent into Goose Creek which also flows into the Illinois River. The City of Fayetteville continues to receive great benefit from the watershed education campaigns and the watershed management planning processes that have been implemented by the IRWP.

This will be the sixth year the City has contracted with the IRWP for these services. The last contract was also for \$10,000 for watershed education and planning services.

RECOMMENDATION

Staff recommends approval of an ordinance to waive the procurement requirements for services costing less than \$20,000 and to approve a contract for \$10,000 with the Illinois River Watershed Partnership to assist in the improvement of water quality in the Illinois River Watershed.

BUDGET IMPACT

The City of Fayetteville currently has adequate funds remaining in the Storm Water Quality Management/Nutrient Reduction Project for this contract.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENT FOR BIDS BY APPLYING §34.23(F), (PURCHASES AND CONTRACTS NOT IN EXCESS OF \$20,000.00), OF THE FAYETTEVILLE CODE OF ORDINANCES AND APPROVING A CONTRACT WITH THE ILLINOIS RIVER WATERSHED PARTNERSHIP IN THE AMOUNT OF \$10,000.00 FOR WATERSHED EDUCATION AND PLANNING SERVICES.

WHEREAS, the Illinois River Watershed Partnership possesses unique expertise and resources ideally suited to meet the City of Fayetteville's need for Watershed Education and Planning Services as part of the Stormwater Management Program, Phase II; and

WHEREAS, the Illinois River Watershed Partnership can perform this work at a significant savings to the citizens of Fayetteville.

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 waives the requirements for bids by applying §34.23(F), (Purchases and Contracts Not in Excess of \$20,000.00), of the Fayetteville Code of Ordinances and approves a Contract with the Illinois River Watershed Partnership in the amount of \$10,000.00 for watershed education and planning services, and authorizes Mayor Jordan to execute this Contract. A copy of the Contract, marked Exhibit A, is attached hereto and made a part hereof.

PASSED and APPROVED this 20th day of March, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

CONTRACT

The Illinois River Watershed Partnership, Inc. and the City of Fayetteville, Arkansas agree to enter into the following contract on this 10th day of November 2011.

WHEREAS, The Illinois River Watershed Partnership, Inc. is a non-profit corporation whose mission is to improve the health of the Illinois River Watershed through the implementation of best management practices, water quality monitoring, public education, community outreach and ecosystem restoration; and

WHEREAS, The City of Fayetteville has responsibilities to educate its citizens about these water quality and restoration issues through mandates of the Clean Water Act and has budgeted funds for such education activities.

NOW, THEREFORE, the Illinois River Watershed Partnership and the City of Fayetteville agree as follows:

1. The City of Fayetteville agrees to purchase educational, ecosystem monitoring and restoration, and community outreach services for its citizens from the Illinois River Watershed Partnership, Inc. for the sum of Ten Thousand Dollars (\$10,000.00).

2. The Illinois River Watershed Partnership agrees to furnish a year long, extensive community outreach and educational services program to Fayetteville's citizens during the period of December 1, 2011 through December 1, 2012, and further to provide implementation of and education about best management practices for stormwater management and ecosystem restoration in the Illinois River watershed.

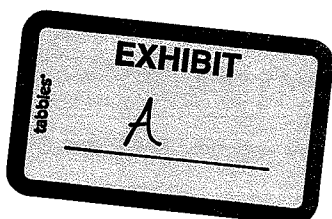
3. The Illinois River Watershed Partnership agrees to provide an annual written report about its programs and activities to the Fayetteville City Council on November 29, 2011.

ILLINOIS RIVER
WATERSHED PARTNERSHIP, INC.

By: Delia Haak
Dr. Delia Haak
Executive Director
Illinois River Watershed Partnership, Inc.

CITY OF FAYETTEVILLE,
ARKANSAS

By: _____
Mayor Lioneld Jordan



Illinois River Watershed Partnership 2012 Action Plan

D. 1
Amend \$34.23 (Purchases and Contracts
not in Excess of \$20,000.00)
Page 5 of 6

Our Mission: To improve the Illinois River through public education and community outreach, water quality monitoring, and implementation of conservation and restoration projects throughout the Illinois River Watershed.

USGS Biological Assessment

- 18 sites in UIRW
- Algae, Fish, Macro- invertebrates
- Prioritize sub-watersheds for implementation projects and load reductions

USGS Annual Partial Funding

- Gauge 1: 07195430 Illinois River S. Siloam
- Gauge 2: 07195855 Flint Creek W. Siloam
- Gauge 3: 07196900 Baron Fork at Dutch Mills

Watershed Based Plan

- Revise and Finalize UIRW Watershed Based Plan for ANRC and EPA

Volunteer Stream Teams

- IRWP training for stream teams and individuals
- adopt streams, river reaches

World Water Monitoring Day

- Lincoln Lake Day
- Local community festivals
- Provide canoes, kayaks, rafts
- WWMD monitoring
- Post results on website

Volunteer Lake Monitoring

- Lake Keith, Lake Fayetteville
Lake Elmdale, Springdale
Lincoln and Bud Kidd Lakes
Lake Tenkiller

Illinois River Education Tours and Cleanups

- "4 Seasons of the River" float and cleanup trips for sponsors/ members

Tributary Creek Cleanups

- Osage Creek, Rogers
- Spring Creek, Springdale
- Mud-Scull Creek, Fayetteville
- Sager Creek, Siloam Springs
- Townbranch, Tahlequah

Riparian Project

- Streambank Riparians:
3,500 seedlings planted along streams in Fayetteville, Prairie Grove, Gentry, Rogers, Siloam Springs, Springdale, Tahlequah
- Flint Creek Tree Farm:
1,000 seedlings in small containers planted with City Partners' Parks Depts
- Training city landscape and mowing crews
- Tag seedlings with ID's
- Riparian Project Signage

Jet Stinger Demonstrations

- Willow cutting demonstrations and landowner plantings to improve riparian buffers and rain gardens

Native Plant Grow Stations

- Native plant grow stations to grow rain garden plants from seedlings and plugs
- Clean Water Rainger elementary schools, middle, junior, high schools
- Transfer grow station plants to High school environmental science, landscaping and agri greenhouse programs

Rain Garden Project

- Rain Garden Resource Specialist
(½ time position)
- Install 15 rain gardens in 2012 in the Illinois River Watershed
- Install 15 rain gardens in 2012 in the Beaver Lake Watershed
- Recruit, educate, train public & quasi-public partners
- Girl Scout partners in 2012
- Rain Garden signage

CREP-EQIP Education & Demo Workshops

- IRWP Conservation Program Coordinator
- Partner with USDA FSA, NRCS, ANRC, WFF and Poultry industry for education and outreach to landowners
- Demonstration farms

Septic Pumping Program

- Workshops in communities with AR and OK Health Dept
County co-sponsors
- \$50 rebate coupon to landowners for septic pumping with certified pumpers after attending workshop

FUTURE PROJECTS

- Watershed Education Sanctuary
- Mitigation Bank for stream bank restoration
- "Paddler's Path and Blue Trail"
- Volunteer Low and No Phosphorous Lawn Fertilizer Campaign

Illinois River Watershed Partnership 2012 Action Plan

D. 1
Amend \$34.23 (Purchases and Contracts
not in Excess of \$20,000.00)
Page 6 of 6

Our Mission: To improve the Illinois River through public education and community outreach, water quality monitoring, and implementation of conservation and restoration projects throughout the Illinois River Watershed.

Clean Water Raingers Program

- School and public event CWR Concerts
- Watershed songs, CDs, illustrated books
- IRW in AR & OK

Rain Garden Academy

- Rain Garden Academy Spring-professional development hours
- Crystal Bridges national Stormwater BMP Conference - Fall
- Tours of rain gardens for garden clubs, master gardeners
- Kid's Rain Garden Academies with Girl Scout and EAST student facilitators
- Install 10 rain gardens per year
- Flood Safety Campaign "Stop! Turn Around"
- Stormwater education "Only Rain Down the Drain"

Native Plants Project

- "Grow Stations" for native plants and grasses from seedlings for rain garden and riparian projects
- Meets new science and engineering education core
- Partner elem & middle schools with high school landscaping and agriculture programs

4-State Watershed Academy

- Co-host with regional watershed groups in Joplin, MO
- AR, KS, MO, OK

Watershed Camp

- Summer day camp
- 8 -12 yrs old
- Teachers for professional development credit

Watershed Festival

- Annual Watershed Festival and Secchi Monitoring
- Rotation on lakes in the IR Watershed: Fayetteville, Lincoln, Wedington, Springdale, Elmdale, Siloam City Lake, Cave Springs, Tenkiller

Illinois River Rally

- "Paddler's Club" annual River Rally
- 4-H Clubs in 7 counties in AR and OK
- Boy scouts
- Girl scouts
- Conduct canoe and kayak lessons, bug-kicking, fish seining, water quality monitoring, geo caching

CREP-EQIP Workshops

- IRWP Conservation Program Coordinator
- Partner with USDA FSA, NRCS, ANRC, UA & OSU education and outreach to landowners
- Demonstration Jet Stinger willow plantings
- Demonstration farms

Water Wise Lawn Care

- Farmer's Market demonstrations with Low/No-Phosphorous lawn fertilizers service

Video, Photography, Coloring Contests

- Elementary, Middle, Junior and Senior High
- Partner with Clean Water Rainger schools
- Partner with EAST programs and state education conference

Community Events

- Farmer's Markets, county fairs, teacher fairs and conferences, regional and statewide business and environmental conferences

Media Outreach Campaign

- TV, radio, newspaper
- Promote Rain Garden Academies for kids and adults, Riparian Tree plantings, Stream Teams for volunteer water quality monitoring & cleanups
- Tourism maps of watershed rain gardens
- Spanish and Marshallese language "Stop! Turn Around" flood waters campaign

Internships

- University of Arkansas
- Oklahoma State
- Northeastern State
- John Brown University
- NWACC
- Science, education, environmental, engineering, business, agriculture students

City of Fayetteville Staff Review Form

D. 2
RZN 12-4045 (Martin Luther
King Blvd./Career Academy)
Page 1 of 10

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

3/20/2012

City Council Meeting Date
Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

RZN 12-4045: Rezone (NORTH SIDE OF MARTIN LUTHER KING BLVD./CAREER ACADEMY, 594): Submitted by Greg Edwards for property located on THE NORTH SIDE OF MARTIN LUTHER KING BOULEVARD AT THE BORDER BETWEEN FAYETTEVILLE AND FARMINGTON. The property is zoned R-A, Residential Agricultural and contains approximately 1.14 acres. The request is to rezone the subject property to CS, Community Services.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Jeffrey C. Pate
Department Director

03-02-2012
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Subject to Planning Commission Approval
City Attorney

3-5-2012
Date

Paul A. Bender
Finance and Internal Services Director

3-5-2012
Date

Received in City
Clerk's Office

03-02-12 P04:53 RCVD

Don Man
Chief of Staff

3-6-12
Date

Received in
Mayor's Office

Leonard Jordan
Mayor

3/6/12
Date

ENTERED
3/5/12
PH

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Andrew Garner, Senior Planner

Date: February 29, 2012

Subject: RZN 12-4045 (North side of Martin Luther King Boulevard/Career Academy)

RECOMMENDATION

Staff recommend approval of an ordinance to rezone the subject property from R-A, Residential Agricultural to CS, Community Services. This item will be discussed at the Planning Commission meeting on March 12, 2012. The results of the recommendation from that meeting along with the full staff report will be provided to the City Council prior to the March 20, 2012 meeting.

BACKGROUND

The subject property is located on the north side of Martin Luther King Boulevard at the border between Fayetteville and Farmington. The property is an undeveloped hay field with the North Fork Farmington Creek traversing east to west adjacent to the north of the site. The overall parcel contains approximately 5.24 acres and the floodplain for the North Fork Farmington Creek encompasses approximately half of the property. The applicant proposes to rezone 1.14 acres of the overall parcel from R-A, Residential Agricultural to CS, Community Services. The proposed rezoning area does not include any of the floodplain. The applicant's intent is to construct a cosmetology school on the subject 1.14 acres.

DISCUSSION

This item will be heard at the Planning Commission meeting March 12, 2012. Staff recommends in favor of the proposed zoning. This site as designated as City Neighborhood Area on City Plan 2030 Future Land Use Plan. The proposed CS zoning which allows for a mix of nonresidential and residential uses in a form-based zone is consistent with this designation. Further, due to a large portion of this site being located within a floodplain, the proposal to only rezone a portion of this site outside of the floodplain is in line with the City's environmental and sustainability initiatives. The form-based zone would permit the building to be placed closer to the road allowing for preservation of much of the rear portion of the lot near the creek.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 12-4045, FOR APPROXIMATELY 1.14 ACRES, LOCATED ON THE NORTH SIDE OF MARTIN LUTHER KING BOULEVARD AT THE BORDER BETWEEN FAYETTEVILLE AND FARMINGTON FROM R-A, RESIDENTIAL AGRICULTURAL TO CS, COMMUNITY SERVICES

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from R-A, Residential Agricultural to CS, Community Services, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and APPROVED this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

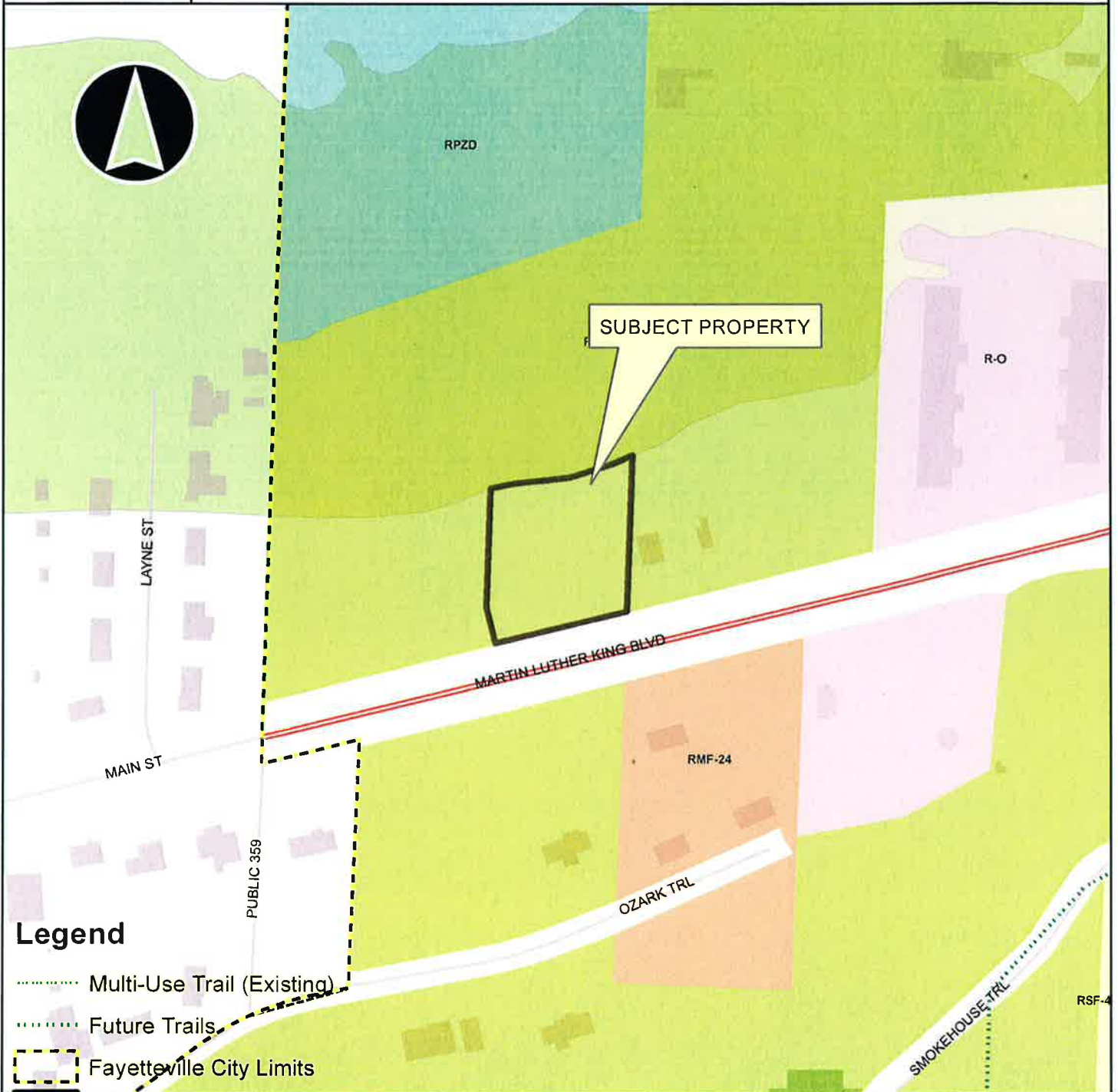
EXHIBIT "A"

D. 2
RZN 12-4045 (Martin Luther
King Blvd./Career Academy)
Page 4 of 10

RZN12-4045

Close Up View

CAREER ACADEMY



Overview RZN12-4045

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

0 75 150 300 450 600 Feet

EXHIBIT "B"
RZN 12-4045

A PART OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 24, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SAID SECTION 24; THENCE SOUTH 02°09'55" WEST, 625.41 FEET ALONG THE EAST LINE OF SAID NORTHEAST QUARTER (NE1/4), SOUTHWEST QUARTER (SE1/4), TO THE POINT OF BEGINNING FOR THE REZONING DESCRIPTION, THENCE SOUTH 02°09'55" WEST, 212.56 FEET ALONG THE EAST LINE OF SAID NORTHEAST QUARTER (NE1/4), SOUTHWEST QUARTER (SE1/4) TO A 5/8" IRON ROD SET IN THE NORTH RIGHT-OF-WAY LINE OF HIGHWAY 62; THENCE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 76°05'53" WEST, 245.80 FEET; THENCE NORTH 02°04'55" EAST, 208.92 FEET; THENCE NORTH 68°24'56" EAST, 42.22 FEET; THENCE NORTH 77°57'43" EAST, 42.02 FEET; THENCE NORTH 83°29'33" EAST, 73.73 FEET; THENCE NORTH 72°38'33" EAST, 62.40 FEET; THENCE NORTH 66°11'41" EAST, 28.27 FEET TO THE POINT OF BEGINNING OF THE REZONING DESCRIPTION, CONTAINING 1.14 ACRES +/-.

Rezoning description request for Parcel No. 765-16286-001

Date: Tuesday, January 31, 2012

Responses:

- a. Rausch Coleman Homes LLC is current owner, pending sale to Edwards Children's Trust
- b. Zoning change request due to the fact that current zoning of R-A does not allow construction of a cosmetology school
- c. Proposed rezoning to CS – Community Services will enhance the surrounding area by conforming to the City of Fayetteville's and the community's desired master planning goal for this transition between Fayetteville and Farmington
- d. There is a 6" water main at the SW corner of the property and a sanitary sewer main along the north property line
- e. This rezoning will conform to the City's long range Master Plan
- f. This rezoning is required as answered in above response "b."
- g. There should not be a noticeable increase in traffic with regards to this facility therefore no danger or congestion should result
- h. No
- i. Existing zoning only allows residential or agricultural which does not allow this property to be used at its highest and best use due to the increasing values of properties in Fayetteville and surrounding areas

RZN12-4045

CAREER ACADEMY

Current Land Use



Overview RZN12-4045

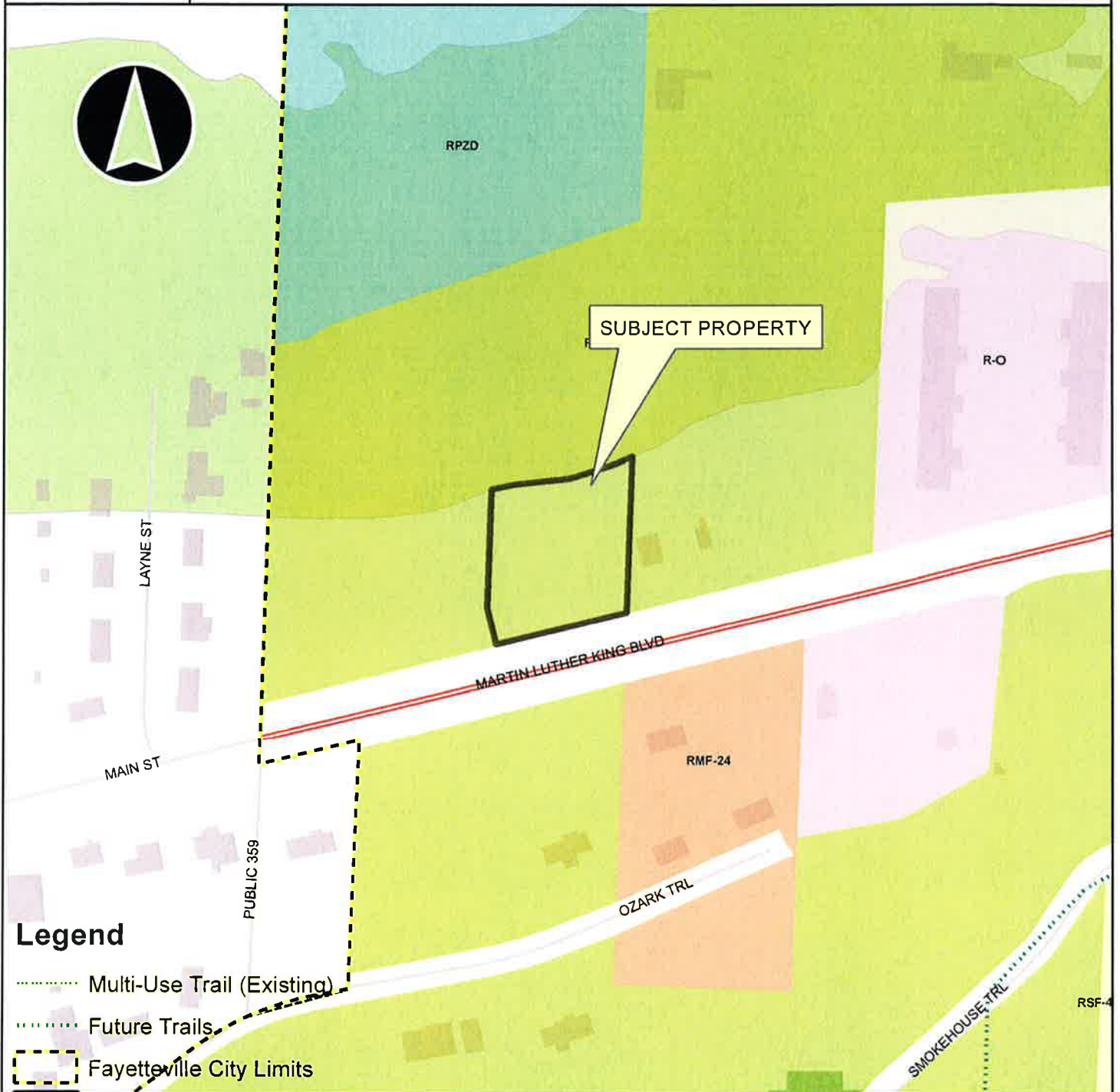
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

0 75 150 300 450 600 Feet

RZN12-4045

Close Up View

CAREER ACADEMY



Legend

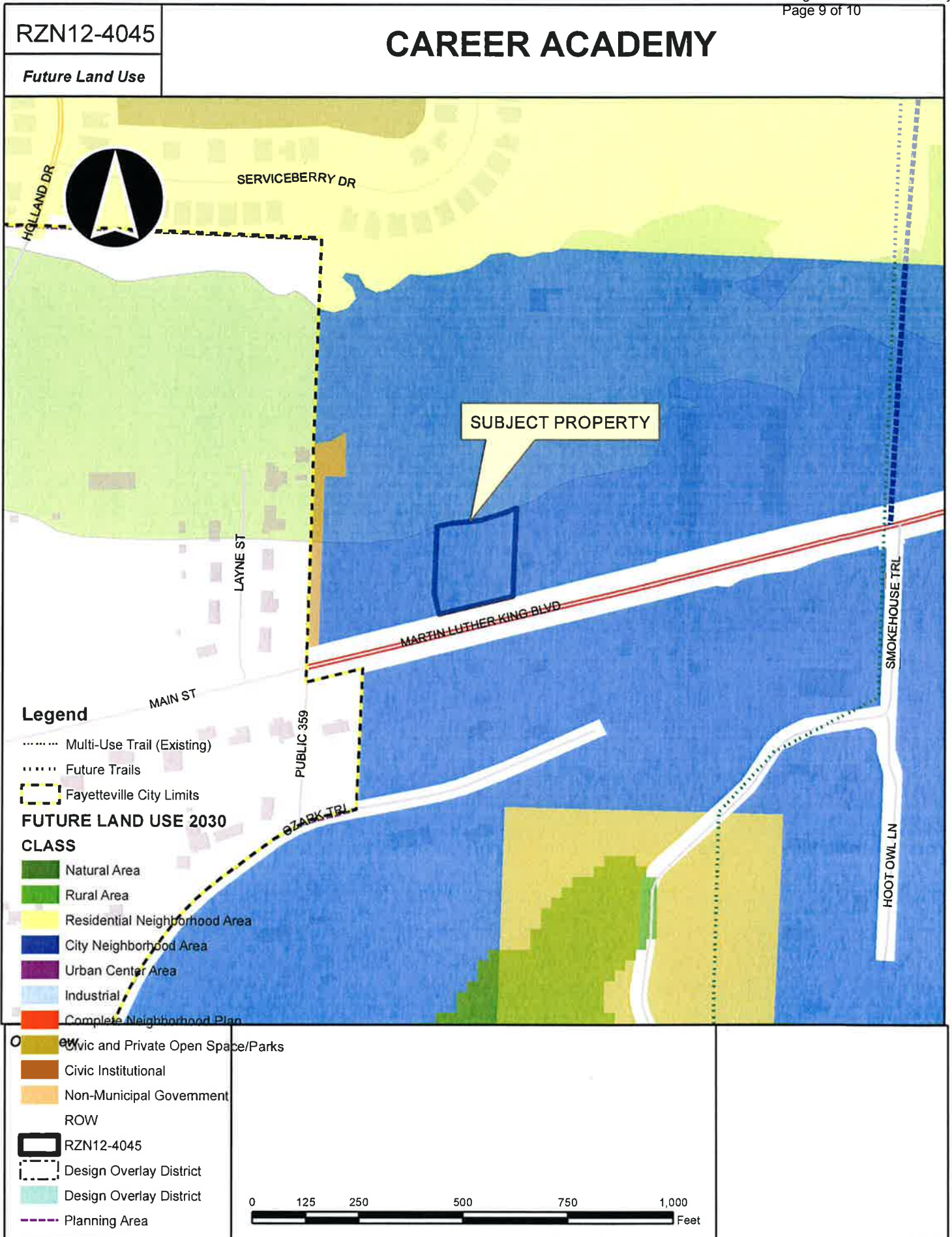
- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview

RZN12-4045

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

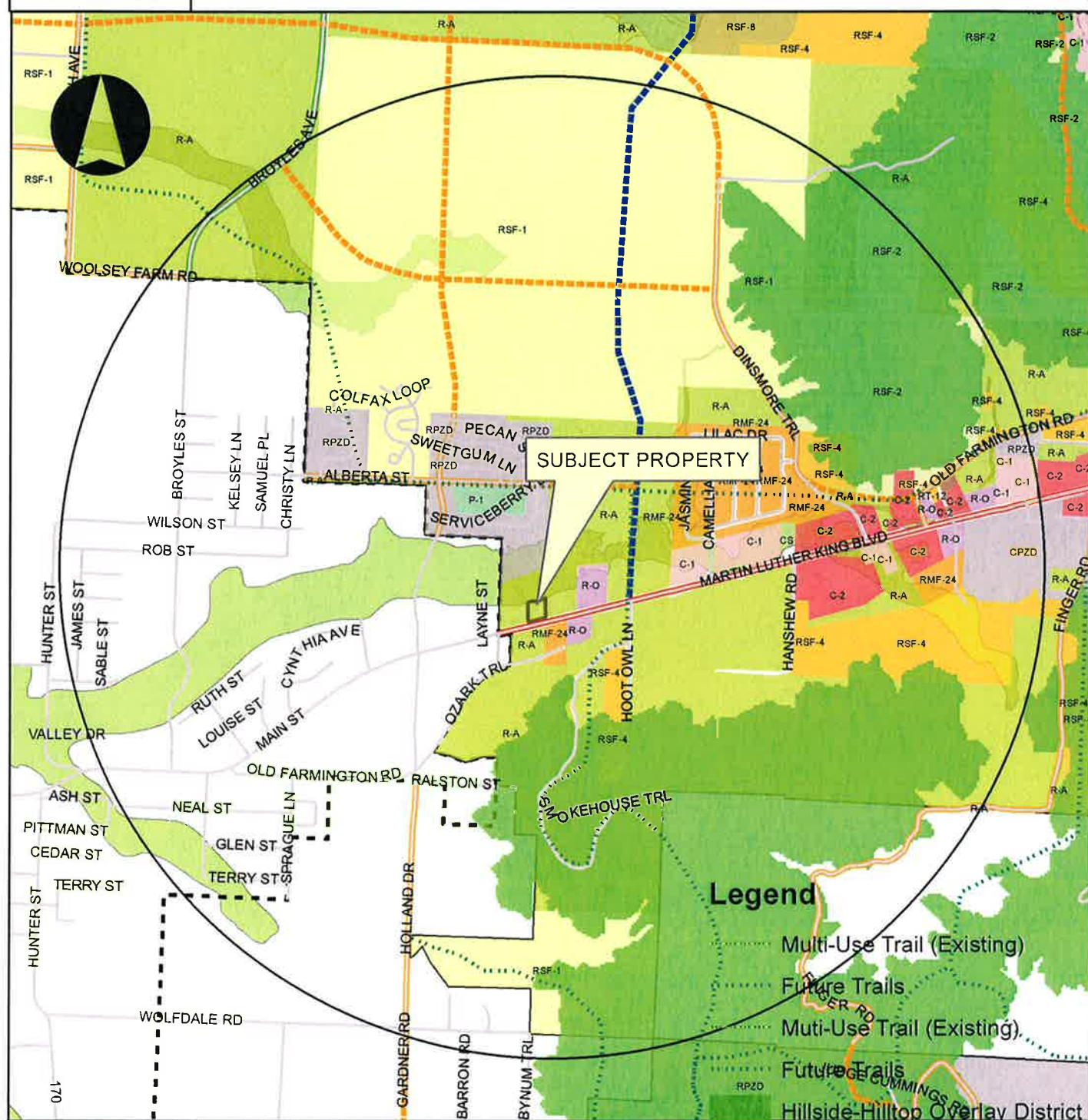




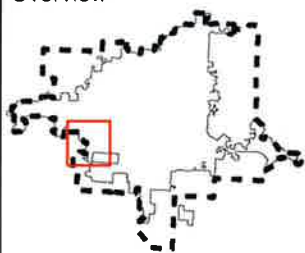
RZN12-4045

One Mile View

CAREER ACADEMY



Overview



Legend

Subject Property

RZN12-4045

Boundary

 RZN12-4045
 Design Overlay District
 Planning Area
 Fayetteville
 1
 Miles

RZN12-4045

Design Overlay District

Planning Area

Fayetteville

1 Miles

City of Fayetteville Staff Review Form

D. 3
 RZN 12-4028 (1400 and 1500 Blocks
 of N. Desoto Pl./Abshier Heights)
 Page 1 of 22

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

3/20/2012

City Council Meeting Date
 Agenda Items Only

Andrew Garner
 Submitted By

Planning
 Division

Development Services
 Department

Action Required:

RZN 12-4028: Rezone (1400 AND 1500 BLOCKS OF N. DESOTO PL./ABSHIER HEIGHTS, 407): Submitted by Bart Bauer for property located at 1400 AND 1500 BLOCKS OF NORTH DESOTO PLACE. The property is zoned Residential Planned Zoning District R-PZD 06-1883 (Abshier Heights) and contains approximately 2.18 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

William C. Bate
 Department Director

03-02-2012
 Date

Previous Ordinance or Resolution #

Karl
 City Attorney

3-5-12
 Date

Original Contract Date:

Original Contract Number:

Paul A. Baker
 Finance and Internal Services Director

3-5-2012
 Date

Received in City
 Clerk's Office

03-02-12 P04:53 RCVD

Don Man
 Chief of Staff

3-6-12
 Date

Received in
 Mayor's Office

ENTERED
3/5/12
PH

Franklin Jordan
 Mayor

3/6/12
 Date

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Jesse Fulcher, Current Planner

Date: February 29, 2012

Subject: RZN 12-4028 (Abshier Heights)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to rezone the subject property from R-PZD 06-1883 Abshier Heights to RSF-8, Residential Single Family Eight Units Per Acre.

BACKGROUND

The property is Tract A (the northern half) of the Abshier Heights R-PZD site totaling 2.18 acres. The site is located directly behind Ozark Natural Foods on the west side of Hillcrest Avenue. The R-PZD zoning on this portion of the Abshier Heights site permits development of a multi-family building with six units and three duplexes for a total of 12 residences. This portion of the site has been developed with a private street/alley (North Desoto Place) but has not been developed with any buildings. The site is surrounded by single family homes to the east, multi-family residences associated with the southern portion of the Abshier Heights project to the south, commercial development to the west, and undeveloped land to the north. Direct access to this property is available from Hillcrest Avenue to the east and Natural Way to the north which is an access easement along the north side of the Evelyn Hills shopping center, and a second access drive directly into the central portion of the Evelyn Hills Shopping center.

The applicant has submitted an application to rezone the northern portion of the Abshier Heights property, 2.18 acres, from R-PZD 06-1883 Abshier Heights to RSF-8, Residential Single Family Eight Units Per Acre. The applicant has stated that he intends to construct single family residences on the property.

DISCUSSION

On February 27, 2012, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 7-0-0. Two members of the public spoke at the meeting asking about the total number of units proposed but did not express objection to the rezoning.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 12-4028, FOR APPROXIMATELY 2.18 ACRES, LOCATED AT 1400 AND 1500 BLOCK OF NORTH DESOTO PLACE (TRACK "A" OF ABSHIER HEIGHTS) FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT R-PZD 06-1883 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 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 remainder of the Abshier Heights R-PZD 06-1833 zoning district not being rezoned shall retain its R-PZD zoning designation with all of the zoning and development rights and regulations prescribed therein.

Section 3: 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 , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

D. 3
RZN 12-4028 (1400 and 1500 Blocks
of N. Desoto Pl./Abshier Heights)
Page 4 of 22

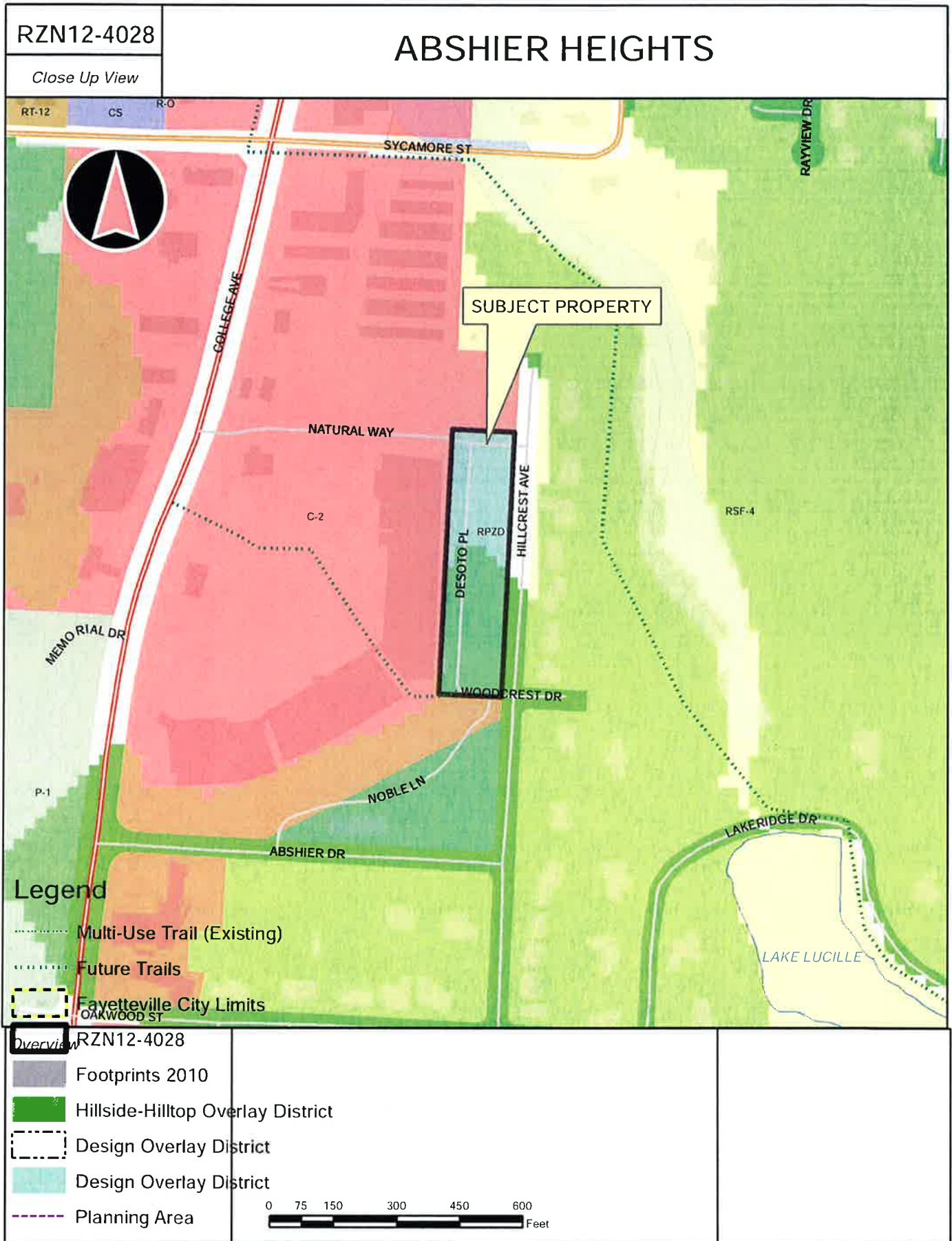


EXHIBIT "B"
RZN 12-4028

PART OF THE NORTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE ABOVE SAID NORTHWEST ¼ OF THE NORTHWEST ¼; THENCE N87°12'10"W, A DISTANCE OF 352.90 FEET; THENCE N02°58'47"E, A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING BEING A SET MAG NAIL W/ WASHER (PS 1496) BEING THE TRUE POINT OF BEGINNING; THENCE N02 58'47"E, A DISTANCE OF 635.02 FEET TO A FOUND CHISELED "X" IN CONCRETE; THENCE S87 00'06"E, A DISTANCE OF 149.72 FEET TO A FOUND ½" REBAR ON THE WEST RIGHT-OF-WAY LINE OF HILLCREST AVENUE; THENCE S02 57'25"W, ALONG THE ABOVE SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 634.93 FEET TO A FOUND PK NAIL; THENCE N87 02'16"W, A DISTANCE OF 149.97 FEET TO THE POINT OF BEGINNING AND CONTAINING 95,146 SQUARE FEET OR 2.18 ACRES, MORE OR LESS. SUBJECT TO ANY AND ALL EASEMENTS, COVENANTS

From: "Jackson, Jeff" <JJACKSON@nwacc.edu>
To: <agarner@ci.fayetteville.ar.us>
CC: <jfulcher@ci.fayetteville.ar.us>
Date: 3/1/2012 8:11 AM
Subject: FW: Abshier Heights

Hello!

I live at 1414 N. Hillcrest, directly across from the lot being built on. Mr. Bauer did not discuss these plans with me, and I have some real concerns. As I mentioned to Jan Wicks, the previous construction experience was a long, unpleasant experience. The work crews parked on our (no parking) street and in my driveway. Construction trash blew onto my property daily. My furnace clogged from all of the dust and had to be repaired at my expense. On one memorable occasion, very loud work commenced at 6 a.m. on a Saturday. I'd also like to point out that we were promised a "pocket park" on the adjacent lot, but this remains a swampy mess.

I feel like, as property owners, we deserve better. What can we do to protect our neighborhood's privacy, peace, and property values?

Thank you for your time,

Jeff Jackson

From: Jan L. Wicks [mailto:jwicks@uark.edu]
Sent: Wed 2/29/2012 3:24 PM
To: Jackson, Jeff
Subject: RE: Abshier Heights

Hi Jeff,

Thanks for letting me know.

I strongly suggest you let the city planners know that Mr. Bauer did not discuss anything with you. He made a point of saying that he'd talked to the neighbors across from the property and implied you all said it was fine. I wouldn't accuse him of lying or anything, but I believe it will be very helpful to us all if the city is aware of your feedback.

I also strongly suggest you provide the information about the construction crew problems to the city planners and ask what could possibly be done.

Andrew Garner agarner@ci.fayetteville.ar.us
Jesse Fulcher jfulcher@ci.fayetteville.ar.us

Best and I'll let you all know if I hear anything else.

Jan

-----Original Message-----

From: Jackson, Jeff [mailto:JJACKSON@nwacc.edu]
Sent: Wednesday, February 29, 2012 3:11 PM
To: Jan L. Wicks
Subject: RE: Abshier Heights

Hi--

Thanks for the information. Mr. Bauer did not discuss anything with me. The previous condo-building experience was quite unpleasant. The construction crew parked wherever they liked, including on the street and in my driveway, and I had trash blown onto my property on a daily basis. My furnace got clogged from all of the dust. Is there any way we can protect our rights to privacy, peace, and quiet?

Jeff J.

From: Jan L. Wicks [mailto:jwicks@uark.edu]
Sent: Wed 2/29/2012 2:21 PM
To: Robert Howard Wicks; dbeau@arkansas.net; boydlogan@gmail.com; decovision@sbcglobal.net; unbeldi@cox.net;

dhopster@hotmail.com; Jackson, Jeff; Lynda L. Coon; Nann Miller; i_markum@yahoo.com; rebeccahass@sbcglobal.net; C. Dayton Steelman; gpittsthorn@hotmail.com; willamfriar@yahoo.com; fran220dan@sbcglobal.net; harpo0821@sbcglobal.net; Hugh Reid Kincaid; Bettie Lu Lancaster; junjiewu1940@hotmail.com; thehynesfamily@sbcglobal.net; trishaagreen@yahoo.com; lou.skeen@ki.com; bart.bauer@sbcglobal.net; bauerpat@sbcglobal.net; 'SHAY HOPPER'; 'david hopper'; David Beauchamp (david@davidbeauchampcpa.com)
Cc: 'Jesse Fulcher'; agarner@ci.fayetteville.ar.us; bart.bauer@sbcglobal.net; bauerpat@sbcglobal.net
Subject: RE: Abshier Heights

Greetings! This is an update on the Planning Commission meeting held earlier this week regarding the proposed changes to the Abshier Heights area behind Evelyn Hills Shopping Center. These two items below were approved by the Planning Commission and sent to the City Council. (I'm using an old e-mail list; please forgive me if you are receiving this in error.)

This item below was to allow brick to be used instead of stone on the second multi-family building (to be built next to the existing one in the area below the corner of Hillcrest Avenue and Abshier Drive. It is my understanding that this building will have five units instead of six (apparently to allow larger garages to be built under each unit to accommodate the desires of most purchasers).

2. ADM 12-4029: Administrative Item (Abshier Heights R-PZD Modification No. 3): Submitted by BART BAUER for the property located at the NORTHWEST CORNER OF ABSHIER DRIVE AND HILLCREST AVENUE. The request is to amend the approved R-PZD 06-1883 Abshier Heights to architecturally design one of the multi-family buildings with brick instead of stone on the rear of the building. Planner: Andrew Garner

This item is to rezone the area behind the Ozark Co-op to RSF-8. According to the developer and the city, the neighborhood has no say on the types of residences, nor materials used, etc., if the area is rezoned RSF-8. The developer said it had to be rezoned as RSF-8 (instead of RSF-4) because of the way the utilities were installed and placed, based on the original plans developed by David Chance.

7. RZN 12-4028: Rezone (1400 AND 1500 BLOCKS OF N. DESOTO PL./ABSHIER HEIGHTS, 407):
Submitted by BART BAUER for properties located at the 1400 AND 1500 BLOCKS OF NORTH DESOTO PLACE.
The properties are zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 2.18 acres. The request is to rezone Tract A of the Abshier Heights R-PZD to RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE. Planner: Andrew Garner

Here are the e-mail addresses to contact the developer (Bart Bauer) e-mail address in case you have any questions or need more information. He said he's already discussed this with the neighbors who live down on the northern end of Hillcrest Avenue across from the back of the Ozark Co-op (or across from Tract A noted above). I'm sending him a copy so he can provide additional information, if desired, or correct anything I may have gotten wrong.

Bart Bauer bart.bauer@sbcglobal.net
Pat Bauer bauerpat@sbcglobal.net

Here are the e-mail addresses for the city planning folks, just in case.

Andrew Garner agarner@ci.fayetteville.ar.us Jesse Fulcher jfulcher@ci.fayetteville.ar.us

Best,

Jan Wicks
1314 Hillcrest Avenue



PC Meeting of February 27, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~February 16, 2012~~ Updated February 29, 2012

RZN 12-4028: Rezone (1400 AND 1500 BLOCKS OF N. DESOTO PL./ABSHIER HEIGHTS, 407): Submitted by BART BAUER for properties located at the 1400 AND 1500 BLOCKS OF NORTH DESOTO PLACE. The properties are zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT and contain approximately 2.18 acres. The request is to rezone Tract A of the Abshier Heights R-PZD to RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE.

Planner: Andrew Garner

BACKGROUND:

Background: On April 4, 2006 the City Council rezoned the subject property from C-2, Thoroughfare Commercial to R-PZD 06-1883 (Abshier Heights). The rezoning permitted the development of a total of 24 residential units on the site. The infrastructure for the development was installed over the entire site and southern portion of the property was developed with a six-unit multi-family building. The northern portion of the site remains undeveloped with the exception of a private shared drive (Desoto Place).

Property Description: The property is Tract A (the northern half) of the Abshier Heights R-PZD site totaling 2.18 acres. The site is located directly behind Ozark Natural Foods on the west side of Hillcrest Avenue. The R-PZD zoning on this portion of the Abshier Heights site permits development of a multi-family building with six units and three duplexes for a total of 12 residences. This portion of the site has been developed with a private street/alley (North Desoto Place) but has not been developed with any buildings. The site is surrounded by single family homes to the east, multi-family residences associated with the southern portion of the Abshier Heights project to the south, commercial development to the west, and undeveloped land to the north, as indicated in *Table 1*. Direct access to this property is available from Hillcrest Avenue to the east and Natural Way to the north which is an access easement along the north side of the Evelyn Hills shopping center, and a second access drive directly into the central portion of the Evelyn Hills Shopping center.

Table 1
Surrounding Zoning and Land Use

Direction from Site	Land Use	Zoning
North	Undeveloped	C-2, Thoroughfare Commercial
South	Multi-family (Abshier Heights)	R-PZD (Abshier Heights)
East	Single family residential	RSF-4, Residential Single-Family Four Units Per Acre
West	Evelyn Hills Shopping Center	C-2, Thoroughfare Commercial

Proposal: The request is to rezone the property from R-PZD 06-1883 (Abshier Heights), to RSF-8, Residential Single Family Eight Units Per Acre. The applicant has stated that he intends to construct single family residences on the property.

Public Comment: Staff has received a couple of calls and one in-person inquiry about the rezoning. There have been no objections to the rezoning, The Ozark Natural Foods store adjacent to the west has discussed drainage issues on their property. They are in communication with the City Engineering Division about these issues, however, they do not object to the rezoning.

RECOMMENDATION:

Staff recommends forwarding RZN 12-4028 to the City Council with a recommendation for approval based on findings stated herein.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>February 27, 2012</u>	☐ Tabled	☒ Forwarded	☐ Denied		
Motion: <u>Chesser</u>					
Second: <u>Cook</u>					
Vote: <u>7-0-0</u>					
Notes: <u>Recommendation for approval.</u>					
CITY COUNCIL ACTION:				Required	<u>YES</u>
				☐ Approved	☐ Denied
Date:					

INFRASTRUCTURE:

Streets: The site has access to Hillcrest Avenue a local street. Hillcrest Avenue was improved with the first phase of the Abshier Heights R-PZD to meet current street standards.

- Water:** Public water is adjacent to the site. A study of the water system shall be conducted by the developer as directed by the Engineering Division. Substantial improvements to the water system may be required which includes other off-site improvements. Water service will need to be extended within the property at the time of development connecting within the proposed development.
- Sewer:** Sanitary sewer is currently available to the site. There is a 6" sewer line that runs along Hillcrest Avenue and a 6" sewer line along Abshier Drive, west of the site. A study of the downstream system shall be conducted by the developer. Substantial improvements to the sewer system may be required which includes other off-site improvements. Sewer service will need to be extended within the property at the time of development connecting within the proposed development.
- Drainage:** Standard improvements and requirements for drainage will be required for any development.
- Police:** The Fayetteville Police Department has not expressed concerns with this request.
- Fire:** The Fayetteville Fire Department has not expressed concerns with this request. The subject property is located approximately 1.7 miles from the Fire Station No. 1. Response time to the property is 5.5 minutes.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **City 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 for single-family residential use is compatible with adjacent and nearby commercial, multi-family, and single family residential land uses while promoting a variety of lot sizes. Adjacent developments include residential single family out-lots zoned RSF-4 (maximum four units per acre) to the east, multi-family residential adjacent to the south, and commercial uses zoned C-2 to the west of the property. The RSF-8 zoning will allow for a mix of residential housing types in this transitional area between the busy commercial corridor along College Avenue, the new multi-family residential development adjacent to the south, and older and single family neighborhoods to the east and south.**

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

rezoning is proposed.

Finding: The proposed zoning is justified in order to provide for a variety of lot sizes and variation in development pattern consistent with City land use objectives and policies. The applicant has indicated that the real estate market is not suitable for the development of this site with modern multi-family and two-family structures. The zoning is needed in order to provide more flexibility in development of this site to meet current market conditions.

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

Finding: The proposed zoning should not generate the potential for additional traffic on the surrounding street system over the existing R-PZD zoning. The existing PZD would permit one multi-family building with six units, and three two-family units for a total of 12 residences on this portion of the site. The subject property is 2.18 acres. The proposed RSF-8 zoning would permit a gross density of 17 units on the site. However, each lot is required to have at least 50 feet of street frontage and under the current configuration with access drives staff estimates there could be approximately 11 single family residences. The proposed rezoning should not create or appreciable increase traffic danger or congestion.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would result in a comparable population density as the existing zoning and would not result in adverse impacts to public services.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: 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
Unit 44	Cottage Housing Development

(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.
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(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.

(Ord. 4783, 10-18-05; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11)

Bart Bauer

Memo

To: City of Fayetteville - Planning Commission
From: Bart Bauer
Date: January 16, 2012
Re: Rezoning of Property in the 1400 and 1500 Blocks of North DeSoto Place from RPZD to RSF-8

(a) Current Owner & Pending Sale

This parcel is currently under contract for purchase from the Bank of Fayetteville for the exclusive use of Bart Bauer, and/or his assigns.

(b) Reason for Zoning Change

The PZD zoning designation restricts the site to two distinct buildings. These buildings were designed in the modern style of architecture. I feel that this modern style is not conducive to current market trends in the area.

(c) Use, Traffic, Appearance, Signage

The rezoning of the parcel to RSF-8 is in keeping with the surrounding properties which are all single-family homes along North Hillcrest Avenue. The current PZD is approved for multi-family dwellings. The zoning change will result in single-family homes which should reduce projected traffic in the area by a third.

The single-family homes that we plan to build will be of a more traditional design and will blend well with the existing homes along Hillcrest Avenue.

No signage is planned.

(d) Availability of Water/Sewer

Water and sewer mains are available to the site as follows: 8" line for water and 8" line for sanitary sewer.

(e) Consistency With Land Use and Zoning Plans

The rezoning of the parcel would be 100% consistent with the neighboring parcels and with Fayetteville's Master Plan. The utilities are already installed and grading is complete. Without going to great expense to change the configuration of the utilities, the site will currently hold four homes per acre. Since the subject parcel is 2.17 acres total, this will result in eight single-family homes. Adjoining properties are currently zoned RSF-4.

(f) Zoning Justified?

I feel the rezoning is justified for the reasons discussed above, i.e. current market trends, consistency with the neighborhood and reduction of the density of dwellings current planned for the site.

(g) Traffic

The streets that have been created to serve the Abshier Heights development are both private roads that are the responsibility of the property owners' association. As mentioned above, reducing the zoning from multi-family to single-family dwellings from twelve down to eight decreases density and should actually decrease traffic in the area.

(h) Public Services

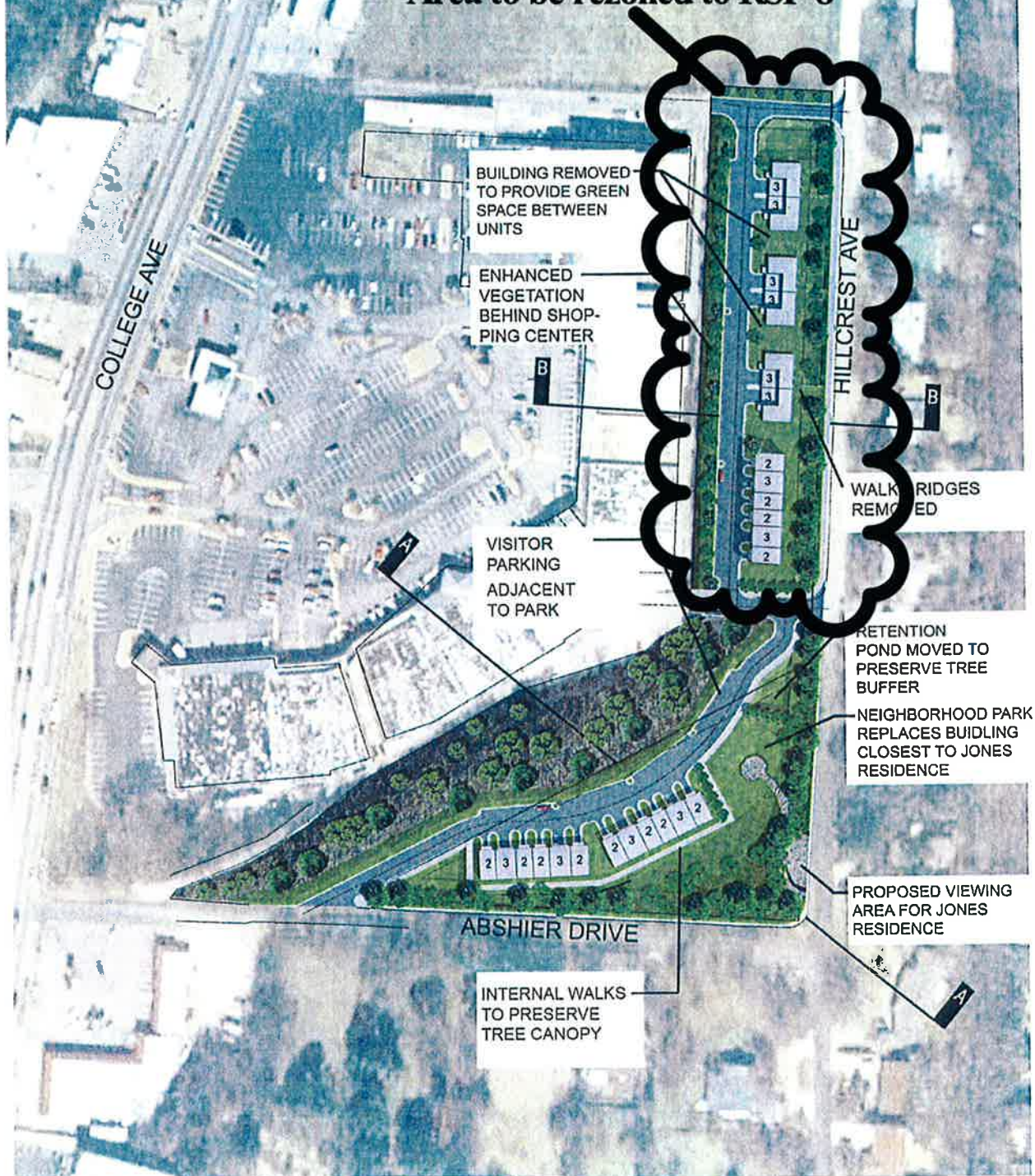
My rezoning request would result in less homes and population in the area than the previous Planned Zoning District that the City of Fayetteville has already approved, thus reducing the load on public services. Aside from this, the site is very small and the load on public services will be inconsequential.

(i) Impracticality of Current Zoning

The current PZD is impractical because it restricts the style and size of building that can be constructed on the site. The building cannot be significantly changed to meet market conditions without completely amending the PZD or changing the zoning of the site.

24 UNITS WITH 60 TOTAL BEDROOMS
111 PARKING SPACES: 36 GARAGE SPACES
38 DRIVEWAY SPACES
39 PARALLEL SPACES
4.625 PARKING SPACES PER UNIT

Area to be rezoned to RSF-8



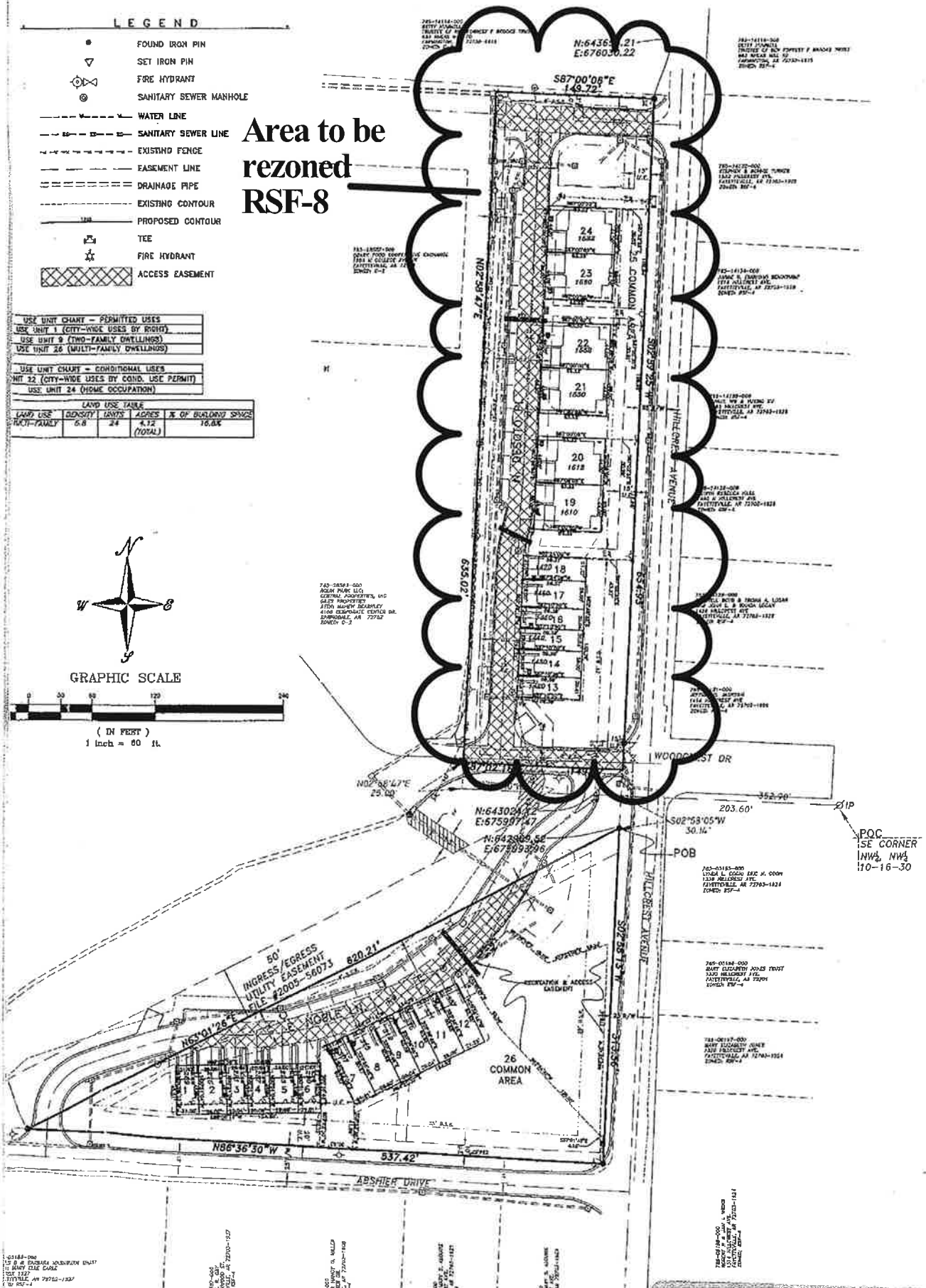
SITE PLAN WITH BEDROOM COUNT

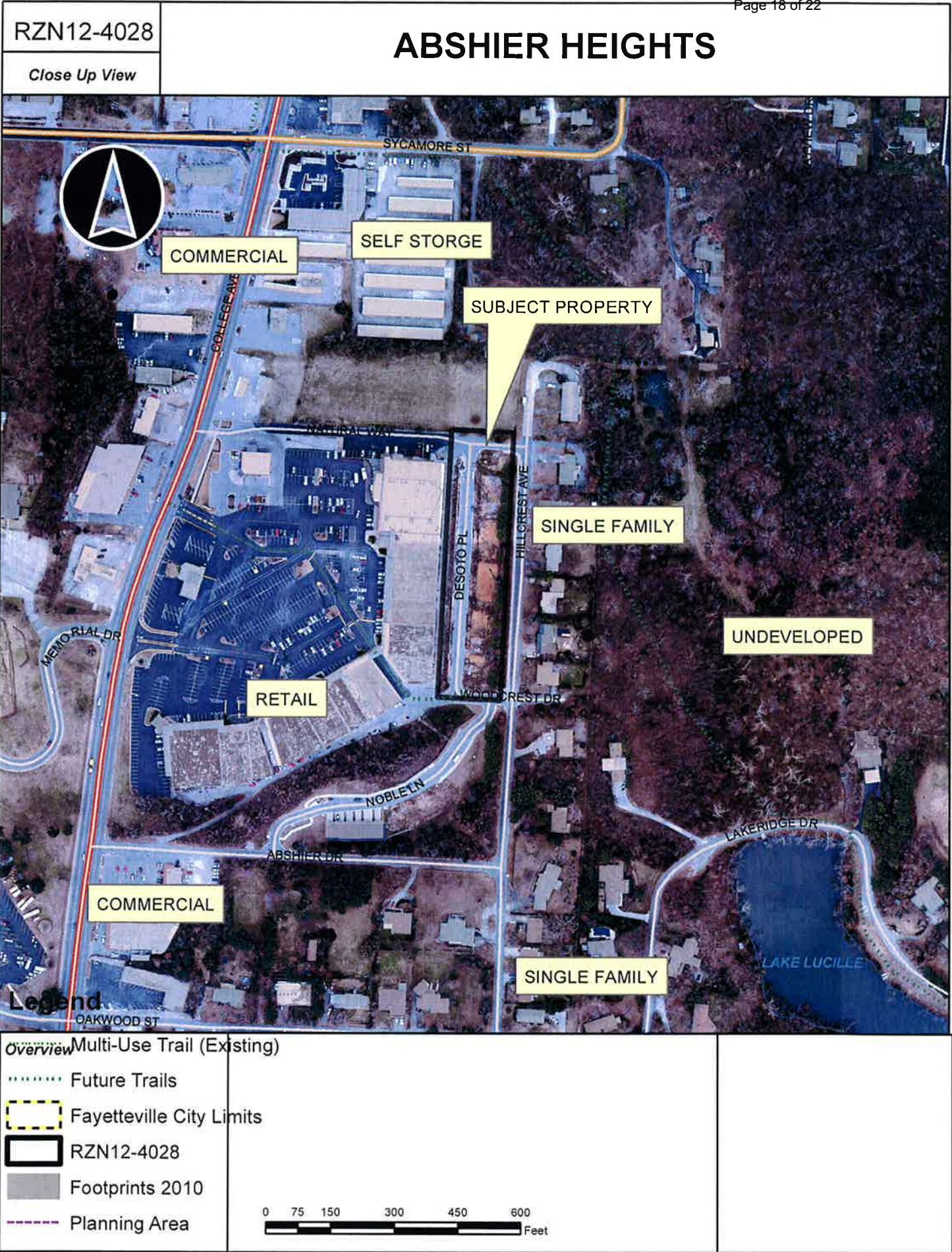
ABSHIER HEIGHTS

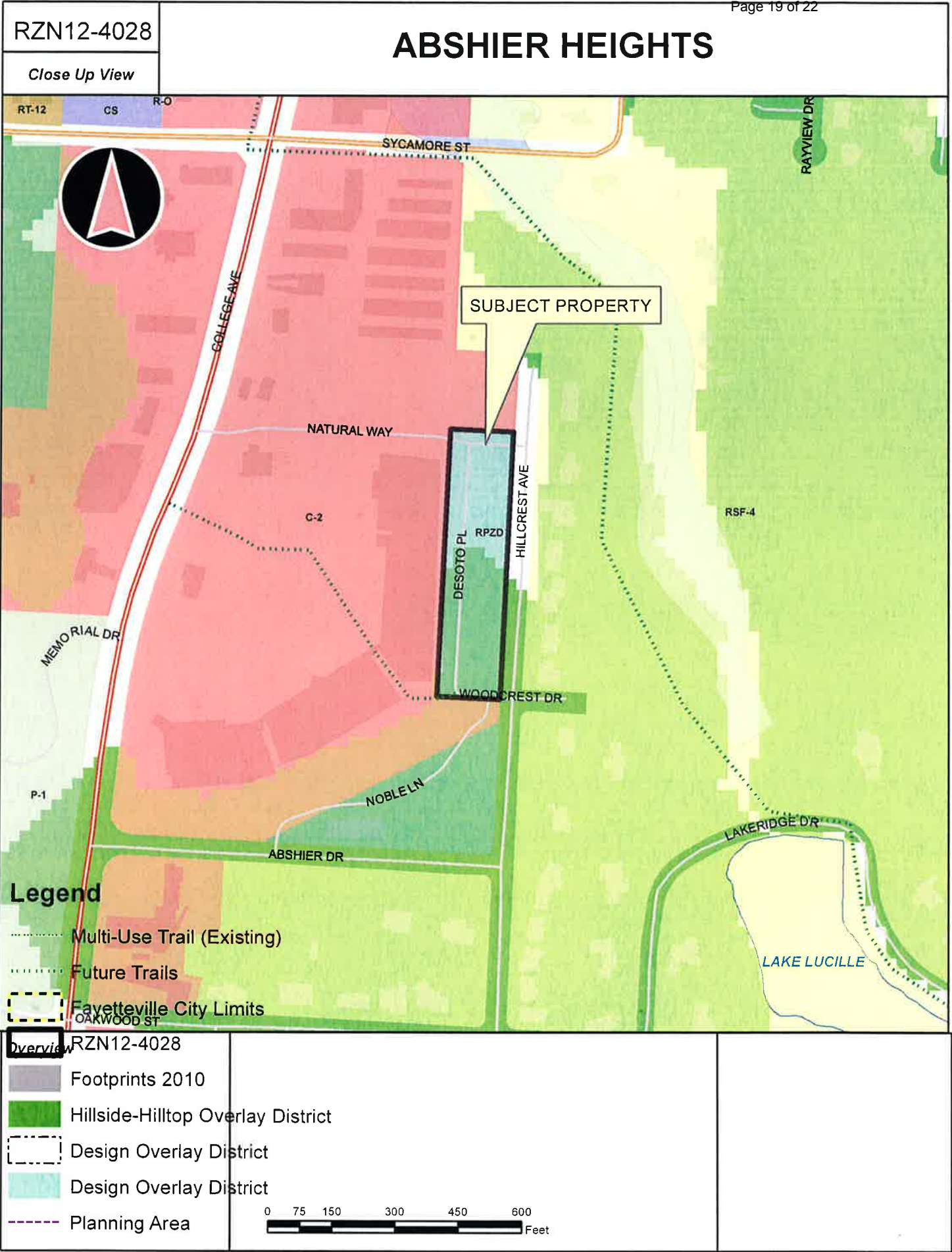


Cooper Architects

P.O. Box 1782 Fayetteville, AR 72702
 e 479.575.0071 f 479.575.0074



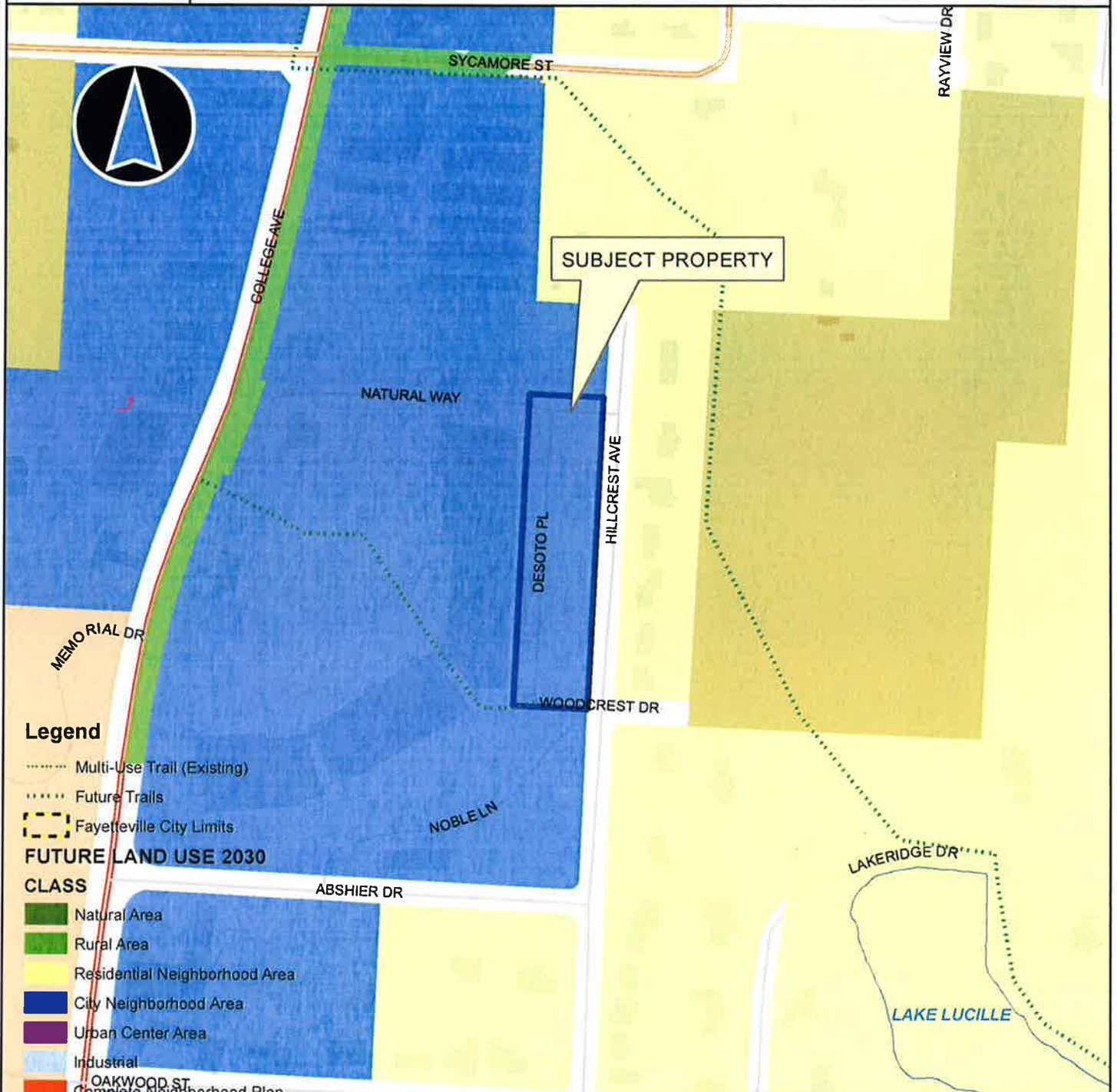




RZN12-4028

ABSHIER HEIGHTS

Future Land Use



Legend

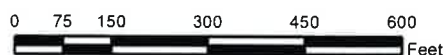
- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

FUTURE LAND USE 2030

CLASS

- Natural Area
- Rural Area
- Residential Neighborhood Area
- City Neighborhood Area
- Urban Center Area
- Industrial
- Complete Neighborhood Plan

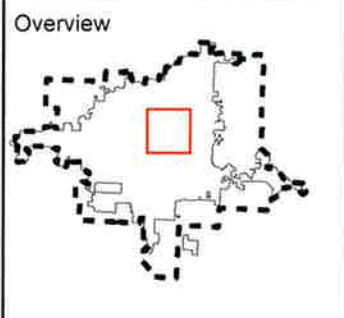
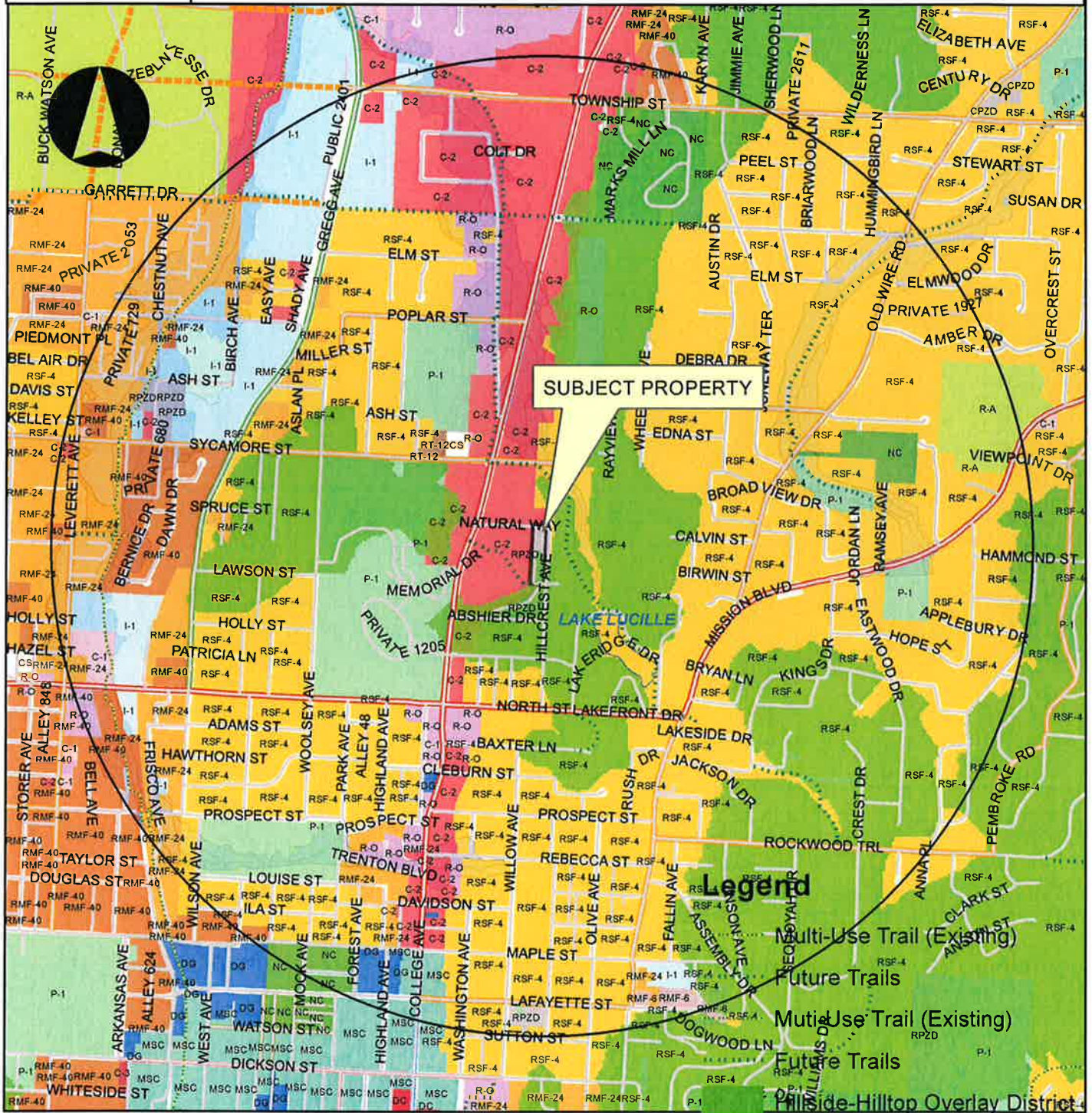
- Civic and Private Open Space/Parks
- Civic Institutional
- Non-Municipal Government
- ROW
- RZN12-4028
- Design Overlay District
- Design Overlay District
- Planning Area



RZN12-4028

One Mile View

ABSHIER HEIGHTS



City of Fayetteville Staff Review Form

D. 4
 ADM 12-4029 (Abshier Heights
 R-PZD Modification No. 4)
 Page 1 of 20

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

3/20/2012

City Council Meeting Date
 Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

ADM 12-4029: Administrative Item (Abshier Heights R-PZD Modification No. 4): Submitted by BART BAUER for the property located at the NORTHWEST CORNER OF ABSHIER DRIVE AND HILLCREST AVENUE. The request is to amend the approved R-PZD 06-1883 Abshier Heights to architecturally design one of the multi-family buildings with brick instead of stone on the rear of the building.

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

03-02-2012
 Date

Previous Ordinance or Resolution #

City Attorney

3-5-12
 Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

3-5-2012
 Date

Received in City 03-02-12 P04:53 RCVD
 Clerk's Office

Chief of Staff

3-6-12
 Date

Received in
 Mayor's Office

Mayor

3/6/12
 Date

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Andrew Garner, Senior Planner

Date: March 1, 2012

Subject: ADM 12-4029 (Abshier Heights R-PZD Modification No. 4)

RECOMMENDATION

Planning staff and the Planning Commission recommend approval of an ordinance amending the Abshier Heights Planned Zoning District to change the architectural design standards to require brick on the rear of the building facing Abshier Drive, instead of stone (see Exhibit "A" attached).

BACKGROUND

On April 4, 2006 the City Council granted approval of R-PZD 06-1883 Abshier Heights on 4.11 acres of land with frontage on Abshier Drive and Hillcrest Avenue, with a maximum of 24 dwellings units in six buildings, at a density of 5.8 dwelling units per acre. All work interior to the site, the street improvements adjacent to the property, and a multi-family building at 269-299 E. Noble Lane has been completed. Ordinance No. 4850 established the Abshier Heights R-PZD zoning. Section 5 of this ordinance referred to a list of requirements for the project. One of these requirements was that the rear facade of the buildings facing Abshier Drive and Hillcrest Avenue would include partial stone facades. The applicant is in the process of finalizing construction plans for the multi-family building at 307-337 E. Noble Lane. The applicant requests a change in the PZD approval to use brick on the side of this new building facing Abshier Drive and Hillcrest Avenue, instead of stone.

DISCUSSION

On February 29, 2012 the Planning Commission voted 7-0-0 to forward this request to the City Council with a recommendation for approval. The applicant has been in personal communication with many of the neighbors with contact information provided by City staff. Staff has received inquiries by some of the neighbors about this current proposal and did not receive any objections to allowing brick instead of stone on the rear of the buildings.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING A RESIDENTIAL PLANNED ZONING DISTRICT ENTITLED R-PZD 06-1883, ABSHIER HEIGHTS, LOCATED AT THE NORTHWEST CORNER OF ABSHIER DRIVE AND HILLCREST AVENUE, CONTAINING APPROXIMATELY 4.11 ACRES, TO REFLECT REVISED ARCHITECTURAL STANDARDS AS DESCRIBED AND DEPICTED HEREIN.

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

Section 1: That R-PZD 06-1883 (Abshier Heights) as passed and approved by the City Council on April 4, 2006 with Ordinance No. 4850 is hereby amended to revise the architectural design of the buildings as follows:

The requirement for stone on the rear elevations of the development facing Hillcrest Avenue and Abshier Drive shall be replaced with a requirement for brick.

PASSED and APPROVED this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



PC Meeting of February 27, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~February 17, 2012~~ Updated March 1, 2012

ADM 12-4029: Administrative Item (Abshier Heights R-PZD Modification No. 4): Submitted by BART BAUER for the property located at the NORTHWEST CORNER OF ABSHIER DRIVE AND HILLCREST AVENUE. The request is to amend the approved R-PZD 06-1883 Abshier Heights to architecturally design one of the multi-family buildings with brick instead of stone on the rear of the building. Planner: Andrew Garner

BACKGROUND

Property Description: On April 4, 2006 the City Council granted approval of R-PZD 06-1883 Abshier Heights on 4.11 acres of land with frontage on Abshier Drive and Hillcrest Avenue, with a maximum of 24 dwellings units in six buildings, at a density of 5.8 dwelling units per acre. All work interior to the site, the street improvements adjacent to the property, and a multi-family building at 269-299 E. Noble Lane has been completed.

Architectural Requirement: Ordinance No. 4850 established the Abshier Heights R-PZD zoning. Section 5 of this ordinance referred to a list of requirements for the project. One of these requirements was that the rear facade of the buildings facing Abshier Drive and Hillcrest Avenue would include partial stone facades.

Proposal: The applicant is in the process of finalizing construction plans for the multi-family building at 307-337 E. Noble Lane. The applicant requests a change in the PZD approval to use brick on the side of this new building facing Abshier Drive and Hillcrest Avenue, instead of stone.

Public Comment: The applicant has been in personal communication with many of the neighbors with contact information provided by City staff. Staff has received inquiries by some of the neighbors about this current proposal and did not receive any objections. The applicant has also agreed to notify the adjacent property owners in writing of the City Council meeting date for this administrative request.

RECOMMENDATION

Staff recommends in favor of the applicant's request to use brick instead of stone on the rear of the building. Staff agrees with the applicant's rationale that the stone seems architecturally out of place with the design of the buildings. As indicated in the attached photos, because of the grade change, heavy foliage and patio screens on the rear of the buildings the stone (or brick) will be nearly impossible to see from the public right-of-way (Abshier Drive or Hillcrest Avenue)

Recommended Motion: Staff recommends forwarding **ADM 12-4029 Abshier Heights R-PZD Modification No. 4** to the City Council for approval.

Planning Commission Action:

☒ **Forwarded**

☐ **Denied**

Motion: Chesser

Second: Cook

Vote: 7-0-0

Meeting Date: February 27, 2012

ORDINANCE NO. 4850

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-1883, ABSHIER HEIGHTS, LOCATED SOUTH OF EVELYN HILLS SHOPPING CENTER ON ABSHIER AND HILLCREST, CONTAINING APPROXIMATELY 4.11 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From C-2, Thoroughfare Commercial, to R-PZD 06-1883 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

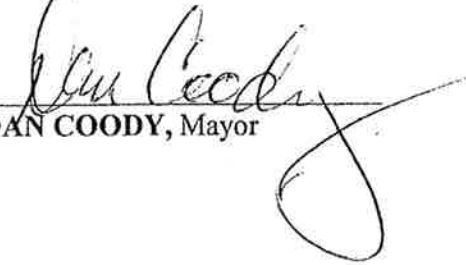
Section 5: That the Master Development Plan is approved subject to the list of compromises agreed to by the neighbors, developer and architect shown on Exhibit "B" presented to and accepted by the City Council. The Master Development Plan is also subject to the Revised Site Plan attached as Exhibit "C".



Page 2
Ord. 4850

PASSED and APPROVED this 4th day of April, 2006.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

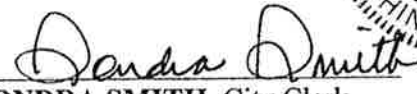
By: 
SONDRA SMITH, City Clerk



EXHIBIT "A"
R-PZD 06-1883

TRACT A:

PART OF THE NW ¼ OF THE NW ¼ OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SE CORNER OF THE NW ¼ OF THE NW ¼, SAID POINT BEING A FOUND 1" PIPE; THENCE N87°12'10"W 352.90 FEET; THENCE N02°59'53"E 25.00 FEET TO THE POINT OF BEGINNING; THENCE N02°58'47"E 635.03 FEET TO A CHISLED "X"; THENCE S87°00'06"E 149.72 FEET TO A FOUND IRON PIN IN THE WEST RIGHT-OF-WAY LINE OF HILLCREST AVENUE; THENCE ALONG SAID RIGHT-OF-WAY S02°57'25"W 634.95 FEET TO A FOUND PK NAIL IN THE APPROXIMATE CENTER LINE OF WOODCREST DRIVE NOW VACATED BY THE CITY OF FAYETTEVILLE BY ORDINANCE #1205; THENCE ALONG SAID CENTERLINE N87°02'16"W 149.97 FEET TO THE POINT OF BEGINNING, CONTAINING 2.187 ACRES, MORE OR LESS, AND SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT.

TRACT B:

PART OF THE SW ¼ OF THE NW ¼ OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SW ¼ OF THE NW 1/4; THENCE N87°12'10"W 203.60 FEET; THENCE S02°58'05"W 30.14 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A FOUND IRON PIN IN THE WEST RIGHT OF WAY OF HILLCREST AVENUE; THENCE ALONG SAID RIGHT OF WAY S02°58'12"W 313.56 FEET TO A FOUND IRON PIN IN THE NORTH RIGHT-OF-WAY LINE OF ABSHIER DRIVE; THENCE ALONG SAID RIGHT-OF-WAY LINE N86°36'30"W 537.42 FEET TO A FOUND IRON PIN; THENCE LEAVING SAID RIGHT-OF-WAY N63°01'26"E 620.21 FEET TO THE POINT OF BEGINNING, CONTAINING 1.935 ACRES MORE OR LESS, AND SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT.

Remove the requirement for stone on the back of the development and replace it with a requirement for "...brick on the facade on the back of the development..."

EXHIBIT "B"
R-PZD 06-1883

WE AS NEIGHBORS, THE AFOREMENTIONED DEVELOPER AND ARCHITECT,
HAVE RESPECTFULLY AGREED UPON THE FOLLOWING COMPROMISES.

1. Modifications to architectural design of development to complete and complement existing neighborhood homes. Examples include planter boxes with stone facades; ~~the agreed upon stone facade on the back of the development (on the side of the town homes facing Hillcrest and Abshier) the architect will modify rear elevations of development to include partial stone facades on the back of the development (on the side of the town homes facing Hillcrest and Abshier) for approval of above mentioned neighborhood representatives;~~ house numbers re-styled and moved to the lower portion of the front of the house near planter boxes; changes in paint palette in the natural earth tones; enlarged window shapes and styles in the latest drawings presented to the neighborhood – all to create a more natural, "softer" feel in line with the traditional character of the existing neighborhood.

2. Reduction in the number of units to 24.

3. Speed bumps to be built/installed on Hillcrest, Abshier, Lakeridge and Oakwood by Developer and City with 50/50 cost share with up to four speed tables.

4. A permanent, WRITTEN plan for maintaining the park and greenspace throughout the development included in the homeowner's association agreements and/or covenants for those who purchase the town homes. The association agreements or covenants must be worked out in consultation with the above-mentioned neighborhood representatives throughout the process and approval. Additionally, new neighbors in the development must be aware that Lake Lucille and surrounding property is a private entity and is not available for their use for swimming, fishing, picnicking, etc. (only accessible by property owners in Lake Lucille/Clay Yoe subdivision).

5. Additional trees and shrubs are to be planted along Hillcrest and Abshier to fill in gaps and ensure that the tree buffer is maintained and expanded. Trees and shrubs are needed to fill in both high and low gaps and present an attractive, natural appearance to neighbors in the development and across Hillcrest and Abshier.

6. Core and soil sample testing will be conducted due to grade and incline, instability of land because of natural springs and previous construction difficulty in area with USA Drug.

7. We respectfully request that City Planning division allow that no bridges or steps leading from the town homes to Abshier or Hillcrest will be constructed. This would only encourage street parking and exacerbate traffic problems. The only steps in the development that are agreeable to the neighbors are those from the pocket park/viewing area to the parking area for the E. Fay Jones' home as designated on plans.

8. Trees and/or shrubbery will be planted at the back of the development to screen the development's residents from the shopping center. These also should include plantings to fill in high and low gaps and present an attractive, natural appearance consistent with a high quality development.

9. No parking signs to be installed along Hillcrest & Abshier on the development side, with no parking allowed on either side of these two streets.

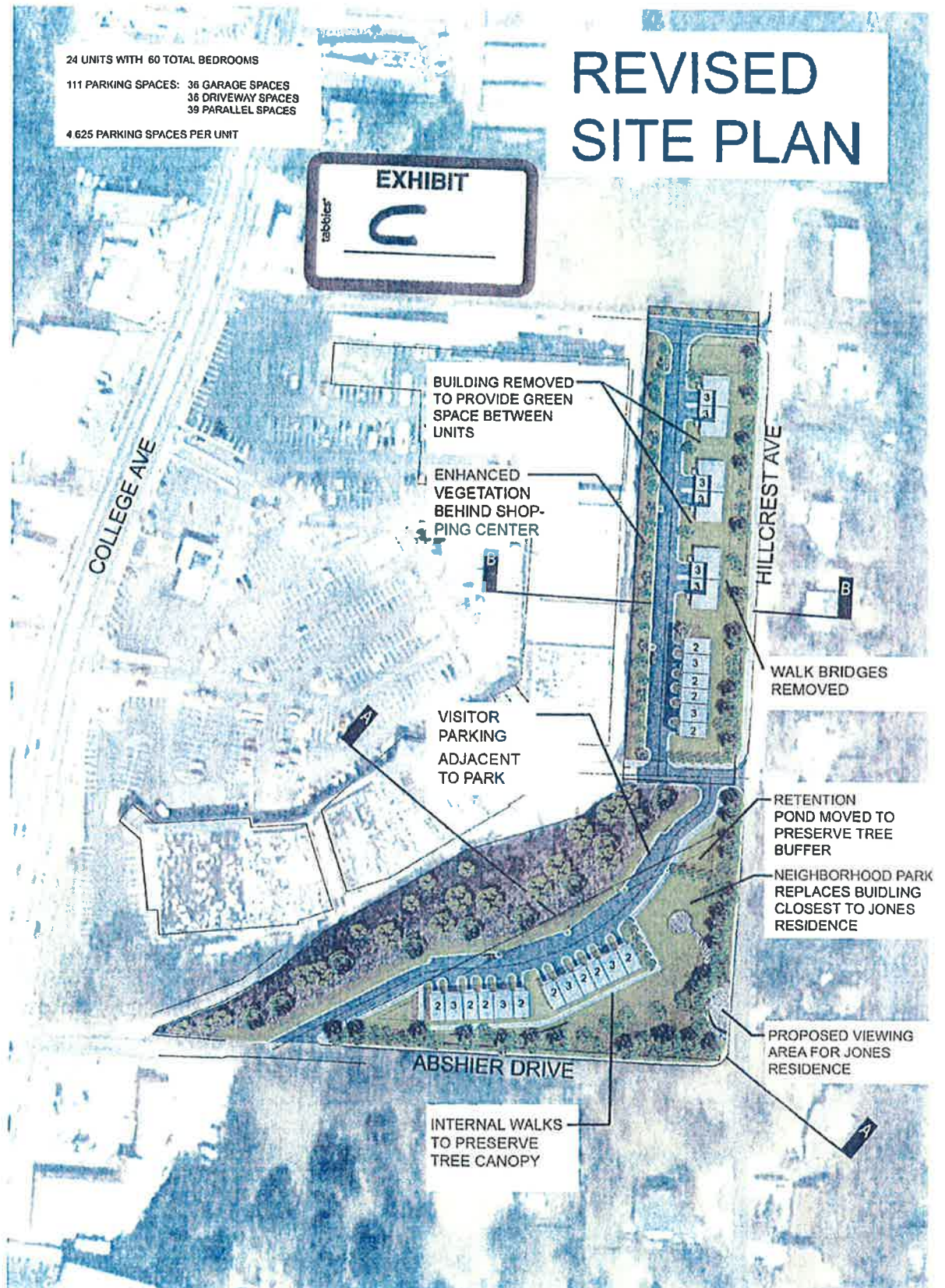
10. Landscape design, and any newly planted trees and shrubbery will, as closely as possible, be in accordance with E. Fay Jones' written/drawn design plans for the property from the U. of A. Mullens Library, Special Collections (neighbors have this document) (i.e. species of trees, placement, etc.).

11. Above-mentioned neighborhood representatives will see sample/rendering of mailbox design and of the sign for the development and provide input for approval, prior to installation.

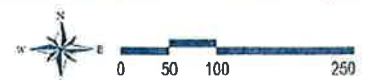
12. Construction will be limited to daylight hours only.

13. We respectfully request that if this development, PZD 06-1883, Abshier Heights, is not executed, that the City require that this property revert back to RSF-4 (R-1), not its current zoning of record, C-2.

14. All agreed upon compromises will be put in writing and officially recorded as amendments to PZD 06-1883 and presented at the meeting of the Fayetteville City Council, Tuesday, April 4, 2006. All compromises throughout this document are legally binding on the developer and must be carried out.



SITE PLAN WITH BEDROOM COUNT



ABSHIER HEIGHTS

Cooper Architects
 P.O. Box 1782, Fayetteville, AR 72702
 P. 479.515.0071 F. 479.515.0074

Bart Bauer

Memo

To: City of Fayetteville - Planning Commission
From: Bart Bauer
Date: January 16, 2012
Re: 307 – 337 E. Noble Lane – Administrative Item
Change Building Material From Stone to Brick in PZD

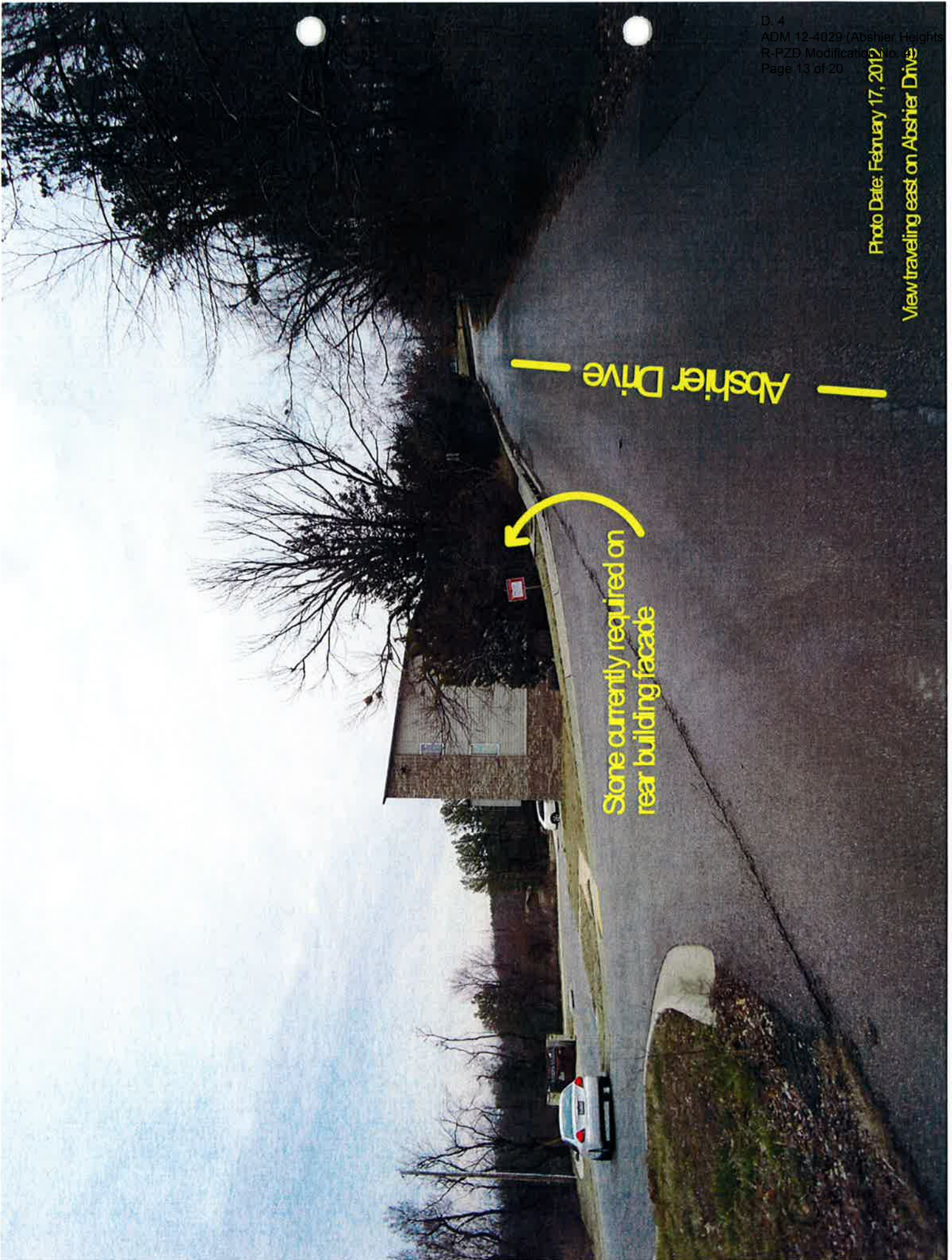
This parcel is currently under contract for purchase from the Bank of Fayetteville for the exclusive use of Bart Bauer, and/or his assigns.

The proposed building currently approved in this PZD calls for a small amount of stone on the side and rear of the building. I am requesting that the Planning Commission allow me to replace the stone with brick. I feel this will not affect the aesthetics or value of the site in any way. In fact, because of the back patio screens on the building, the stone seems to be architecturally out of place.

Even if the stone were to add some kind of value to the site, between the grade change, heavy foliage and patio screens, the stone is nearly impossible to see from E. Abshier Drive where those sides of the building face.

Photo Date: February 17, 2012

View traveling east on Abshier Drive





South side of 269-299 E Noble Drive

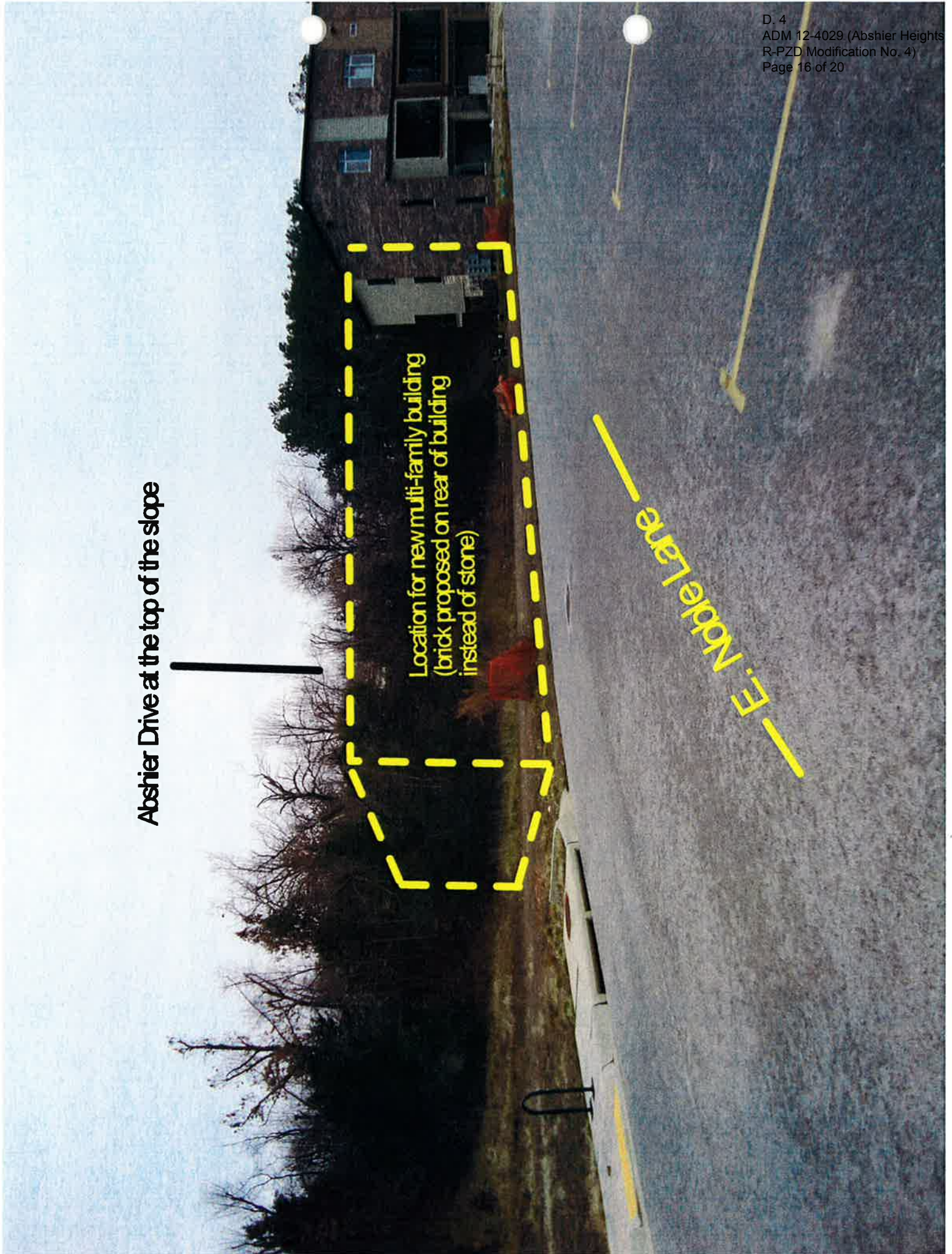
Stone required on lower portion of south elevation
(not visible from Abshier Drive)

Abshier Drive

Abshier Drive at the top of the slope

Location for new multi-family building
(brick proposed on rear of building
instead of stone)

E. Noble Lane



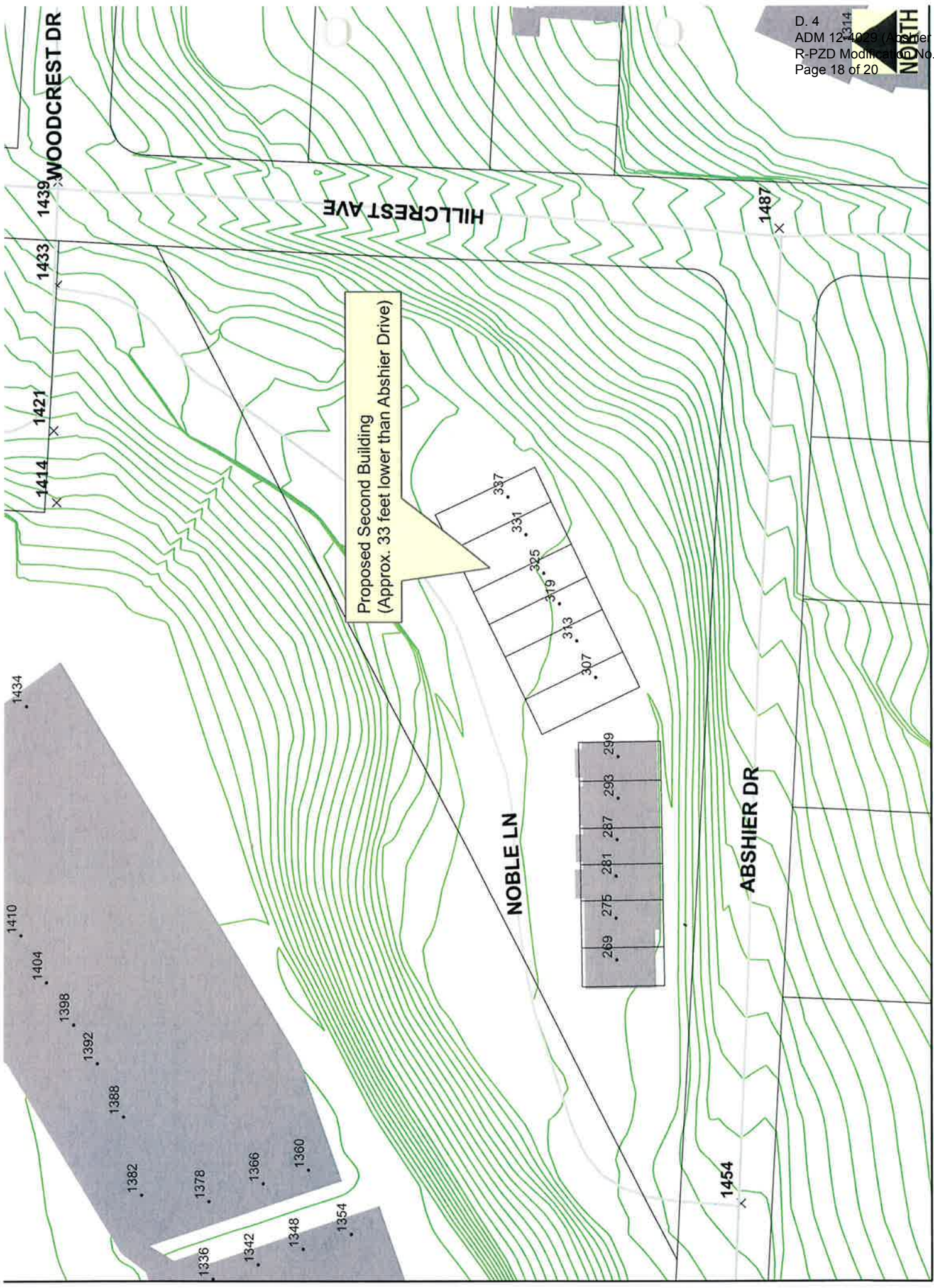


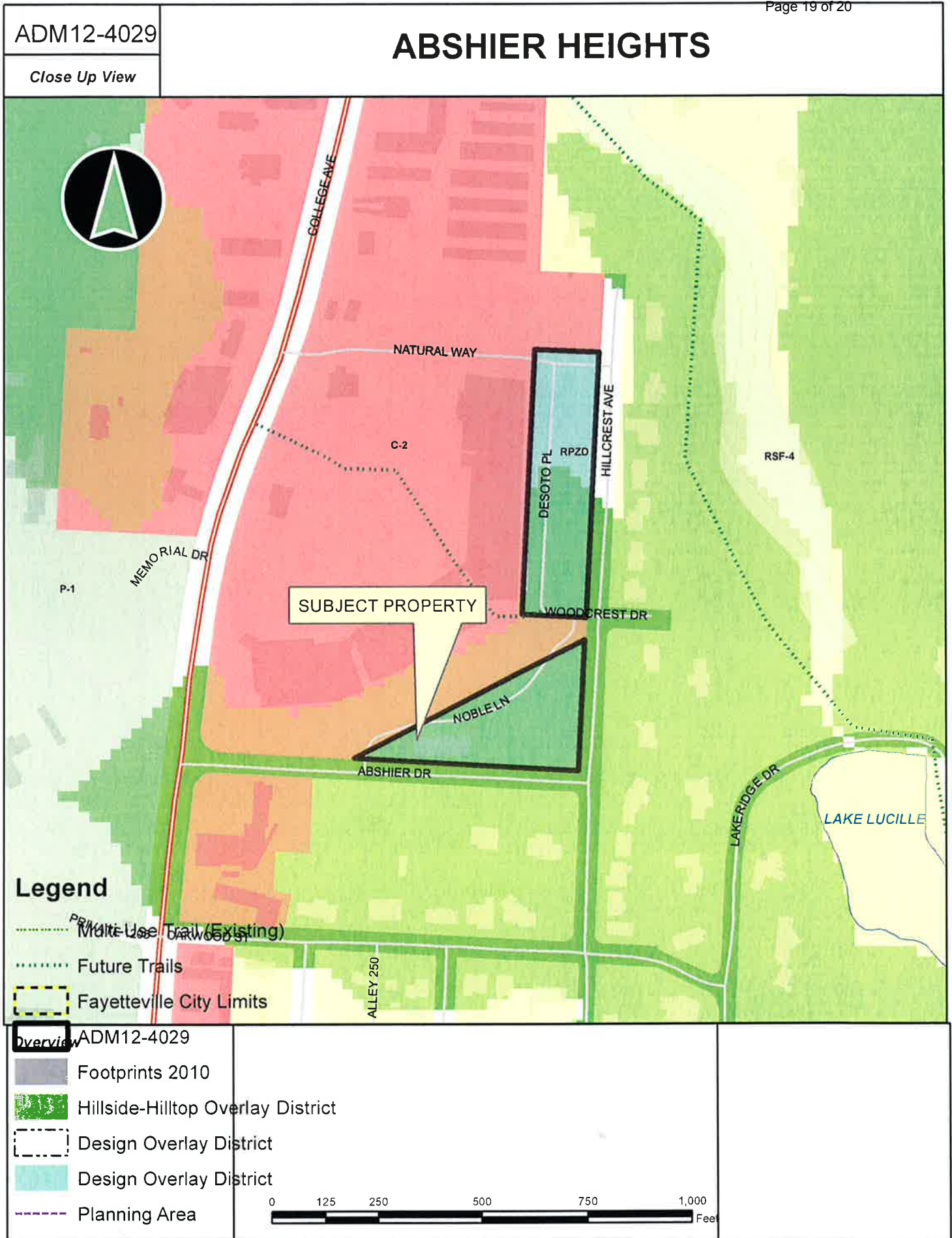
Proposed Second Building

D:\4
ADM 12-4029 (Appendix
R-PZD Modification)
Page 17 of 20



1 inch = 100 feet
0 25 50 75 100 Feet





Agenda Session Meeting 3/13/12

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
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**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
March 20, 2012**

A meeting of the Fayetteville City Council will be held on March 20, 2012 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. Nominating Committee Report

Agenda Additions:

A. Consent:

- ✓ 1. Approval of the March 6, 2012 City Council meeting minutes.
- ✓ 2. **Animal Shelter Donation:** A resolution to accept \$3,660.00 donated in the memory of Mrs. Mary Osborne to the Fayetteville Animal Shelter and to approve the budget adjustment recognizing this donation revenue.

3. **2011 Arkansas Department of Environmental Quality Recycling Grant:** A resolution authorizing acceptance of a 2011 Arkansas Department of Environmental Quality Recycling Grant, through the Boston Mountain Solid Waste District, in the amount of \$18,500.00 for recycling containers for the apartment/festival recycling programs, and approving a budget adjustment.
4. **Bid #12-18 LJB Construction, Inc.:** A resolution awarding Bid #12-18 and approving a contract with LJB Construction, Inc. in the amount of \$49,300.00 for the installation of a concrete barrier wall along Knapp Street above the Meadow Valley Trail, and approving a ten percent (10%) project contingency.
5. **University of Arkansas – Oak Ridge Trail:** A resolution approving a budget adjustment in the amount of \$123,042.00 recognizing revenue from the University of Arkansas for its cost-share portion of construction of Oak Ridge Trail.
6. **Frisco Trail Southern Extension:** A resolution authorizing a contract with Garver, LLC in an amount not to exceed \$189,500.00 for professional engineering design services related to the Frisco Trail southern extension, accepting a fifty percent (50%) matching grant from the Walton Family Foundation, Inc., and approving a budget adjustment in the amount of \$216,000.00 recognizing revenue from the Walton Family Foundation, Inc. and the Home Depot Foundation.
7. **Bid #12-19 Peterbilt of Fort Smith:** A resolution awarding Bid #12-19 and authorizing the purchase of three (3) automated side load solid waste trucks from Peterbilt of Fort Smith in the amount of \$775,629.00 for use in the Solid Waste Division.
8. **Bale Chevrolet of Little Rock:** A resolution approving the purchase of six (6) Chevrolet Tahoes from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of \$210,000.00.
9. **Garver, LLC Amendment No. 5:** A resolution approving amendment No. 5 to the engineering contract with Garver, LLC in the amount of \$21,679.00 to increase the fee for construction phase services related to the Mount Comfort Road Project.

B. **Unfinished Business:** None *Amend Defention of Family*

C. **Public Hearing:**

1. **Highway 16 Armstrong to Stonebridge Condemnation and Possession:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Jey Investments, LTD., First State Bank, Benefit Bank, Alejandro Alban, Algis Martinez & Gina Alban, and Tim D. & Deeann B. Studebaker, needed for water and sewer relocations along State Highway 16.

D. New Business:

- ✓ *Waive Competitive Bidding § 34.23:*
✓ **Amend §34.23 (Purchases and Contracts not in Excess of \$20,000.00):** An ordinance waiving the requirements for bids by applying §34.23(F), (Purchases and Contracts not in excess of \$20,000.00), of the Fayetteville Code of Ordinances and approving a contract with the Illinois River Watershed Partnership in the amount of \$10,000.00 for watershed education and planning services.
- ✓ **RZN 12-4045 (Martin Luther King Blvd./Career Academy):** An ordinance rezoning that property described in rezoning petition RZN 12-4045, for approximately 1.14 acres, located on the north side of Martin Luther King Boulevard at the border between Fayetteville and Farmington from R-A, Residential Agricultural to CS, Community Services.
- ✓ **RZN 12-4028 (1400 and 1500 Blocks of N. Desoto Pl./Abshier Heights):** An ordinance rezoning that property described in rezoning petition RZN 12-4028, for approximately 2.18 acres, located at 1400 and 1500 Block of North Desoto Place (Track "A" of Abshier Heights) from R-PZD, Residential Planned Zoning District R-PZD 06-1883 to RSF-8, Residential Single-Family, 8 units per acre.
- ✓ **ADM 12-4029 (Abshier Heights R-PZD Modification No. 4):** An ordinance amending a residential planned zoning district entitled R-PZD 06-1883, Abshier Heights, located at the northwest corner of Abshier Drive and Hillcrest Avenue, containing approximately 4.11 acres, to reflect revised architectural standards as described and depicted herein.

E. City Council Agenda Session Presentations:

- 1. Illinois River Watershed Partnership Presentation - Delia Haak, Executive Director**

City Council Tour:

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True Agenda Meeting 3/7/12

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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Ward 1 Position 2 – Brenda Boudreaux
Ward 2 Position 1 – Mark Kinion
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- new chd.*
move to #1 NB

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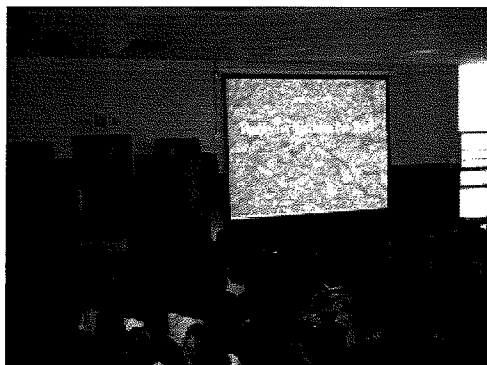
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ILLINOIS *River*
WATERSHED PARTNERSHIP

WWW.IRWP.ORG



Flint Creek Power Plant Tree Farm est.
1,000 tree seedlings from AR Forestry
Commission with volunteers from Gentry
High FFA, 4-H, Mayor Kevin Johnston,
Chamber of Commerce, Cargill, McKee
2011 Riparian Project volunteers planted
an additional 5,000 seedlings along 6 creeks
and trails in the IRW



25 Clean Water Raingers concerts by
Captain Marshall Mitchell and Jennifer Michaels
with over 5,000 Clean Water Rainger activity
books, CDs, songbooks, trail hankies distributed



THANK YOU 2011 IRWP SPONSORS!

YOU HELPED SPONSOR

8 Rain Gardens

9 Creek Cleanups

**200 Education
Outreach Programs**

**25 Clean Water
Rainger Concerts**

**6,000 Riparian
Seedlings planted
along 6 streams**

**Established
Flint Creek Power
Plant Tree Farm**

**Hosted 4-State
Watershed Academy**

**Conducted
Rain Garden Academy**

**Led Watershed Camp
and Illinois River Rally
for kids and 4-H**

**22,742
Volunteer &
Outreach Hours**

**12,277
Kids & Adults**



Biological water quality monitoring at
14 sites in the Upper IRW with
AR USGS Scientists
Chief Jim Petersen, Billy Justus and crew
pictured here along I-540 and
Osage Creek in Rogers



4-State Watershed Academy featured EPA
Administrator Armendariz, AR Governor Beebe, OK
Secretary Environment Sherrer, AR
Congressman Womack, MO Congressman Long,
Tracy Streeter, Director, Kansas Water,
Rick Stubblefield, OSRC Commissione,r
Uvalde Lindsey, AR House District 88,
Steve Randall, chair, OSRC

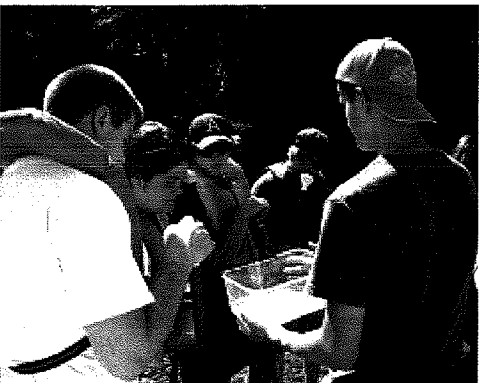




8 Rain Gardens installed in Bentonville, Rogers, Springdale, Fayetteville, and Siloam Springs including Willis Shaw Elementary in Springdale



9 River and Creek Cleanups along Illinois River, Niokaska, Spring, Osage, Sager, Mud and Scull Creeks



Watershed Camp and Illinois River Rally included kids and 4-H Leaders from AR-OK learning bug-kicking, canoeing, and conservation programs.
CREP & EQIP outreach to approx 1,300 stakeholders on how to preserve and protect lands Watershe

Public Outreach

TELEVISION
RADIO
NEWSPAPERS

COMMUNITY
EVENTS

Rogers Little Theater
County Fairs
Business Expos
Teacher Fair
Chamber and Civic Club
presentations

2011
GOLDEN PADDLE
AWARDS

AGRICULTURE
Mark Simmons
Simmons Foods

BUSINESS
Walmart Stormwater
Compliance Team

CONSERVATION
The Nature Conservancy

CONSTRUCTION
Eco-Modern Flats

GOVERNMENT
City of Siloam Springs &
The Cherokee Nation

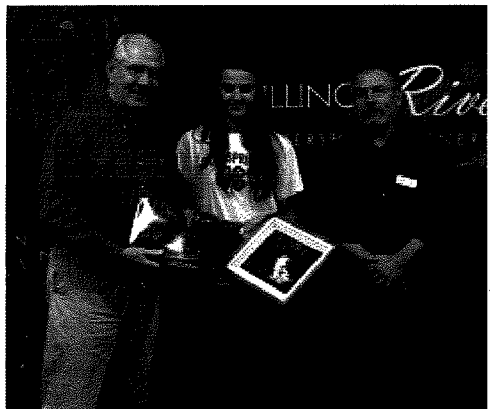
TECH-EDUCATION
Tracie Ashley
Prairie Grove EAST Lab



EPA Administrator Dr. Armendariz visits NW AR wastewater treatment plants.

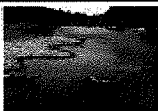


Rain Garden Academy participants hear and tour rain gardens and learn more about the Rain Garden Project and how to apply for a 2012-2013 mini-grant through IRWP and BWD projects with ANRC and US EPA



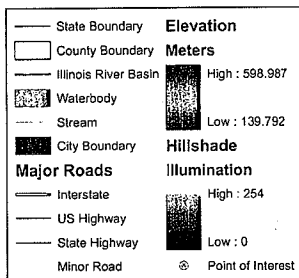
2011 Golden Paddle Award winner Mark Simmons, Lauren Dexter, photography winner, and Mike Faupel, IRWP Board President, UA Sustainability Consortium

P.O. Box 8506 • Fayetteville, AR 72703 • Email: contact@irwp.org



ILLINOIS River
WATERSHED PARTNERSHIP

Illinois River Watershed, Arkansas and Oklahoma Physiography and Hydrography



Map prepared for the Illinois River Watershed Partnership

Project Team: University of Arkansas
 Ralph K. Davis - Arkansas Water Resources Department
 Ty C. Johnson - Arkansas Water Resources Department
 Snow Wilens - Center for Advanced Spatial Technologies
 Angela Payne - Center for Advanced Spatial Technologies
 Sarah E. Lewis - Illinois River Watershed Partnership Liaison

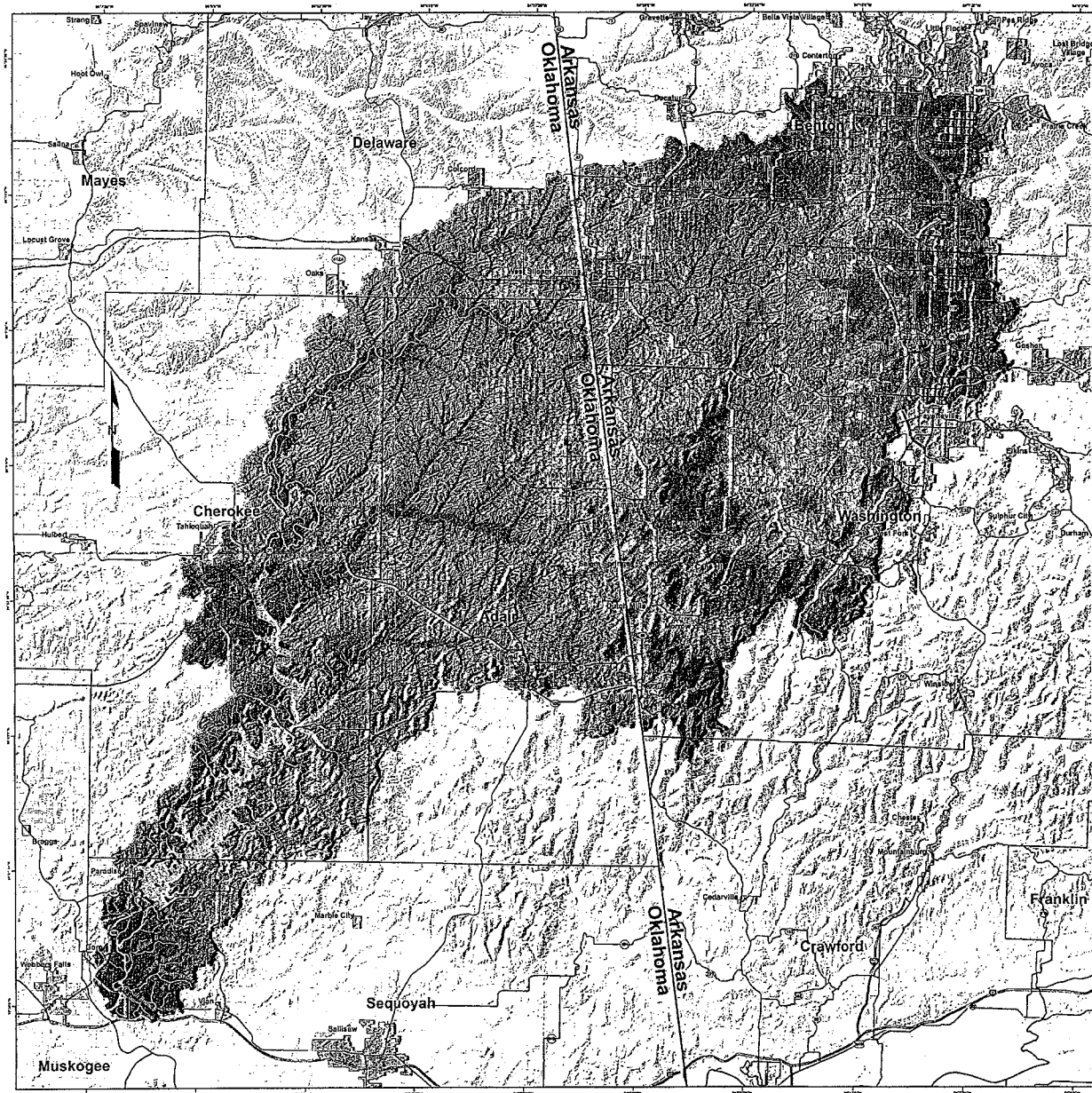
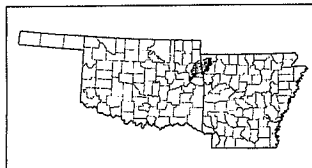
Project Manager: Ralph K. Davis

Cartography by: Ty C. Johnson, April 2007

Technical support is provided by: Angela Payne, GIS and Visualization Specialist and Snow Wilens, Multimedia Designer

Source of Data: 30 meter Digital Elevation Model raster dataset modified to show hillshade are from the Center for Advanced Spatial Technologies (CAST). Water data are from the National Hydrologic Dataset (NHD). Road and political boundary data are from CAST and Oklahoma Center for Geographic Information.

Universal Transverse Mercator, Zone 15
 North American Datum of 1983
 Degrees Minutes Seconds



Illinois River Watershed... What?

The Illinois River Watershed is in:

- A. Illinois
- B. Benton, Washington and Crawford counties in Arkansas and Adams, Delaware and Sequoyah counties in Oklahoma
- C. Washington, Crawford and Sebastian counties in Arkansas, and Adams, LeFlore and Cherokee counties in Oklahoma

Answer: B

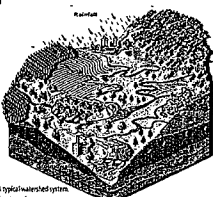
Have You Ever Heard of a Watershed?

A watershed is an area of land that receives rainfall which drains to a river, lake or wetland. You're sitting in a watershed right now!

Land use activities can impact watershed water quality because precipitation causes stormwater runoff to wash contaminants (such as sediment, nutrients, bacteria, etc.) into watershed water resources. If you live in Northwest Arkansas or Northeast Oklahoma, you may have impacted the Illinois River and didn't know it. You've definitely contributed to a watershed, somewhere, in some way.



Off the Mississippi in Arkansas, the Illinois River watershed has been designated a National Wetlands Reserve.



A typical watershed system. Courtesy of www.rain.org

Illinois River Point vs. Nonpoint Source Pollution

A point source is a single, identifiable source of pollution. A nonpoint source is a diffuse source of pollution that comes from many different land activities and flows from the watershed into a nearby creek, stream, or lake through a series of small channels.

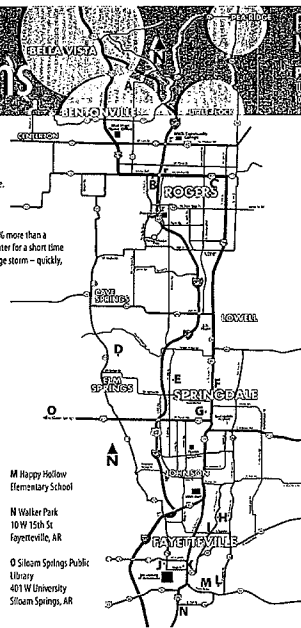
Illinois River Rain Gardens

By capturing clean rainwater from your roof, driveway and sidewalks and directing it into a green filtering rain garden where it can slowly soak into the ground, filter contaminants and keep quantities of clean water from going down the sewer system you'll have a great looking garden that puts water in its place.

A rain garden can mimic the natural absorption and pollutant removal abilities of a forest, or a meadow or a prairie and can absorb runoff more efficiently, sometimes as much as 30% - 40% more than a standard lawn. Capturing rainwater in a rain garden, holding the water for a short time and then slowly releasing it into the soil can reduce the rush of a large storm - quickly, neatly and naturally.

Rain Garden Locations

- A Crystal Bridges Trailhead NE A Street Bentonville, AR
- B Horsehead Trailhead Park Horsehead Rd Rogers, AR
- C St. Mary's Center for Nonprofits 1200 W Walnut Rogers, AR
- D Shaw Elementary School 4337 Glenview Rd Springfield, AR
- E L.G. Smith Elementary School 3600 Fulton Rd Springfield, AR
- F Springfield Public Works 265 W Randall Rd Springfield, AR
- G Murphy Park 301 S Pleasant St Springfield, AR
- H Butterfield Trail Elementary 3050 Old Missouri Rd Fayetteville, AR
- I Gateway Park 1850 E Township St Fayetteville, AR
- J Leavenworth Elementary School 1124 W Cleveland St Fayetteville, AR
- K Wilson Park 675 Park Ave Fayetteville, AR
- L 7 Hills Supportive Housing E Fayetteville, AR
- M Happy Hollow Elementary School 1015 15th St Fayetteville, AR
- N Walker Park 1015 15th St Fayetteville, AR
- O Sleam Springs Public Library 401 W University Sleam Springs, AR



Illinois River Tree Farm

Flint Creek Power Plant Tree Farm

COMMUNITY TREE PLANTING PROJECT

Planting trees is one of the ways residents of the Illinois River Watershed can improve water quality. To support this conservation practice volunteers from local 4H youth clubs and FFA chapters partnered with American Electric Power (AEP) and the Illinois River Watershed Partnership to install a container tree farm. 1,000 seedlings from the Arkansas Forestry Commission were planted at the Gentry, AR Flint Creek Power Plant.

The goal of this project is to supply approximately 1500 trees in the surrounding area. The trees will be planted in areas such as around extraction sites, parks, and farms that are in need of riparian buffers and stream bank stabilizations.

For more information on starting a tree farm or acquiring trees contact the Illinois River Watershed Partnership.

TREE FARM SUPPLIES

- Seedling Trees
- Containers
- Top Soil
- Compost
- Mulch
- Irrigation System
- Plant I.D. Stakes or Tags
- Weed barrier mat

Arkansas Forestry Commission
www.Forestry.State.US.AR

Seedling trees available through the Arkansas Forestry Commission

- Champion Oak
- Cow Oak
- Northern Red Oak
- Kat Oak
- Overcup Oak
- Pink Oak
- Shawnee Oak
- Shumard Oak
- Water Oak
- White Oak
- Willow Oak
- Sold Cypress
- Black Gum
- Black Walnut
- Green Ash
- Red Mulberry
- Fraxino
- Persea
- Water Tupelo



Illinois River Riparian Buffers

A riparian buffer refers to an area of land directly influenced by water (river, lake, stream, wetlands, marshes). The trees, shrubs and grasses adjacent to waterways help prevent adjacent soils, nutrients, pesticides and other pollutants from entering the stream. Riparian vegetation provides energy and nutrients for stream communities, keeps streams cool, and slows floodwaters to stabilize streambanks and recharge groundwater. Whether through induced moving, tree plantings, or conservation easements, efforts to protect and restore functional riparian buffers are a key component of watershed protection.

Litter on streets and highways washes into waterways through storm drains during rain events. Preventing litter from entering our streams and lakes is important because litter can harm or kill fish that might mistake it for food, cause streams and lakes to look dirty and uninviting, and affect human health and safety. According to the Ocean Conservancy, all the trash in our water weighs a common midsize car. As a critical decision point, someone, somewhere, somewhere, either thoughtfully or deliberately "chose" to put to recycle and properly dispose of trash and volunteer to pick up trash in a local stream clean-up event.

Leaves and household products that contain carbon, copper, lithium, or reactive ingredients such as paints, cleaners, oils, batteries, and pesticides require special care when disposing of them. Pouring them down the drain, onto the ground or into a storm drain introduces dangerous contaminants to lakes, streams, and groundwater. To protect waterways, bring leftover products to a household hazardous waste collection center. Check out the Arkansas Department of Environmental Quality website for a listing of locations and hours of HHW collection facilities throughout the region.

TREES Make BETTER Water!

Did You Know?

Bio-retention is the storage of rainfall on leaves, branches and trunk bark. Following the rainfall event, the water is either evaporated directly into the atmosphere, absorbed by the canopy surface, or flows down to the ground surface.

Trees manage stormwater runoff. They help reduce pollution and improve water quality by absorbing pollutants and filtering them out of the water.

A typical commercial forest of 10,000 trees will retain approximately 10 million gallons of rainwater per year.

For more information on trees and water, visit the Arkansas Forestry Commission website at www.Forestry.State.US.AR.

When To Plant Seedlings

Planting season for bare-root seedlings is December through March. Containerized seedlings allow for fall planting as well as during the bare-root planting season. For best results, use bare-root seedlings that have been dormant in the nursery. They should be planted as early as the planting season as possible (December to January). If at all possible, complete planting by March 15.

Planting in the early part of the season allows time for new root growth during the dormant season.

Protect Sensitive Roots

Protect root systems from frost damage by covering with straw or other insulating material. Do not use mulch or other material that can smother the roots.

How To Plant a Seedling

Five seedlings will require a hand planting tool or machine planter that will create a planting site at least 8" deep (10" is preferred) and 3" wide to accommodate pine seedlings and allow proper root alignment. Most bare-root seedlings have a more massive root system than pine seedlings and therefore require larger planting holes for proper planting. Hand-dug planting holes and machine planters should be capable of making a 10-12" deep and 4" wide to accommodate proper root alignment. For hardwood and all pine other than loblolly, seedlings should be planted with their root collar 1"-2" below ground line. The terminal bud should be at least 3" above ground line.

Low interest loans may be available in select areas with conservation practice costs.

Illinois River Conservation Programs

Conservation Reserve Enhancement Program (CREP)

The State of Arkansas Illinois River Watershed Conservation Reserve Enhancement Program (CREP) is a partnership between USDA and the State of Arkansas. The program seeks to enroll 15,000 acres of eligible marginal pasture land and cropland in 10 to 15 year contracts within the Illinois River watershed. The project will establish or restore riparian forest buffers and wildlife habitat buffers by planting native grasses, forbs, trees, and shrubs. This CREP project area includes parts of Benton and Washington Counties. The primary goals of the project are to enhance wildlife habitat and improve water quality by filtering agricultural runoff.

Eligible Property

Pasture or cropland bordering a perennial stream in the watershed.

Best Management Practices

A riparian buffer zone will be created to reduce sediment run off and improve stream bank stabilization. The riparian area will be planted in native warm season grasses or native hardwood trees. The minimum width is 50 feet up to 300 feet.

Cost Share Incentives

A cost share incentive of approximately 90% is available for costs associated with the establishment of native warm season grasses, planting hardwood trees, fencing the stream for livestock exclusion, alternative water system development, and any needed stream crossings.

Land bordering the riparian area may be eligible for

permitted grazing once through NCRS where establishing a rotational grazing program.

Low interest loans may be available in select areas with conservation practice costs.

Environmental Quality Incentive Program (EQIP)

NCRS in Arkansas and Oklahoma has developed a special water quality initiative in the Illinois River Sub-Basin and the Lake Spavinaw Lake Watersheds in northwestern Arkansas and northeastern Oklahoma. The purpose of this project is to improve water quality while maintaining agricultural production. Examples of practices that are eligible for cost assistance are cover cropping for sediment control, pasture fertility and planting, wildlife habitat, and forest riparian/waterway.

For more information on CREP or EQIP contact:

Illinois River Watershed Partnership
Email: central@irwp.org

Farm Service Agency

Benton County Phone: 479-273-2622 ext. 2
Washington County Phone: 479-521-4520 ext. 2

Natural Resources Conservation Service

Benton County Phone: 479-273-2622 ext. 3
Washington County Phone: 479-521-4520 ext. 3

Agricultural Conservation Practices

Agricultural conservation or best management practices (BMPs) are land use, soil and water management practices, cultural management techniques, and conservation practices that are developed as practical and effective tools for environmental protection for a particular region or river watershed. In the Illinois River Sub-Basin, BMPs are often tailored to a particular land management situation or geographic location. BMPs are implemented for the same basic goal: protecting our water resources.

Why Should These Practices Be Used in the Upper Illinois River Watershed?

Agricultural conservation practices are strategies that prevent or decrease the movement of sediment, nutrients, pesticides and other synthetic organic chemicals, herbicides and other pathogens, and other potential pollutants from land to water resources. These practices are generally designed to enhance the benefits of agricultural land use and management on water quality. For more information, download the Best Management Practices Manual at http://www.arkansas.gov/irwp/docs/BMP_Manual.pdf.

You Can Build A Rain Garden

Placing and Sizing

A good way to begin planning for a rain garden is by drawing the layout of your property. Indicate the directions of roof runoff, gutter downspout locations, and high and low spots in your yard to visualize where water flows during a rainstorm.

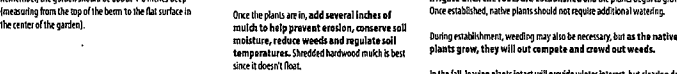
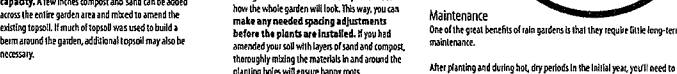
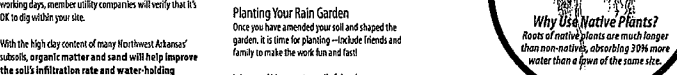
While building the garden will be easiest on level ground or on a gentle slope, the key is to intercept stormwater runoff before it reaches a storm drain inlet or waterway. A rain garden might be developed near the house to collect and use runoff from a roof, whereas a rain garden out in the yard can capture runoff from the lawn or driveway.

Be sure to build your garden at least 10 feet from buildings so water soaking into the ground will not damage the foundation. Also, do not build the garden directly over a septic system or under a large tree. Finally, avoid areas where water already pools after a storm since rain gardens will not drain properly where soil conditions already restrict percolation. Perform a simple percolation test by digging a 12-inch deep hole with your shovel. If the water has not drained two days later, consider another location.

Rain gardens can be most any size or shape, but a good rule of thumb is to design the garden to be 4 to 8 inches deep and 1/3 of the size of the roof and other paved areas it drains. If your drainage area will require more than 300 square feet of rain garden, consider splitting it into two smaller gardens.

Plant Selection

When choosing grasses, perennial flowers, shrubs, and trees for rain gardens, it is essential to consider their ability to flourish in both extreme wet and dry conditions. The roots of native species can grow down deep into the ground and are very efficient at absorbing water. Since they are well-acclimated to local temperature and rainfall conditions, species that are native to the Ozarks can survive periods of drought without irrigation once established. In addition, native plants do not need fertilizers or pesticides and they provide habitat to attract local wildlife.



Information source: The Arkansas Cooperative Extension Service, The University of Wisconsin Extension Service "Rain Garden at Home for Farmowners" available under Creative Commons license for planning and installing your garden. http://www.arkansas.gov/irwp/docs/BMP_Manual.pdf

Lisa Branson - Abshiers Heights

From: "Bart Bauer" <bart.bauer@sbcglobal.net>
To: <lbranson@ci.fayetteville.ar.us>
Date: 3/14/2012 2:05 PM
Subject: Abshiers Heights

Dear Sondra

I have to go out of town and can not make the March 20th counsel meeting. Could you please move both Items to the April 4th meeting? Thank you.

1. Rezone PZD to RSF-8
 2. Change from stone to brick.
- Bart Bauer 479-283-0153